

## SENATE—Tuesday, December 1, 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:

O Thou who hast been our dwelling place in all generations be Thou in us and we in Thee, for this foundation is sure and strong. Amid all that is transient and tentative anchor us to eternal verities. Let truth prevail over falsehood, reason over emotion, sound judgment over expediency, grace over coercion. Grant to us here the serenity which brings poise, the peace which brings power, the prayerfulness which brings divine guidance, the courage that never turns back, the love that abides all time. Through the diversity of talents and variety of ideas, bind us together in the unity of the spirit to build a nation strong in the Lord and in the power of His might. Help us Lord in this season of holy expectation to welcome the divine in every area of life and so to live and act as to make known the divine presence among the nations.

In the Redeemer's name. 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., December 1, 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 30, 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, at the conclusion of the remarks of the distinguished Senator from New York (Mr. JAVITS) today, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

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

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, from Calendar No. 1377 through Calendar No. 1395.

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

## PAYMENT OF TRANSCRIPT FEES

The bill (H.R. 4302) to amend title 28 of the United States Code, section 753, to authorize payment by the United States of fees charged by court reporters for furnishing certain transcripts in proceedings under the Criminal Justice Act, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1368), explaining the purposes of the measure.

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

## STATEMENT

This measure has been recommended by the Judicial Conference of the United States as a means of eliminating a redundant and unnecessary step in the obtaining of transcripts without charge by defendants for whom counsel is appointed pursuant to the Criminal Justice Act. Under the present system, such defendants must establish their inability to pay on two occasions: First, when they originally have counsel assigned under the Criminal Justice Act; and second, when they apply for the transcript. The bill would eliminate the second step, which is obviously unnecessary.

As pointed out by the Department of Justice, section 753(f) of title 28 of the United States Code authorizes court reporters to collect fees for transcripts requested by parties. In its present form, section 753(f) authorizes the United States to pay transcript fees only for persons who are allowed to appear in forma pauperis. H.R. 4302 is designed to permit a defendant who has qualified for assistance under the provisions of the Criminal Justice Act of 1964, 18 U.S.C. 3006A, to obtain a transcript under the provisions of 28 U.S.C. 753(f) without the necessity of a further showing to meet the current indigency requirements. This would accord with the general intent underlying the Criminal Justice Act. Also, since defendants qualifying under the Criminal Justice Act have little practical difficulty in establishing indigency for the purpose of securing a transcript under 28 U.S.C. 753(f), the legislation would eliminate what is in effect only a duplicative showing.

The bill authorizes no additional expenditures and will generate no increases in cost.

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

## SUMMONSES FOR JURY DUTY

The bill (H.R. 9677) to amend section 1866 of title 28, United States Code, prescribing the manner in which summonses for jury duty may be served, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1369), explaining the purposes of the measure.

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

## STATEMENT

The purpose of H.R. 9677 is to eliminate needless effort in the serving of summonses for jury duty by authorizing the clerk or the jury commission, or their authorized deputies, to mail summonses for jury duty.

This proposal has been recommended by the Judicial Conference of the United States as a means of increasing the efficiency of our court system. Under the present system, when summonses for jury duty are served by mail only U.S. marshals are allowed to do the actual mailing of the summonses. As a result, bags of mail must be carried from the clerk to the marshal who in turn must hand the mail over to the post office. This method is obviously wasteful, uneconomical, and serves no useful purpose.

H.R. 9677 would eliminate the need for this unnecessary step and would permit the summonses to be mailed directly by the clerk or the jury commission, or their duly designated deputies.

Reprinted here and made a part of this report are a communication from the Director of the Administrative Office of the U.S. Courts requesting this legislation and the report of the Department of Justice.

## COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 12979) to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia, which had been reported from the Committee on the Judiciary with amendments, on page 1, line 8, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 2, line 21, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 3, in line 17, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 4, line 9, after the word title, insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 5, line 12, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 6, line 4, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; after line 18, insert a new section, as follows:

SEC. 6. (a) For purposes of this section—  
(1) "employee" means any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives; and

(2) "court of the United States" has the meaning given it by section 451 of title 28, United States Code and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d) (1) An employee may not receive fees for service—

(A) as juror in a court of the United States or the District of Columbia; or

(B) as a witness on behalf of the United States or the District of Columbia.

(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of this section, the employee shall remit such amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

(e) (1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulation applicable to that department, agency, or independent establishment for the payment of travel expenses.

(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on

behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(f) The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

(g) No provision of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1371), explaining the purposes of the measure.

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

#### PURPOSE OF AMENDMENTS

Although the intent of H.R. 12979 is to protect all Federal employees, the major sections of the bill, as passed by the House of Representatives, are not germane to legislative employees. For instance, the first two sections of the bill, which deal with leave for jury or witness service, are premised upon a formal leave system. However, there is no formal leave system for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives. The act is amended to remove these employees from the misfitting sections and to provide appropriate coverage in section 6, a new section. Section 6 protects Senate and House employees' pay, rather than leave, from reduction when they are called for jury or witness service.

Another problem is found in section 4 of the bill, which relates to the payment of travel expenses of employees of the United States when summoned as witnesses. This section provides that the employees are entitled to travel expenses under subchapter I of chapter 57 of title 5, United States Code. However, these travel provisions do not now apply to legislative employees. Legislative employees of the United States Senate and House of Representatives should not be subject to the travel expense limitation of subchapter I of chapter 57 of title 5, United States Code, or to any of the other limitations that ordinarily would apply only to the employees of the executive branch. The bill is amended to remove legislative employees from section 4 and to cover these employees in section 6.

The provisions of the new section 6 are tailored to the problems of the legislative branch. Ultimate control is left in the hands of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

The amendments were drafted with the assistance of the Comptroller of the Senate. Moreover, the chairman of the Committee on Post Office and Civil Service of the House of Representatives, the committee that studied the legislation in the House, has indicated in a letter to the chairman that he considers amendments similar to those proposed to be desirable for employees of the House of Representatives.

#### PURPOSE

The major purpose of this legislation is to alleviate financial hardship now imposed on employees of the United States and of the District of Columbia resulting from their service as a witness, a juror or an official representative from the agency in which he serves. The hardship is alleviated in the following ways:

By extending existing authority relating to court leave for an employee of the United States or of the District of Columbia to include periods when the employee is appearing as a witness in a judicial proceeding on behalf of a State or local government.

By extending existing authority relating to an official duty status for an employee of the United States or of the District of Columbia when summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or the District of Columbia, to include periods when summoned or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States or the District of Columbia.

By extending existing authority relating to travel expenses for an employee of the United States when summoned, or assigned by his agency, to testify or to produce official records on behalf of the United States, to include situations when summoned, or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States.

#### STATEMENT—BACKGROUND

On April 17, 1969, Congressman David N. Henderson introduced H.R. 10247, to extend court leave for employees of the United States and the District of Columbia to include absences not only for jury service, but also when called as witnesses in certain judicial proceedings on behalf of State and local governments.

The House Subcommittee on Manpower and Civil Service of the Committee on Post Office and Civil Service held public hearings and took testimony from representatives of five major employee organizations and the General Counsel of the Civil Service Commission.

All of the testimony was favorable to the proposed legislation, but it also evidenced a need for clarification and expansion of the coverage. Accordingly, all members of the subcommittee cosponsored a successor bill, H.R. 12979, which was ordered reported unanimously without amendment.

The enactment of this legislation is recommended by the Civil Service Commission. The Commission advised the House Committee on Post Office and Civil Service by letter dated July 31, 1969, that the bill was a good step forward in correcting some longstanding inequities. No opposition to this bill has been registered.

On September 15, 1969, H.R. 12979 passed the House of Representatives. H.R. 12979 as passed by the House, will—

(1) Extend the court leave provisions, now available for an employee of the United States or of the District of Columbia while serving as a juror, to include a period of absence when the employee is summoned to appear in a judicial proceeding as a witness on behalf of a party other than the United States, other than the District of Columbia, or other than a private party, such as a State or a local government;

(2) Provide that duty by an employee of the United States or of the District of Columbia is official duty during periods with respect to which the employee is summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or of the District of Columbia (which, under existing law, is treated

as court leave) or testify in his official capacity or produce official records on behalf of any party other than the United States or the District of Columbia;

(3) Require that an amount received by the employee for service as a juror or a witness shall be credited against pay otherwise due the employee; and

(4) Transfer the existing authority relating to travel expenses for an employee of the United States when testifying or producing official records on behalf of the United States, from title 28 of the United States Code, and amplify such provisions so as to authorize the payment of travel expenses to such an employee of the United States when summoned on behalf of a party other than the United States to testify in his official capacity or to produce official records, except to the extent that travel expenses are paid to the employee by such other party.

The court leave provisions (sec. 6322(a)) will apply in connection with judicial proceedings by a court or authority responsible for the conduct of such proceedings in the District of Columbia, a State, territory, or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. The judicial proceedings include any action or suit, including condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

The new official duty status provisions (sec. 6322(b)(2)) and the new travel expenses provisions (sec. 5751(b)) are not limited to judicial proceedings but applied to any proceedings with respect to which the employee is summoned, or assigned by his agency, to testify in his official capacity or produce official records.

#### COURT LEAVE

Court leave is authorized under existing law for an employee of the United States or of the District of Columbia for jury duty (5 U.S.C. 6322) or for attending court in a non-official capacity as a witness on behalf of the United States or the government of the District of Columbia (28 U.S.C. 1823).

The court may be a State, Federal, or District of Columbia court, and municipal courts are considered as State courts for purposes of these laws.

When an employee appears as a witness for the Government in a nonofficial capacity, he is carried on court leave and paid his regular salary during the time he is absent as a witness (38 Comp. Gen. 307, 310).

When an employee is called as a court witness in his official capacity, whether on behalf of the Government or a private party, he is in an official duty status and entitled to his regular compensation without regard to entitlement of court leave (38 Comp. Gen. 142).

When an employee's appearance in court as a witness is not on behalf of the United States or the government of the District of Columbia, and not in his official capacity, his absence from duty must be charged as either annual leave or as leave without pay (27 Comp. Gen. 83).

The present restrictions against granting of court leave while serving as a witness on behalf of a State or local government have caused hardships to a number of employees. For example, one Federal employee lost 2 days' work when he was subpoenaed by a State attorney general as a witness to a highway accident. In another instance, a Federal employee was required to take 3 days of annual leave to serve as a witness for a county in a robbery case. In still another case, a Federal employee lost an aggregate of 18 days' annual leave when he was subpoenaed as a State witness in a murder trial. There was also an in-

stance where a Federal employee who, after observing a hit-and-run accident pursued the offender, and was later required to use his annual leave when called as a witness for the State.

There are also a number of employee hardship cases in the noncriminal area wherein individuals are called as witnesses by a governmental body in tax suits, condemnation proceedings, and eminent domain actions.

In accordance with existing law, employees of the United States and of the District of Columbia, when appearing on behalf of State or local governments, are penalized through either loss of pay or annual leave. Since it is to their financial detriment, such employees may be understandably reluctant to step forward as witnesses to criminal acts.

In these days of deep concern over crime and crime control, employees should not be penalized for performing their civic duty. The Federal Government should be leading the way in this area.

The General Counsel of the Civil Service Commission testified that in a 1963 survey, the Bureau of Labor Statistics found that over 60 percent of the industries included in the survey granted court leave to their employees.

This legislation will alleviate the hardship for such employees when they are serving as a witness on behalf of a State or local government.

This legislation also provides (5 U.S.C. 6322(b)) that an employee of the United States or of the District of Columbia "is performing official duty" during a period with respect to which he is summoned, or assigned by his agency, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

#### TRAVEL EXPENSES OF GOVERNMENT WITNESS

There are also restrictions on the payment of travel expenses to employees of the United States when summoned as witnesses. Existing law (28 U.S.C. 1823(a)) authorizes payment of travel expenses when employees are summoned as witnesses on behalf of the United States. It does not authorize payment of travel expenses of employees summoned or assigned by their agencies, other than on behalf of the United States, to testify in their official capacity or to produce official records.

The Comptroller General has ruled that, since it is not a function of the Government to furnish witnesses or official records subpoenaed by private litigants, appropriated funds cannot be used to pay the travel expenses of employees of the United States who perform such functions, even though it is clear that the employees perform those functions as a part of their official duties.

The classic example of this inequity is the U.S. Weather Bureau employee who is called upon as a witness, other than on behalf of the United States, to produce official weather records. Under existing law, this employee cannot be paid from appropriated funds for any travel expenses which he might incur.

This legislation transfers the existing authority from title 28 to title 5 and extends the authority to pay travel expenses for witnesses to include cases when the employee is summoned or assigned by his agency to testify in his official capacity or to produce official records on behalf of a party other than the United States.

#### BILL PASSED OVER

The bill, H.R. 17755, an act making appropriations for the Department of Transportation and related agencies for

the fiscal year ending June 30, 1971, and for other purposes, was announced.

Mr. MANSFIELD. Over, Mr. President. The ACTING PRESIDENT pro tempore. The bill will be passed over.

#### TRAVEL IN THE UNITED STATES

The bill (H.R. 14714) to amend authority of the Secretary of the Interior under the act of July 19, 1940 (54 Stat. 773), to encourage through the National Park Service travel in the United States, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1373), explaining the purposes of the measure.

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

#### PURPOSE OF LEGISLATION

H.R. 14714, amends the authority of the Secretary of the Interior to encourage, through the National Park Service, travel within the United States by increasing the appropriation authorization for this program from the existing \$100,000 ceiling to \$250,000 for fiscal year 1971, and \$750,000 for fiscal year 1972.

#### NEED FOR LEGISLATION

As part of the effort to accommodate the rapidly increasing number of Americans who have the desire to see, experience, and use the natural, recreational, and historical resources administered by Federal, State, and local Government, and the private sector, it is necessary to increase significantly the scope of travel promotion program of the agency of Government charged with promoting travel within the United States. To do this, however, the authorization of funds for that agency's efforts should be raised beyond the present \$100,000 annual ceiling.

H.R. 14714 would do this by authorizing an appropriation of \$250,000 for fiscal year 1971, and \$750,000 for fiscal 1972.

#### GENERAL STATEMENT

The act of July 19, 1940 (54 Stat. 773), authorizes the Secretary of the Interior, through the National Park Service, to encourage, promote, and develop travel within the United States, its territories and possessions provided that such activities do not compete with the activities of private agencies. The 1940 Travel Act is the existing basis for the travel promotion activities of the National Park Service.

In January 1968, President Johnson's Industry-Government Special Task Force on Travel strongly recommended the National Park Service exercise its general authority under the 1940 act as a means of achieving a truly national domestic travel promotion program. To accomplish this, the Service reprogrammed \$30,000 in fiscal year 1968, and \$100,000 in each of the following 2 fiscal years and established a Division of Tourism to direct the program.

The Secretary of the Interior has assigned leadership and coordination responsibilities for the Department's tourist development to the Assistant Secretary for Fish and Wildlife and Park, and Marine Resources, and has established within the National Park Service an Assistant Director for Travel and Information Service. The National Park Service can be particularly effective in the field of travel promotion. The national parks, monu-

ments, historic sites, and recreation areas serve to "generate" travel and tourism, and this activity inevitably involves adjacent areas, sites, facilities, cities, and other recreation areas. The program has great economic importance to domestic travel and to travel to the United States from foreign countries. Such a program can also contribute understanding and appreciation of our Nation's cultural and natural heritage.

Your committee believes that the existing ceiling of \$100,000 prevents the carrying out of a promotion program of sufficient scope to meet the national needs of today. Within the National Park System alone, there were 16 million visits in 1940, against 140 million in 1967. In 1967, over 112 million visits were recorded on lands administered by other bureaus and offices of the Department of the Interior. The Bureaus of Land Management, Indian Affairs, Outdoor Recreation, Sport Fisheries and Wildlife, and Reclamation, and the Office of Territories are all deeply involved in tourism. According to the Department of the Interior, a countrywide travel promotion program reflecting all the Department's interests cannot be effectively developed within the existing ceiling.

Development of a national program requires a professional and expanded approach to marketing and advertising as well as education and information. Full use should be made of modern means of communication: publications, traveling exhibits, films, posters, and the use of radio and television. The National Park Service should cooperate with the U.S. Travel Service and develop materials and programs in multilanguages to encourage and support foreign visitors. Your committee wishes to make clear, however, that the National Park Service program should be restricted to within the United States, and not overlap the overseas activities of the U.S. Travel Service. The National Park Service should consult with the U.S. Travel Service to insure full coordination of the two programs and to avoid duplication of effort. Even on the expanded scale, the projected program should be only a catalyst, insofar as the private travel sector is concerned and should in no way compete with private agencies.

#### CONCLUSION

In your committee's opinion, enactment of H.R. 14714, would be another progressive step toward a more creative and expanded domestic travel promotion program.

A vital, expanding domestic travel program is in the economic interest of the United States. It will also foster an understanding among our people of the great significance of their national and cultural heritage which is preserved for them in our National Parks System, the programs of the States and local governments, and the efforts of private enterprise.

#### BILL PASSED OVER

The bill, H.R. 3571, for the relief of Miloye M. Sokitch, was announced.

Mr. MANSFIELD. Over, Mr. President. The ACTING PRESIDENT pro tempore. The bill will be passed over.

#### CLAIMS OF NONPROFIT ORGANIZATIONS AND INDIVIDUALS

The Senate proceeded to consider the bill (H.R. 2669) to amend section 213(a) of the War Claims Act of 1948 with respect to claims of certain nonprofit organizations and certain claims of individuals which had been reported from the Committee on the Judiciary with an

amendment to strike out all after the enacting clause and insert:

That (a) section 213(a) of the War Claims Act of 1948 (50 App. U.S.C. 2017(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) Payment in full of awards made pursuant to section 202(d)(1) and (2), and thereafter of any award made pursuant to section 202(a) to any claimant (A) certified to the Commission by the Small Business Administration as having been, on the date of loss, damage, or destruction, a small business concern within the meaning now set forth in the Small Business Act, as amended, or (B) determined by the Commission to have been, on the date of loss, damage, or destruction, a nonprofit organization operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes."

(2) Redesignate paragraph (3) as paragraph (4) and, immediately after paragraph (2), insert the following new paragraph:

"(3) Thereafter, payments from time to time on account of the other awards made to individuals and corporations pursuant to section 202 and not compensated in full under paragraph (1) or (2) of this subsection in an amount which shall be the same for each award or in the amount of the award, whichever is less." The total payment pursuant to this paragraph on account of any award shall not exceed \$35,000.

(b) The Foreign Claims Settlement Commission is authorized to recertify to the Secretary of the Treasury each award which has been certified before the date of enactment of this Act pursuant to title II of the War Claims Act of 1948, as added by the Act of October 22, 1962 (76 Stat. 1107), but which as of the date of enactment of this Act has not been paid in full, in such manner as it may determine to be required to give effect to the amendments made by this Act to the same extent and with the same effect as if such amendments had taken effect on October 22, 1962.

The amendment was agreed to.

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

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1375), explaining the purposes of the measure.

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

#### PURPOSE OF AMENDMENT

Section 213(a), as amended, adds a new paragraph (B) to give "non-profit organization, operated exclusively for the promotion of social welfare, religious, charitable or educational purposes," the same priority of payment as was provided for small business concerns as described in paragraph (A) of that section.

The committee amendment also adds a new paragraph (3) to section 213(a) of the War Claims Act of 1948 to give individual claimants and corporate claimants which have not yet been paid in full a next priority of payment from the War Claims Fund up to an amount of \$35,000.

Other technical changes were made only in order to conform the bill with existing law.

#### PURPOSE

The principal purpose of the bill as amended is to alter the existing order of

payments under the War Claims Act of 1948. The reported bill provides that the next payments out of the War Claims Fund should be made to nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable or educational purposes up to the full amount of the unpaid balance of their award. Payments thereafter shall be made on the unpaid balances due to individual and corporate claimants up to a maximum of \$35,000. The last priority would go to individual and corporate claimants whose unpaid balances exceed \$35,000.

All awards have been paid up to an amount of \$10,000 plus 61.3 percent of the unpaid balance. The present bill deals only with the payment of the remainder. No appropriations will be required since all payments are to be made only as funds become available out of the War Claims Fund which consists of the proceeds of German and Japanese assets vested by the United States during World War II.

#### STATEMENT

The War Claims Act of 1948 provided for the payment of a limited category of war claims of American nationals out of a fund comprised of the proceeds of vested German and Japanese assets in the United States. The act provided for payment for the injury, death or detention of certain employees of contractors with the United States, payments to American civilian internees and prisoners of war, as well as for the payment in full of claims filed by any religious organizations functioning in the Philippine Islands and affiliated with a religious organization in the United States. The religious organizations in the Philippines were compensated in full for the damage sustained as a consequence of the war to their schools, hospitals and other property connected with their educational, medical, or welfare work.

In 1962 legislation was enacted establishing a number of other categories of claims to be paid out in full. Title of the 1962 law established four preferential categories which would receive payment in full. These were (1) all awards for loss on account of death; (2) all awards for loss on account of injury or permanent disability; (3) all awards to "small business concerns" which was defined as companies employing less than 1,000 employees or having under \$5 million in annual sales; (4) all awards up to \$10,000. All other categories were to be paid pro rata as funds become available from the War Claims Fund.

A total of 5,920 claims have been paid in full under the above priorities. A total of 1,119 claims have received partial payment only, amounting to \$10,000 plus 61.3 percent of the unpaid balance of the claim. Included among these are the claims of 29 religious, charitable and nonprofit organizations in a total amount slightly in excess of \$24 million of which less than \$15 million has been paid out.

It only became apparent after payments were made under the 1962 law that there would not be sufficient funds available to pay all claims in full. It then became clear that unless the provisions of title II were made consistent with the provisions of title I, religious, charitable and educational organizations in the United States might be treated less favorably than had been the case with religious organizations operating in the Philippines, and less favorably than all those categories including small business concerns which had been given preferential treatment in the 1962 act.

The following chart shows the amounts awarded to the different categories of claimants under title II of the War Claims Act of 1948, as amended, as well as the charitable, religious and nonprofit agencies which have not been paid in full.

AMOUNTS AWARDED UNDER TITLE II OF THE WAR CLAIMS ACT OF 1948, AS AMENDED

Category of claim (1)	Awards		Percentage paid (4)	Amount paid (5)	Balance to be paid (6)
	Number (2)	Amount (3)			
I. Death and personal injury.....	34	\$510,035	100	(1)	
II. Small business.....	251	12,026,093			
III. \$10,000 and under.....	5,635	13,095,352			
Total, categories I, II, and III.....	5,920	25,595,480		\$25,595,480	0
IV. Over \$10,000:					
1. Individuals.....	886	35,276,571	(2)	25,053,358	\$10,223,213
2. Corporations.....	199	249,441,491			
3. United States.....	1	327,073			
4. Religious, charitable, and nonprofit.....	33	24,159,313			
Total, category IV.....	1,119	309,204,448		193,886,612	115,317,836

<sup>1</sup> Paid in full.  
<sup>2</sup> \$10,000 plus 61.3 percent.

CHARITABLE, RELIGIOUS, NONPROFIT (AWARDS UNDER PUBLIC LAW 87-846)

Claim No.	Name	Amount of award
W-13723	American & Foreign Christian Union, Inc.	\$195,000.00
W-3554	American Baptist Foreign Mission Society	813,039.45
W-10541	American European Fellowship for Christian Oneness	17,855.00
W-10380	Anatolia College	97,005.00
W-9952	Assembly of God	18,500.00
W-4234	B'nai B'rith	1,408,350.00
W-10379	The Evangelical and Reformed Church	336,821.50
W-21463	Evangelical United Brethren Church	81,982.68
W-7904	Presbyterian Church in the United States	816,859.63
W-18425	Reformed Church in America	209,301.00
W-8376	China Medical Board of New York	2,038,103.00
W-4631	Church of the Lutheran Brethren of America, Inc.	29,820.00
W-13666	United Presbyterian Church in the United States of America	5,142,677.95
W-7010	Congregation of the Mission of St. Vincent de Paul in Germantown	2,080,421.15
W-22347, W-14209 through W-14267	Protestant Episcopal Church in the United States of America	246,096.03
W-9772	Seventh-day Adventists	1,388,634.39
W-1331	Home of Onesiphorus	50,000.00
W-10402	Honpa Hongwanji Mission	19,000.00
W-20475	Young Men's Christian Associations	12,144.00
W-4105	National Jewish Welfare Board	126,725.00
W-9309	Oriental Missionary Society	23,175.00
W-20339	Pious Society of St. Paul	91,686.10
W-11475	Seventh-day Baptist Missionary Society	20,319.50
W-15937	Sisters of the Order of St. Benedict	15,475.00
W-10401	Sisters of Charity of St. Joseph's	108,172.29
W-10657	Congregation of the Mission of St. Louis, Mo.	600,525.00
W-6658	Sons of Divine Providence	497,472.00
W-18886	Thessalonica Agricultural & Industrial Institute	122,000.00
W-18034	United Board for Christian Higher Education in Asia	3,464,378.86
W-10378	United Church Board for World Ministries	481,825.64
W-14622	Women's Christian Medical College	225,418.93
W-14636	World Division of Board of Missions of Methodist Church	3,251,605.06
W-79130	Yale-in-China Association	107,185.00
Total		24,159,313.66

<sup>1</sup> Paid in full.

At present there are about \$5 million available for further distribution from the War Claims Fund. Over \$60 million is being held by the Department of Justice from the proceeds of vested German and Japanese assets for the purpose of satisfying any possible judgments against the United States which might occur as the result of pending litigation. Because of the uncertainties involved in litigation, the amounts which will eventually be available for transfer to the War Claims Fund cannot be ascertained precisely at the present time. It has been estimated however that approximately \$26 million may be available for eventual transfer to the War Claims Fund to satisfy the unpaid portion of existing awards.

Under the legislation herewith reported to the Senate, the amounts hereafter transferred to the War Claims Fund will be used first to pay the remaining unpaid balance on all awards made to nonprofit organizations operated exclusively for the promotion of social, welfare, religious, charitable, or educational purposes. The total amount of unpaid claims of these organizations is \$9,208,189.

Upon completion of payments to nonprofit organizations, payments will thereafter be made out of amounts transferred to the War Claims Fund on account of unpaid balances of awards made to individuals and corpora-

tions, but only up to an amount of \$35,000 of the original award. If sufficient sums are not available for payment of \$35,000 to all individual and corporate claimants, each claimant will receive payment in the same amount, or in the amount of the unpaid balance, whichever is the smaller. In this fashion, the smaller individual and corporate claims will be paid first with the larger claims being paid last.

It was the recommendation of the Foreign Claims Settlement Commission that following the payment to nonprofit organizations both corporations and individual claimants receive payments up to a total of \$35,000 and that thereafter the fund be divided pro rata among those whose awards had not been satisfied in full. Under this proposal which is hereby reported favorably by the committee, all of the claimants, except 167 large corporations and 184 individuals with awards over \$35,000, will have received full payment, and many of those will receive close to full payment.

Since a substantial number of large corporations had already received tax benefits under foreign tax laws, which were not deducted from their awards, it was felt that the revised priorities would assure greater equality of treatment to all of the claimants. Many of the large corporations had elected to take United States tax benefits as early

as 1939. Although these American tax benefits were deducted from the war claims award, the corporations have had the benefit of very substantial tax savings for over 25 years which has already placed them in a preferred position as against other claimants.

The Attorney General advised the committee that Congress could reasonably make the judgment that corporate claimants should be paid last since Congress might reasonably take into consideration the fact that corporate claimants have received the great bulk of the money which has been paid out under the War Claims Act. Of the approximately \$219 million distributed, almost \$154 million has been distributed to large corporations. It was also the view of the Attorney General and the Foreign Claims Settlement Commission that the proposed amendment would not violate the First Amendment of the United States Constitution.

The nonprofit organizations operating exclusively for the promotion of social welfare, religious, charitable or educational purposes testified that the funds received would be used primarily, if not exclusively, for the secular purposes of rebuilding their damaged or destroyed schools, hospitals, orphanages, old-age homes and other properties.

The committee views the present amendment as not necessarily binding as a precedent for future war claims legislation.

Hearings on the amendment were held on September 17 and 18, 1970. After considering all the arguments the committee recommends that the bill do pass.

Mr. JAVITS. Mr. President, I should like to state that I think the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Pennsylvania (Mr. SCOTT) have done remarkably well by a great group of people who are interested in this bill, which is one I introduced. I know it would not have had the action it has just had, were it not for the fine intercession on the part of both Senators. I, therefore, express to them the gratitude of the many persons who are interested in this bill.

If the Senator from Massachusetts considers it proper, in view of the long delay on this matter, Mr. President, I move that the vote by which the bill was passed be reconsidered, just to get this definitely nailed down.

Mr. KENNEDY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion was agreed to.

RESOLUTIONS PASSED OVER

The resolution, Senate Resolution 400, to refer the bill (S. 3779) entitled "A bill for the relief of Concrete Industries (Monier), Ltd." to the Chief Commissioner of the U.S. Court of Claims for a report thereon, and the resolution, Senate Resolution 445, to refer the bill (S. 4237), entitled "A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co." to the Chief Commissioner, U.S. Court of Claims, for a report thereon, were announced.

Mr. MANSFIELD. Over, Mr. President, on these two resolutions.

The ACTING PRESIDENT pro tempore. The two resolutions will be passed over.

**DEPARTMENT OF DEFENSE—RELIEF  
OF CERTAIN EMPLOYEES**

The bill (H.R. 17272) for the relief of certain employees of the Department of Defense was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1378), explaining the purposes of the measure.

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

**PURPOSE**

The purpose of the proposed legislation is to relieve named employees of the obligation to repay amounts paid them for travel, transportation, and related expenses authorized by official travel orders of the Department of Defense which were subsequently held to be erroneous since the employees had been ordered to overseas locations in a training status. Section 2 would authorize payments to similarly situated individuals who had performed the same travel but were denied reimbursement because of the ruling concerning the error in the orders directing that travel.

**STATEMENT**

The facts of the case as contained in the House Report (91-1510) are as follows:

"The Department of Defense in its report to the committee on the bill H.R. 17272 recommended that the bill be considered favorably. The employees named in H.R. 17272 were assigned for language and area studies training to the U.S. Foreign Service Institute, Taiwan, to the University of Durham, England, and to the U.S. Army Institute for Advanced Russian and East European Studies, Germany, in 1966, 1967, and 1968. These employees were authorized by their orders to be paid, and were in fact paid, the same travel allowances as employees who are ordered to these overseas stations for regular duty. These payments for dependents' per diem, miscellaneous expenses, and temporary quarters subsistence were received and spent in good faith by the employees to defray the costs of their moves to and from these locations. This practice was eventually brought to the attention of the Department of Defense Per Diem, Travel and Transportation Allowance Committee and the Comptroller General by a Department of Defense Finance Officer. In his decision of July 23, 1969, B-167229, the Comptroller General directed that these payments be stopped and that similar amounts already paid be collected from the employees.

"As is noted in both the reports of the Department of Defense and the Comptroller General, the situation described above results from the fact that title 5 of the United States Code, and the implementing OMB Circular A-56, currently provide two different sets of travel allowances, depending upon whether an employee is ordered to a station for training duty or regular duty. Those ordered to training assignments receive only their travel and per diem, except that the transportation of an employee's immediate family and household goods is authorized when the cost of such transportation is estimated to be less than the total per diem payments that the employee would receive while at the site of the training assignment (5 U.S.C. 4109). However, if the purpose of the travel is to assume a new regular duty assignment outside the continental United States, the employee is entitled to the following allowances in addition to those just mentioned:

"(1) Payment of per diem to the employee's immediate family while en route between stations.

"(2) Payment of subsistence expenses while occupying temporary quarters upon the return to a new duty station in the United States.

"(3) Reimbursement of miscellaneous expenses associated with discontinuing and establishing residences. (5 U.S.C. ch. 57.)

"These three allowances, and others applicable only to movements within the continental United States, were authorized for regular duty transferees by Public Law 89-516 in 1966. The Comptroller General's decision held that the benefits of the 1966 legislation do not extend to employees ordered to training assignments whose travel allowances are fixed by a different provision of law (5 U.S.C. 4109) which remain unchanged.

"The Department of Defense in its report stated that under the applicable law referred to above, it is clear that the employees named in the bill are obligated to refund the amounts already received, or, in the case of those in section 2, may not be paid the amounts originally called for in their orders. However, the Department noted that there are considerations in these cases which, from the standpoint of equity and fairness, provide the basis for relief. The Department stated that it had issued travel orders to the employees which contained erroneous information that certain expenses not authorized by law would be paid by the Government, and the employees relied on the apparent obligation of the Government to pay allowances stated in their travel orders in performing their training assignments. Finally, these amounts would not be an unearned windfall since they represent the reimbursement of expenses incurred in good faith by the employees to defray the costs of their transfers to and from the United States.

"The persons named in section 2 and those identified in the following paragraph traveled to these locations for training under orders providing for the allowances later held to be unauthorized. The Department determined that they were precluded from filing vouchers for reimbursement of these authorized expenses as a result of the referenced Comptroller General decision. Since they are part of the class of persons affected by that decision, the Department concluded that they should not be entitled to submit new vouchers and to be paid for the allowances originally authorized by their orders.

"The Department recommended that section 2 of the bill be amended in the following manner. The amount opposite the name Carolyn Dischert should be changed from \$100 to \$190.97. The correct amount of Miss Dischert's claim was not available at the time this bill was introduced. Section 2 should also be amended by adding the following names and amounts:

"James R. Duncan.....	\$342.58
Robert E. Eckert.....	412.63

"The committee has recommended that these names be included. It has further recommended that the two corrections recommended by the Comptroller General concerning amounts shown in the bill be made. That is, that the amount shown for Ronald Roth be corrected to read \$589.30 and that, as has been noted, the amount for Carolyn Dischert be corrected to read \$190.97.

"It is recommended that the bill, as amended, be considered favorably."

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

**A UNIVERSITY VIEW OF THE  
FOREST SERVICE**

The resolution (S. Res. 485) authorizing the printing of a report "A University View of the Forest Service" as a Senate document, was considered and agreed to, as follows:

S. RES. 485

*Resolved*, That there be printed with illustrations as a Senate document a report "A University View of the Forest Service," prepared at the request of Senator Lee Metcalf by a select committee of the University of Montana, together with related materials, and that there be printed ten thousand additional copies of such document for the use of the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1379), explaining the purposes of the resolution.

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

Senate Resolution 485 would authorize (1) the printing, with illustrations, as a Senate document a report entitled "A University View of the Forest Service," prepared at the request of Senator Lee Metcalf by a select committee of the University of Montana, together with related materials; and (2) the printing of 10,000 additional copies of such document for the use of the Committee on Interior and Insular Affairs.

The printing cost estimate, supplied by the Public Printer, is as follows:

<i>Printing cost estimate</i>	
To print as a document (1,500 copies).....	\$1,084.41
10,000 additional copies, at \$62.39 per thousand.....	623.90
Total estimated cost, S. Res. 485.....	1,708.31

**ETHEL G. ROBINSON**

The resolution (S. Res. 490) to pay a gratuity to Ethel G. Robinson, was considered and agreed to, as follows:

S. RES. 490

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ethel G. Robinson, widow of William C. Robinson, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

**FRED W. FRAY, JR., AND RICHARD  
E. FRAY**

The resolution (S. Res. 489) to pay a gratuity to Fred W. Fray, Jr., and Richard E. Fray, was considered and agreed to, as follows:

S. RES. 489

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Fred W. Fray, Junior, and Richard E. Fray, sons of Fred W. Fray, an employee of the Senate at the time of his death, a sum to each equal to five months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

**MARY ANN MILLER, CORRINE D.  
STREET, DELORES A. STREET,  
CALVIN E. STREET, AND CLAR-  
ENCE E. STREET**

The resolution (S. Res. 488) to pay a gratuity to Mary Ann Miller, Corrine D. Street, Delores A. Street, Calvin E.

Street, and Clarence E. Street, was considered and agreed to, as follows:

[S. RES. 488]

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary Ann Miller, Corrine D. Street, and Delores A. Street, daughters; and to Calvin E. Street and Clarence E. Street, sons of Dorothy M. Street, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of her death, a sum to each equal to one-fifth of six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

#### RUBY M. DOZIER

The resolution (S. Res. 487) to pay a gratuity to Ruby M. Dozier was considered and agreed to, as follows:

S. RES. 487

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruby M. Dozier, widow of Ellsworth B. Dozier, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

#### ADDITIONAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE

The Senate proceeded to consider the resolution (S. Res. 476) authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments, in line 3, after the word "Senate", strike out "\$50,000" and insert "\$25,000"; and, in line 5, after the word "to", strike out "February 9, 1970" and insert "February 16, 1970"; so as to make the resolution read:

*Resolved*, That the Committee on Labor and Public Welfare is authorized to expend from the contingent fund of the Senate \$25,000 in addition to the amount, and for the same purposes and during the same period, specified in S. Res. 312, Ninety-first Congress, agreed to February 16, 1970, authorizing an investigation of various matters within its jurisdiction.

The amendments were agreed to.

The resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1380), explaining the purposes of the resolution.

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

Senate Resolution 476 as referred would increase by \$50,000, from \$695,000 to \$745,000, the limitation on expenditures by the Committee on Labor and Public Welfare for the investigation of various matters within its jurisdiction it is currently engaged in pursuant to Senate Resolution 312 of the present Congress.

The Committee on Rules and Administration has amended Senate Resolution 476 by reducing the requested amount from \$50,000 to \$25,000, a reduction of \$25,000. An ad-

ditional amendment by the committee would correct a clerical error in a date.

Senate Resolution 312 as agreed to by the Senate on February 16, 1970, authorized the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, to expend not to exceed \$695,000 from February 1, 1970, through January 31, 1971, to examine, investigate, and make a complete study of any and all matters pertaining to the jurisdiction of the Committee on Labor and Public Welfare including all matters relating to education; health, labor relations, labor safety, wages and hours, and migratory labor conditions; manpower training and utilization; poverty, railroad retirement; and veterans education, health, and readjustment to civilian life.

The additional funds which would be authorized by Senate Resolution 476 are requested by the Committee on Labor and Public Welfare to enable it (1) to meet the costs of the salary increase granted by Public Law 91-231, approved April 15, 1970, and (2) to accommodate additional hearings and oversight investigations not contemplated prior to the announcement of the extended session.

#### STATUE OF THE LATE SENATOR E. L. BARTLETT

The concurrent resolution (S. Con. Res. 2) authorizing acceptance for the National Statuary Hall collection of a statue of the late Senator E. L. Bartlett presented by the State of Alaska, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. CON. RES. 2

*Resolved by the Senate (the House of Representatives concurring)*, That the statue of the late Senator E. L. Bartlett, presented by the State of Alaska for the National Statuary Hall collection, is accepted in the name of the United States, and that the thanks of the Congress be tendered to the State for the contribution of the statue of one of its most eminent personages, illustrious for his distinguished civic services.

SEC. 2. The State of Alaska is hereby authorized to place temporarily in the rotunda of the Capitol the statue of the late Senator E. L. Bartlett referred to in section 1 of this concurrent resolution, and to hold ceremonies in the rotunda on said occasion. The Architect of the Capitol is hereby authorized to make the necessary arrangements therefor.

SEC. 3. (a) The proceedings in the rotunda of the Capitol at the presentation by the State of Alaska of the statue of the late Senator E. L. Bartlett for the National Statuary Hall collection, together with appropriate illustrations and other pertinent matter, shall be printed as a Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on Printing.

(b) There shall be printed five thousand additional copies of such document which shall be bound in such style as the Joint Committee on Printing shall direct, of which one hundred and three copies shall be for the use of the Senate and three thousand copies shall be for the use of the Members of the Senate of the State of Alaska, and four hundred and thirty-nine copies shall be for the use of the House of Representatives, and one thousand four hundred and fifty-eight copies shall be for the use of the Member of the House of Representatives from the State of Alaska.

SEC. 4. A copy of this concurrent resolution, suitably engrossed and duly authenticated, shall be transmitted to the Governor of Alaska.

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

the RECORD an excerpt from the report (No. 91-1381), explaining the purposes of the concurrent resolution.

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

#### EXPLANATION OF SENATE CONCURRENT RESOLUTION 2

The first section would provide that the statue of the late Senator E. L. Bartlett, presented by the State of Alaska for the National Statuary Hall collection, be accepted in the name of the United States, and that the appreciation of the Congress be expressed to the State for the contribution of a statue of one of its most eminent personages, illustrious for his distinguished civic services.

Section 2 would authorize the State of Alaska to place temporarily in the rotunda of the Capitol the statue of the late Senator E. L. Bartlett referred to above and to hold ceremonies in the rotunda on said occasion. The Architect of the Capitol would be authorized to make the necessary arrangements therefor.

Section 3 would provide that the proceedings held in the rotunda of the Capitol be printed, together with appropriate illustrations and other pertinent matter, as a Senate document. The copy for such document would be prepared under the direction of the Joint Committee on Printing. There would be printed 5,000 additional copies of such document, which would be bound in such style as the Joint Committee on Printing shall direct, of which 103 copies would be for the use of the Senate (one per Member), 3,000 copies would be for the use of the Members of the Senate from the State of Alaska (1,500 each), 439 copies would be for the use of the House of Representatives (one per Member), and 1,458 copies would be for the use of the Member of the House of Representatives from the State of Alaska.

Section 4 would provide that a copy of this concurrent resolution, suitably engrossed and duly authenticated, be transmitted to the Governor of Alaska.

Mr. MANSFIELD. Mr. President, I am delighted that this signal honor is being accorded to a former colleague of ours, a man who was more responsible than any other person for achieving statehood for Alaska, a man who is deserving of this honor.

May I say, speaking personally, that I am delighted my long time friend and former colleague, the late Senator E. L. "Bob" Bartlett will have a statue placed in Statuary Hall among the other great pioneers and achievers of this Nation.

#### HEARINGS ON SCHOOL PRAYER

The concurrent resolution (H. Con. Res. 183), to provide for the printing of 1,000 additional copies of school prayer hearings, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1382), explaining the purposes of the concurrent resolution.

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

House Concurrent Resolution 183 would provide that there be printed for the use of the House Committee on the Judiciary, 1,000 additional copies each of parts 1, 2, and 3 of the hearings entitled "Proposed Amendments to the Constitution Relating to Prayers and Bible Reading in the Public

Schools," hearings before the Committee on the Judiciary, House of Representatives, held during the Eighty-eighth Congress, second session.

The printing-cost estimate is as follows:

<i>Printing-cost estimate</i>	
Part 1, 1,000 copies.....	\$5,105.77
Part 2, 1,000 copies.....	4,625.43
Part 3, 1,000 copies.....	5,656.88
<hr/>	
Total estimated cost, H.	
Con. Res. 183.....	15,388.08

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

#### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from New York (Mr. JAVITS) for not to exceed 30 minutes.

#### THE U.S. PRESENCE IN EUROPE

Mr. JAVITS. Mr. President, the purpose of my speaking this morning is to report on the 16th Annual Conference of the North Atlantic Assembly, on which I serve as Chairman of the Political Committee.

The matters transpiring now between the United States and its NATO allies are so critical that I believe Senators will be interested in the developments as I saw them at The Hague and in what I believe it means in terms of the relationship between Europe and the United States.

I was able to obtain a clearer understanding of the views and concerns of our parliamentary colleagues from the nations allied with us in NATO, except for Greece, which was not represented and has no parliament.

Also, I briefly visited Paris and London just before the Hague meeting, and I had the opportunity to confer with our negotiators at the Paris peace talks.

Mr. President, I find that three major subjects are of dominant concern on both sides of the Atlantic. They are: First, the continuing presence of U.S. forces in Germany at about the present levels; second, the progress and implication of the Ostpolitik—or "eastern policy"—of the Brandt government in Bonn which includes, as well, relations of Western Europe with the East; and third, the whole network of negotiations concerning trade and economic relationships among the western nations—most specifically the negotiations to expand the European Economic Community—EEC—to include Britain and the other applicant nations.

While these three issues may appear to be quite separate and distinct, I believe that they are closely interrelated. For, they bear upon the central issue of United States-Western European relations—the future of NATO and specifically the outreach of our security requirements generally.

Basic decisions on all three hang in the balance and will be decided, in my judgment, primarily on the basis of the conclusions reached in Europe about the new course which the United States is now setting for itself for the post-Viet-

nam period—and on the basis of the conclusions reached in the United States about the new course Western Europe is setting for itself—now that the glacial configuration of postwar Europe is beginning to change.

It is my impression that a new awareness is taking shape in Europe regarding the importance to European security of the U.S. conventional military presence there, as well as a new awareness that the status quo is not acceptable to the United States. Europe is perhaps appraising whether the United States is all that big and all that important now that Europe has found some economic competence, too. I feel that I know the answer and that the answer is positive. We are that big and that important, but Europe may still have to find it out in new terms. I see a great moment of truth looming—really the big crisis of the post-World War II Western World.

I do not find that this new awareness of the importance to Europe of the U.S. military presence and the concurrent new awareness of the inevitability of change in the status quo to have been as yet galvanized into an effective European opinion offering realistic alternatives.

The first efforts, under German leadership, to organize an institutionalized system of "burden-sharing" to relieve the financial and balance-of-payments costs to the United States of our forces in Europe have produced meager and disappointing results. A hopeful trend is perceptible, but the kind of concrete actions by our European allies needed by the friends of NATO in the United States to insure that they can hold the line against precipitous U.S. troop withdrawals has not yet materialized. I think there is still an insufficient sense of urgency on this score in Europe.

Further, I think there is general agreement on both sides of the Atlantic that the time has come for a rejuvenated and more unified Western Europe to assume a much larger share of the responsibility for its security. The question is whether the mood for retrenchment in the United States will move that much faster than the movement in Europe for unity and self-reliance in security matters. The Defense Ministers of NATO—meeting this week in Europe, beginning on Thursday—are going to have a lot to do with deciding this question.

The specter haunting Europe—particularly Germany—is one of being left prematurely naked, in a military sense, before the awesome military might of the Soviet Union as a result of swift and deep U.S. troop withdrawals. The fear is that in such an event there would be a swift unraveling of NATO; and that into this power vacuum the Soviet Union would move—not in the crude sense of military attack and occupation—but of intervening in the negotiations now going on regarding Europe's future shape and relationship with the United States.

It is feared that the Soviet Union would use suspicion, threats, pressures, and inducements to divide the nations of Europe before their own new institutions have taken effective shape and by stages to impose a Finland-type of dependent neutrality on Western Europe.

I believe that the fears I have just de-

scribed in Europe are justified and present an equal danger to the security and future of the United States; and I believe that these very concerns are—or should be—shared at the highest levels of the administration—the White House, the State Department, and the Pentagon. Perhaps they are too little understood and considered in the country, but this is understandable too, for we have heard the cry of "wolf" too many times before to respond automatically.

While I feel there must be a greater American understanding of legitimate European concerns on the question of troop levels there and security, I feel strongly that a greater European understanding of American misgivings and concerns is needed also. And, I believe that the developing crisis in the Mediterranean and Mideast—precipitated by the bold Soviet thrust to outflank NATO—offers an opportunity to provide the decisive test for implementing this new European understanding of U.S. problems in the years just ahead. Unless there is solidarity between the North American and the European partners of NATO in meeting the Soviet challenge in the Mideast and Mediterranean, there may arise serious questions that NATO has a meaningful and viable future even as a military alliance. It has stood the test of European disenchantment with Vietnam but it may not be able to stand the same test as to the Middle East.

Thus far the United States has received very little support and assistance in meeting the direct challenge posed by the Soviet drive for hegemony in the eastern and southern littoral areas of the Mediterranean basin. The Soviet complicity in the cheating on the Suez standstill and ceasefire shows the high risk the U.S.S.R. is willing to take in the Middle East. If this continues to be the case, I think there will be a psychological reaction in the United States which could hasten and deepen the possibility of heavy withdrawal of U.S. forces in Europe.

On the basis of my experience at The Hague in the North Atlantic Assembly meeting, I feel that there has been a perceptible increase in European awareness of the danger and the implications of Soviet policy and actions in the Mediterranean and Mideast—as well as a greater European sense of responsibility for and stake in the security of the Mediterranean and Mideast. But is it enough in time and weight? That is the question.

This year, the North Atlantic Assembly unanimously adopted two proposals which I offered to deal with the situation in a tangible way. In its major resolution, which will be presented to the North Atlantic Council, the Assembly recommended the establishment of a NATO Standing Naval Force in the Mediterranean to demonstrate in a tangible way the solidarity of the European members of NATO with the United States and the efforts of the U.S. 6th Fleet to preserve Western security interests in the Mediterranean. If implemented by NATO, I think such an action could have a significant political and psychological impact on the nations adjacent to the Mediterranean—and on the U.S.S.R.

The second proposal I made, which was adopted by the Assembly, urges the North Atlantic Council to announce its insistence that peace and security in the Mideast be an item on the agenda of any proposed European Security Conference which is being promoted by the Soviet Union and its Warsaw Pact allies. In my judgment, the inclusion—at Western insistence—of peace and security in the Mideast as an integral agenda item on an East-West conference on European security would indicate a fuller appreciation by our European allies in NATO of the indivisible relationship between the security of Western Europe and current Soviet military and geopolitical actions in the Mideast. This in itself could have a sobering and salutary impact on the Mideast situation—where the Kremlin now appears to calculate that it has an open field for maneuver and for threatening and subverting European security, while Western Europe stands idly by.

Closely related to the question of U.S. troop levels in Germany, and to the interrelationship between European and Mideast security, is the Ostpolitik of the Brandt government in the Federal Republic of Germany. There is general recognition—and one which I share personally—that Ostpolitik is a bold and imaginative initiative which could bear enormous fruits in terms of reducing East-West tensions and normalizing the situation in a still divided Europe. Certainly, the integrity and high motives of Chancellor Brandt are unquestionable. Nonetheless, there is an inevitable undercurrent of doubt and uneasiness—even among Chancellor Brandt's most devoted well wishers—concerning the potentially adverse results of Ostpolitik; which could gravely jeopardize Western and United States vital security interests.

It is essential, in my judgment, to bear in mind that Chancellor Brandt's "eastern policy" is also the Kremlin's "western policy." The Soviet Government obviously is as pleased with the results of Ostpolitik negotiations completed so far as is the Brandt government. The Soviet objective in the Ostpolitik negotiations, of course, is to advance its foreign policy goals—which in Europe include the dissolution of NATO, the removal of U.S. influence and military presence, and the imposition of Soviet dominance over the economy and politics of Western Europe.

It is in this framework that Chancellor Brandt must conduct all his Ostpolitik negotiations with the Union of Soviet Socialist Republics, Poland and its other Warsaw pact allies. And for this reason, we can appreciate the absolutely crucial interplay of attitudes and conclusions regarding each other's mood and intentions, among the NATO partners on the two sides of the Atlantic. If U.S. actions convince the Federal Republic of Germany, and other European nations, that the United States is indeed, pulling out of Europe, then the unraveling of NATO could soon follow and we could expect Ostpolitik soon to take on a new coloration—that of seeking "accommodation" with the U.S.S.R., perforce, essentially on terms set by the U.S.S.R. Equally, if we in the United States gain the impression that Europe has lost its

allegiance to the NATO cause, and is engaged essentially in an exercise of accommodation to its own nationalistic advantage for the short term and excluding vital U.S. interests, then we may well be inclined to take compensating actions of short-term interests, perhaps through withdrawal to a more isolationist and protectionist "fortress America"—which would be self-defeating in the long run.

This is an extreme possibility which I do not think is likely to happen. Basically, I have faith that the free peoples of the West can and will stick together and hold their own, and that the Ostpolitik negotiations will succeed in advancing the security of all of Europe, and in hastening the evolution toward cooperation and peace of the Communist societies of the U.S.S.R. and East Europe. Nonetheless, the outcome hangs in the balance.

The third strand of this interwoven nexus is the negotiations now going on regarding the expansion of the European Economic Community. It is this which must be the base of a unified Europe, to which if Germany adheres. The potential dangers of Ostpolitik will be avoided and its advantages realized if Western Europe continues to progress toward unification. These negotiations, clearly involve much more than mere bargaining over conditions of entry. The future shape of Europe—and its future posture toward the United States—economically and politically—is the fundamental underlying question. Here again, there is an interrelationship with the security issue and the issue of East-West negotiations. The new British Government has made a symbolic gesture in its decision to leave a token number of its forces in Malaysia-Singapore—"East of Suez"—thus perhaps preshadowing that a unified Europe will do more to aid in the strategic responsibility which we thought we share the Western strategic burden outside of Europe—now exclusively on our shoulders.

In this field, East-West negotiations and security questions especially, the interplay of mood and conclusion as to intent on both sides of the Atlantic will have a profound impact on the overall result. If the United States concludes that Europe is evolving into a basically closed and protectionist political-economic entity, indifferent to U.S. interests, then protectionist, isolationist and "retaliatory-minded" forces in the United States could gain the upper hand and push through the very measures most feared in Europe—ones likely to touch off a bruising and destructive trade war—and thereby jeopardize aspirations for peace and prosperity—not only on the two sides of the North Atlantic, but also in the poorer "third world" which needs aid and trade with the industrialized West.

I hope very much the interrelationship of the trade issues with the other issues of security and East-West negotiations is kept in mind during the historic debate about to begin in the Senate on the Trade Act of 1970. In my judgment, this bill is the most significant—and potentially dangerous—piece of foreign affairs legislation of recent years.

Today we have very interesting and

potentially important news with respect to the Trade Act of 1970, which I shall comment on in a moment. To be kept in mind are the negotiations in Europe regarding conditions on which the United Kingdom and other Western European nations will be admitted to the Common Market, especially conditions affecting British imports of agriculture and food. The additional barriers being erected or capable of being erected by the Common Market particularly as they relate to our agricultural exports could embitter seriously the relationship between European countries in the Common Market and the United States.

This is a very dangerous and serious point which I do not believe received the recognition in Europe that it should. In our country the peril is equally great in that enactment of a really rigid quota bill would involve, in my judgment, a trade war with Europe and Japan which would place in utmost jeopardy the close economic and political ties which have developed over the last 25 years to the enormous benefit of all of us. Such legislation would tend to put the world on a footing of trade war as against trade peace. These are the dangers.

I was pleased to see some of the liberalizing modifications of the trade bill introduced by the Committee on Finance yesterday which begins to show, especially in the elimination of the autonomy of fixing quotas in many products such as shoes, the danger we would have faced if we had gone all the way with the trade bill that came from the other body. It is my hope that when the absent Finance Committee members are polled that the shoe quota provisions will be permanently struck; as it is my hope that successful textile negotiations with the Japanese will eliminate the need for legislated textile quotas.

In conclusion, I see cautious grounds for optimism because I believe that the opportunity for constructive change and growth is now at hand in a way that is unique in this century and I believe that the good sense of our Nation—and that of our allies will prevail. We are heading into a most dangerous and portentous period of trial which will demand the very highest and strongest within us.

Western Europe needs to make some overture right now toward us in the matter of U.S. troops, and trade, which I have described. The four areas most immediately at hand which would carry the most weight are:

First. A maximum effort by Western Europe in meeting its commitments to the NATO forces levels and infrastructure requirements.

Second. More suitable arrangements for dealing with dollar defense costs of the United States in Europe on a burden-sharing basis.

Third. Demonstrated concern for security problems outside the geographical area of Europe through joining in the provision of a NATO standing naval force in the Mediterranean and cranking into the agenda for the European Security Conference the question of peace in the Mideast; and

Fourth. More accelerated progress toward the unification of Europe, specifically through the admittance of Britain

and the other EFTA applicants to the European Economic Community; and political progress in the establishment of Atlantic institutions, including expanded consultation at the ministerial level and close cooperation in the fields of education and technology.

It is my judgment that if Western Europe, the United States, and Canada move along these lines, the result will be a greatly strengthened Atlantic community; with a capability for receiving and absorbing most constructively a detente with the East; a more stable world economic situation; and major progress in closing the gap between the developed and developing nations.

In this connection, Mr. President, since the distinguished majority leader (Mr. MANSFIELD) is now present, I would like to say a word to him about his famous and much discussed resolution about U.S. troop withdrawals from Europe. I know there is a deep feeling on this question. I think he has shown extraordinary statesmanship and an attitude of willingness to listen and to be guided not only by what he thought but also by what others whom he respects thought to be in the best interests of our Nation, and not try, as he could as majority leader, for immediate consideration of the resolution. He, of course, has the privilege to do that at any time.

I would like to report to him the esteem in which he is held, and which has increased, in Europe from an understanding of the motivation of the highest character which has dictated his staying his own hand in reference to a matter in which he has deep convictions. I think it is only fair that the distinguished majority leader should know of the feeling on the part of so many European statesmen and parliamentarians with whom I had the opportunity to speak.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. I appreciate those kind remarks, but I think, in all candor, I should state that the period of postponement, the period of flexibility, to allow the administration to arrive at some sort of agreement by means of which the Western European members of NATO would share more of the burden has about come to an end. On the basis of statements by the Secretary of Defense on yesterday, it appears that the June 30 deadline, which had been the administration's termination point, as I understood, up to this time, has now been obviated. If the press reports relative to the Defense Secretary's statement are correct, I think notice should be served that this matter will be renewed, if not in this session—I would not forgo that possibility—certainly in the next session, because I think—and the Senator and I have discussed this subject many times, although we are in disagreement on some points—that 525,000 U.S. military personnel and dependents, more than a quarter of a century after the end of the Second World War, are too much of a burden to bear.

According to the figures of the distinguished Senator from Illinois (Mr. PERCY), which have not been disproved

to my knowledge, it takes \$14 billion out of the defense budget to maintain the personnel and installations we have in Western Europe. It would appear to me, not only as a matter of economics, but, more important, as a matter of principle, that it is time that the countries of Western Europe, all of which have been rehabilitated, some of which have been reconstructed, and all of which are in better shape financially than we are, without our internal problems, should undertake a greater share in support of their own defense.

As the Senator knows, I have never advocated an abrupt withdrawal or drawn-down. I advocate such a withdrawal being on a graduated basis, so that our allies will not be caught "off base." I think the time is long overdue. I do not subscribe to the allegations of some of our own authorities that the situation in Western Europe at the present time is "razor thin" as far as the defenses of the West are concerned. Certainly that does not apply to our own people in Europe.

I think it is about time that a change of scene occurred, and I think it can be done with our strict adherence to NATO and all it means. I believe in NATO devoutly, but I do not believe in the continuation there of 525,000 of our military and dependents, costing \$14 billion out of the defense budget, causing a partial drain on our gold reserves and balance of payments, to continue ad infinitum into the indefinite future.

Mr. JAVITS. I am very grateful to the Senator for speaking with his customary candor. He and I disagree only on some points. I think my own speech makes that clear.

Mr. MANSFIELD. That is correct.

Mr. JAVITS. I must say his attitude is absolutely an essential ingredient if this matter is to be resolved even in accordance with my idea and that of others who think like me. I would hope the Senator would wish to throw into the balance Secretary Laird's assertion, which, generally speaking, would seem to indicate a posture much like that which we have had up to now until the end of the fiscal year 1971-72. This would, as the Senator knows, represent 1 year's extension of what we had understood to be the situation at present. I would hope the Senator would also wish to throw into the balance the result of the Defense Minister's meeting and the NATO Council, which will open Thursday. I think this is a critical factor.

I think the whole world will have profited, whether one agrees or disagrees with the resolution of the distinguished majority leader, from the fact that he saw this situation "coming up the pike" early, and had the feeling that it had to be resolved in the interest of our country. That is what I meant before when I referred to the attitude of the representatives of Western Europe.

Mr. MANSFIELD. May I say I appreciate the point which the distinguished Senator has reemphasized, because I noted it in the course of his speech to the Senate today.

Mr. JAVITS. I thank my colleague.

Mr. President, I want to make one point about the \$14 billion. I think the

Senator from Illinois (Mr. PERCY) has served us well in his marshaling and analysis of these facts. I think, however, we must not assume that the \$14 billion represents an expense which we can save altogether or even in significant part even if we pulled entirely out of Europe. I know the Senator understands that. The balance-of-payments drain is another matter.

Mr. MANSFIELD. Absolutely; the Senator is correct. I did not mean to imply that interpretation. All I intended to do was state a fact which, to my knowledge, has not been denied by anyone in authority, and which has been repeatedly stated on the floor of the Senate over the past several years.

Mr. JAVITS. Yes; it is a fact that it is an order of magnitude. If we had forces here in being, ready to be transported, we would have to ascertain what that means in terms of money. Perhaps it would not mean \$14 billion. But the present U.S. NATO posture does represent that magnitude of resource commitment, including manpower commitment. That we must deal more effectively with it than we have is something that will be accepted on both sides of the Atlantic. But I do believe that vital national interests of the United States are involved in what is at stake in terms of the future of Western Europe.

Mr. MANSFIELD. I agree with the Senator, and may I say it would be my hope that we would recognize the fact that while by no means would all of the \$14 billion be saved, because we would have to spend a good part of it elsewhere in this country, it is an ironic situation when, a quarter of a century after the second World War, we still have such a tremendous establishment in Western Europe.

May I say, further, that the present administration should be given its due share of credit, because there has been a draw-down—not as much as some of us would like to see, but, in effect, there has been a steady reduction of U.S. forces in Europe, which I think has been overlooked in the general picture, but which is an established fact nevertheless.

Mr. JAVITS. I would say, to make clear what I was trying to report—and it is a report on what I have evaluated and observed of what has gone on there—is that the justification for maintaining any establishment there is the avoidance of World War III. That question must constantly be tested in that crucible. That is what I was trying to analyze in my speech. I see grave dangers in a Europe which turns inward both economically and politically, instead of recognizing its problems, which are just as worldwide as ours, and that unless it shares those problems, we are not avoiding the problem; on the contrary, we are blundering right into it.

Mr. MANSFIELD. If the Senator will yield, may I say that Europe is also turning outward as far as its economic situation is concerned. The countries of Western Europe are seeking trade pacts with the countries of Central Europe, the so-called socialist countries, with the Soviet Union, and even with China. The Senator may recall that 2 or 3 years ago

there was a consortium of sorts composed of Western European nations, including West Germany, Belgium, and one or two others, under which an agreement was entered into to build a \$150 million steel rolling mill in China. These outward-looking economic facets have been opened from time to time. So there is that factor to consider.

The odd thing is that whenever anyone talks seriously about a U.S. troop reduction, all of a sudden a crisis emerges which was not apparent the day before, and the situation assumes kaleidoscopic proportions. So I think it is about time that both of us faced up to reality, and did what we could in accord with our resources, because it is too much of a burden. I have stressed the economic factor as far as this Nation is concerned. The distinguished Senator from New York has defined that in its true terms, but I say again it is a matter of principle primarily, not a matter of withdrawing from NATO.

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

Mr. JAVITS. I ask unanimous consent for 5 additional minutes.

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

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

Mr. JAVITS. If the Senator from New Jersey will permit me, I should like to continue the colloquy with the Senator from Montana to make one further point. We meant exactly the same thing, when I said they are turning inward and he said they are turning outward, for this reason: They are turning physically outward to China and to Southeastern Europe. They now even have bilateral and multilateral arrangements with countries in Africa. But they are turning inward in the sense that these are exclusivist arrangements, not on the basis on which the whole postwar rehabilitation of the world has been built, to wit, the most favored nation basis. I see this as a very regressive approach by Europe, which has gotten it in terrible trouble before and may again.

Mr. MANSFIELD. Mr. President, may I say it is my belief that the NATO countries are becoming, in fact, more isolationist—a charge which has been leveled at those of us who advocate, not a total withdrawal, but a drawdown in our installations and bases all over the world, and a recognition of the fact that we have only so much in the way of manpower and resources, that we cannot police the world, that the American people do not desire it, and I do not think any administration would like it.

But it appears to me that we are all too often tied to policies of the past, that were good a decade, two decades, or 25 years ago. The world has changed, and we have to change with it. And may I say in conclusion that it would be my intention not only to try to do something through a sense of the Senate resolution, but I think the time has arrived to go beyond that, and to introduce an appropriate type of legislation to an authorization bill or an appropriation bill at the appropriate time.

Mr. JAVITS. I thank my colleague very much. This is notice which the world should have, and I am glad that I have been the instrument, though unwittingly, to bring it to the fore.

Mr. MANSFIELD. The catalyst.

Mr. JAVITS. I thank the Senator.

I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, the Senator from New York has produced, on this occasion as on many other occasions, a most useful speech.

If I may for just a moment digress to a personal observation, I have to say, as a member of this year's North Atlantic Assembly and of its Political Committee, of which the Senator from New York was chairman, that I was enormously proud of the job that he did as head of that committee, not only in formal ways but in substantive ways. I cannot imagine anyone who could have created, from the somewhat negative material at hand, a more useful end product. His two resolutions demonstrated his well-known ability to make bricks without straw.

The Senator's two resolutions are useful and important, and his introduction of them required a keen knowledge of important aspects of our alliance and our relations with the countries of Western Europe which some would prefer to forget.

In regard to the position of the Senator from Montana, the majority leader, I think the Senator from New York has rightly noted its importance, particularly at this time. I do not think anyone ought to have illusions about the extent to which America is going to act on the matter of troops in Europe. The position of the Senator from Montana, represents the outer limit of what the broad range of American opinion will support in the way of carrying peoples who are not willing to do their fare share.

It will be very unfortunate if the message from the Senator from New York and the Senator from Montana does not get through to the NATO ministers at their meeting this week, since there is a clear limit beyond which the United States cannot or will not go in supporting people who will not support themselves. In a sense, the same principle is involved here as in South Vietnam. I am most pleased that the Senator in his speech has cut through the usual wall of rhetoric and has avoided the kinds of pious statements that they done so much to cloud thinking on this matter. He deserves enormous credit for yet another example of what a man of his ability can do in dealing with difficult situations. I again wish to say I am proud to have been associated with the Senator from New York during his outstanding service.

Mr. JAVITS. I thank my colleague. One of the joys of serving here is that we take turns in being in what the Senator calls a subordinate capacity. I have sat at the Senator's feet in connection with congressional reorganization, congressional ethics, and foreign policy matters for years. I think it is one of the most creative aspects of our working life, which is dedicated to the public interest as we see it, that we learn how to be, at one and the same time, acolytes and evangelists.

I thank the Senator very much for his remarks.

Mr. President, I yield the floor.

#### TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Senate will proceed to the transaction of routine morning business, with speeches therein limited to 3 minutes.

Is there morning business to be transacted at this time?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the disposition of unobjected-to items on the calendar and disposition of the reading of the Journal on tomorrow, the distinguished senior Senator from Ohio (Mr. Young) be recognized for not to exceed 15 minutes.

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

#### ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. Allen) announced that on November 30, 1970, the Acting President pro tempore (Mr. Hollings) signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 6951. An act to enact the Interstate Agreement on Detainers into law; and

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 19000. An act to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe (Rept. No. 91-1383).

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

H.R. 380. An act to repeal section 7 of the act of August 9, 1946 (60 Stat. 968) (Rept. No. 91-1384).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 4547. A bill to provide for regulation of public exposure to sonic booms, and for other purposes (Rept. No. 91-1385).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

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 (Rept. No. 91-1386).

#### EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of nominations was submitted:

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

Ralph E. Kennedy, of California, to be a member of the National Labor Relations Board; and

David H. Stowe, of Maryland, to be a member of the National Mediation Board.

#### BILLS INTRODUCED

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

By Mr. DOLE:

S. 4548. A bill to authorize the Secretary of Agriculture to receive gifts for the benefit of the National Agricultural Library; to the Committee on Agriculture and Forestry.

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

By Mr. MATHIAS:

S. 4549. A bill for the relief of Aida E. Kash; to the Committee on the Judiciary.

By Mr. GORE:

S. 4550. 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.

#### S. 4548—INTRODUCTION OF A BILL TO AUTHORIZE THE SECRETARY OF AGRICULTURE TO RECEIVE GIFTS FOR THE BENEFIT OF THE NATIONAL AGRICULTURAL LIBRARY

Mr. DOLE. Mr. President, it has been observed that the National Agricultural Library does not enjoy the same privilege of receiving gifts as other national libraries.

Since potential donors exist who have indicated their desire to seek a suitable repository for their gifts in this library, I introduce today a bill which will provide the Secretary of Agriculture authority to receive such gifts for the benefit of the National Agricultural Library.

In its new building at Beltsville, Md., the library contains more than 1 million volumes and is the largest collection of literature and other materials per-

taining to agriculture and related sciences. Through cooperation with the Nation's land-grant colleges, the library is maintaining the most current agricultural information.

The same proposed legislation is now awaiting action by the House of Representatives after favorable recommendation by the House Committee on Agriculture. The bill has the full support of the Department of Agriculture, and the Office of Management and Budget has indicated it has no objection.

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

The bill (S. 4548) to authorize the Secretary of Agriculture to receive gifts for the benefit of the National Agricultural Library, introduced by Mr. DOLE, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

#### SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

##### AMENDMENT NO. 1090

Mr. JAVITS. Mr. President, I submit, for appropriate reference, an amendment to H.R. 17550, the act passed by the House and referred to the Committee on Finance, which amends the Social Security Act to, among other things, increase benefits and raise the earnings base. My amendment would provide that employers having pension plans under which payments are correlated with social security benefits would have the allowable amount of their deductions under the Internal Revenue Code for private pension contributions reduced in cases where increases in such benefits result in a deduction of the benefits paid by the pension plan to retired employees.

Last year the Congress voted a substantial increase in social security benefits. At that time, I was quite troubled by the complaints that had been received from retired persons indicating that the retirement benefits they were receiving from private pension plans were being completely or partially watered down in consequence of the increased amount of social security benefits they were entitled to receive. Since that time, these complaints have continued to multiply and, frankly, I am appalled that the result of voting social security increases has little or no practical benefits for these retired persons.

The total number of pension plans that continue to engage in this offsetting practice is apparently not very great. In 1966, for example, it was estimated in hearings before the Subcommittee on Fiscal Policy of the Joint Economic Committee that—

Social Security deduction provisions are constantly being eliminated from pension plans. In 1957 the Bureau of Labor Statistics showed that 30 percent of the non-contributory plans in the periodic study of 100 selected pension plans—contained Social Security "offset" provisions; by 1961 this figure had dwindled to 18 percent, according to BLS. In the Bureau of National Affairs survey published in January (of 1966), it was noted that for manufacturing industries, only, less than 10 percent of all union negotiated pension plans made any kind of Social Security deduction.

An examination of the latest available data in plans published in the Bureau of Labor Statistics digest of collectively bargained plans appears to indicate that less than 5 percent of these plans make social security deductions; however, it is known that the percentage may be somewhat higher in nonnegotiated plans. In any event, some of the plans that do have such provisions are quite substantial, covering thousands of employees.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the end of my statement the text of my amendment, and the types of offset provisions from the pension plans of certain major companies.

This practice of offsetting social security increases by reducing private pension benefits, although permissible under current law, is particularly deplorable in inflationary times, such as those we are currently experiencing, since it effectively takes from the retiree of the very money he needs to cope with the rising cost in living. When social security increases are voted by Congress, the idea is to give all of that money to the pensioners. The idea is certainly not to provide corporations with the justification for reducing their contributions to private pension plans by cutting back on the benefits required to be paid out by the plan. The only way that we can preclude social security increases from being converted into a windfall at the expense of the pensioner is to have some penalty on those who insist on engaging in this practice.

For this reason, the amendment I propose would disallow employer tax deductions for contributions to a pension plan by the amount he saves as a result of reducing his employees' pensions.

It seems to me that this is the most practical and feasible method of discouraging a practice which negates any good that is accomplished by voting social security increases. I earnestly hope that this amendment will receive every consideration by the Committee on Finance.

The PRESIDING OFFICER (Mr. PERCY). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment and article will be printed in the RECORD.

The amendment (No. 1090) was referred to the Committee on Finance, as follows:

##### AMENDMENT No. 1090

At an appropriate place, insert the following new section:

"PRIVATE PENSION BENEFITS THAT DECREASE BY REASON OF SOCIAL SECURITY INCREASES

"SEC.—(a) Section 404 of the Internal Revenue Code of 1954 (relating to deduction for contributions of an employer to an employees' trust or annuity plan, et cetera) is amended by adding at the end thereof the following new subsection:

"(g) PENSION, ET CETERA, PLANS CORRELATED WITH OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS.—If contributions are paid by an employer to a stock bonus, pension, profit-sharing or annuity plan designed to provide benefits upon retirement, and, the amount of the benefit payment or payments to such individual under the plan for any period is reduced, in whole or in part, by reason of an increase in the amount of the monthly insurance benefits which are payable to such individual for such period

under title II of the Social Security Act, then the total amount deductible under this section with respect to contributions made by the employer to the plan for the taxable year in which occurs the period described in this section shall, under regulations of the Secretary or his delegate, be reduced by an amount (which shall not be in excess of the total of the amount otherwise so deductible) equal to the next decrease in payments to all individuals under the plan by reason of such increase during such taxable year.

"(b) The amendment made by this section shall apply with respect to taxable years of employers contributing to such stock bonus, pension, profit sharing or annuity plans beginning on or after the date of enactment of this Act."

The material, presented by Mr. JAVITS, is as follows:

**I. PENSION PLAN FOR RETIREMENT FOR AGE  
III C. Deduction for Governmental Benefits:**

The gross benefit determined under Paragraphs (A) or (B) of this Section shall be reduced by the amount of each and every payment or benefit for which provision is made under any law, statute or ordinance, of the State of New York or the United States, by reason of old age benefits or pension, occupational disability, unemployment insurance (except in cases of retirement under Paragraphs (A) or (B) of Section II) and non-occupational disability, or any type of social security as to which such employee may be or become eligible, irrespective of whether such benefit becomes unavailable by reason of any act or failure to act on the part of the employee, provided that:

(1) Deductions on account of Federal Old Age Benefits which are available to a retired employee between the ages of sixty-two (62) and sixty-five (65) on a reduced basis, shall be made only if such retired employee takes such early benefit.

(2) The deductions on account of Federal old age benefits or pensions shall be only one-quarter ( $\frac{1}{4}$ ) of the amount of the Primary or Disability Social Security amount as is or may become available to a retired employee whose retirement becomes effective on or after January 1, 1958, and shall not include the deduction of any amounts payable to or for the benefit of his wife or dependent children; and

(3) Pension payments by Federal, State or municipal governments for service under those governments shall not be deducted hereunder.

**II. RETIREMENT PLAN  
Social security**

Social Security benefits for which you are eligible will provide retirement income over and above benefits paid to you by this plan. However, if the primary Social Security insurance amount is increased over that level provided by the law, as in effect on December 1, 1962, and prior to your normal retirement date, early retirement, total and permanent disability or termination of employment, then one-half of the increase will be deducted from your benefit paid by the Retirement Plan.

*Corresponding plan provision*

4.8. Increase in Social Security Benefits. If the primary insurance amount (or the amount corresponding thereto) under the Federal Social Security Act is increased over the primary insurance amount under such Act as in force on December 1, 1962, prior to the Normal Retirement Date, Early Retirement, total and permanent disability, or termination of employment for any other reason, of an Employee, then the amount of any benefit payable to him under this Plan (other than a benefit elected under the Original Plan) is reduced by one-half of the amount of any such increase. Such reduc-

tion commences upon retirement in case of any Participant who retires on or after his Normal Retirement date, at age 65 in the case of a Terminated Participant, and concurrently with the payment of such primary insurance amount (but no later than age 65) in the case of a Participant who receives disability or Early Retirement benefits. If a lump sum or optional benefit is payable under the Plan, the amount of the reduction is determined actuarially. The term "primary insurance amount" as used in this Section means the amount of primary old age insurance benefit payment and disability payment which a Participant would, on proper application and without engaging in disqualifying employment, be entitled to receive for his own account (without regard to any benefits payable in respect of his dependents) upon retirement or disability under the Federal Social Security Act, or any Federal legislation supplementing or incorporating such Act or the benefits provided therein.

**III. PLAN**

*Provision applicable to noncontributory retirement annuity plan*

**B. Old Age Insurance Offset:**

In this section one's old age insurance offset is  $1\frac{1}{2}\%$  of the old age insurance benefit to which he would be entitled (when he acquires the matured right to the Non-contributory Retirement Annuity) if:

- (a) He were fully insured;
- (b) His age at that time was his entitlement age (true age if older) and
- (c) His average monthly wage were based on:
  - (1) His wages while an affiliated employee, and
  - (2) The maximum wages used to determine a primary insurance amount for other time, multiplied by his years of retirement service, but no more than  $33\frac{1}{3}\%$ .

**IV. PENSION PLAN**

16. For employees retiring on or after January 15, 1965, the Company shall pay \$100.00 per month excluding any Social Security payment. For employees retiring on or after January 15, 1966, the Company shall pay \$125.00 per month excluding Social Security. The eligibility for this pension shall be 65 years of age and twenty years of service.

**AMENDMENT OF FEDERAL TRADE COMMISSION ACT TO PROVIDE INCREASED PROTECTION FOR CONSUMERS—AMENDMENT**

**AMENDMENT NO. 1091**

Mr. HOLLINGS (for himself, Mr. ALLEN, Mr. COTTON, Mr. HRUSKA, Mr. FANNIN, Mr. MATHIAS, Mr. PROUTY, and Mr. SCOTT) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 3201) to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes, which was ordered to lie on the table and to be printed.

**NOTICE OF HEARING ON NOMINATIONS IN THE JUDICIARY**

Mr. BYRD of West Virginia, Mr. President, on behalf of the distinguished Senator from Mississippi (Mr. EASTLAND), who is necessarily absent, I ask unanimous consent to have printed in the RECORD a notice of hearing on nominations in the Judiciary.

There being no objection, the notice 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, December 8, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Hubert I. Teitelbaum, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania, vice Wallace S. Gourley, retired.

Harry W. Wellford, of Tennessee, to be a U.S. district judge for the western district of Tennessee; a new position created by Public Law 91-272, approved June 2, 1970.

Donald R. Ross, of Nebraska, to be a U.S. circuit judge for the Eighth Circuit, vice Harry A. Blackmun, elevated.

Franklin T. Dupree, Jr., of North Carolina, to be a U.S. district judge for the eastern district of North Carolina; a new position created by Public Law 91-272, approved June 2, 1970.

James H. Gorbey, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania; 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 Arkansas (Mr. MCCLELLAN), and the Senator from Hawaii (Mr. FONG).

**ADDITIONAL STATEMENTS OF SENATORS**

**THE U.S.S. "ELMER MONTGOMERY"**

Mr. MANSFIELD, Mr. President, on November 21, 1970, a new ship joined the fleet—the U.S.S. *Elmer Montgomery* was christened.

Elmer Montgomery was an extraordinarily brave marine, a fine young American, and an outstanding Montanan who gave his life in the call of his country. We are proud that Elmer Montgomery has been honored again by his country. He exemplified the finest qualities of his generation and could well be a model for today's young. Then, as now, it is the youth who are called to make the greatest sacrifice for their country.

Elmer Montgomery left behind three very wonderful sisters who have served his memory well in their own exemplary lives. There is Mrs. Dan D. Baldwin, of Mundelein, Ill., and Mrs. Dan Weber and Mrs. Alice Kison, both of Kalispell, Mont. I know the pride they must feel for this additional honor paid their outstanding brother. It is one that is so richly deserved.

It was with regret that I was unable to attend the christening, because I had planned to do so. However, an accident to my wife prevented me from being in attendance so that I could pay my respects to my fellow Montanan. I do so today before the Senate of the United States, and I know that this respect represents the feelings of the people of Montana and the Nation.

At the christening ceremony, a long-time friend, Assistant Secretary of Defense James D. Hittle, who knew and served with Elmer Montgomery during World War II, delivered the address. It recalls the personality and character of Elmer Montgomery in a moving and poignant way. I ask unanimous consent that

the address be printed in the RECORD for the benefit of the Senate.

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

ADDRESS BY THE HONORABLE JAMES D. HITTLE

Congressman Hébert, Mrs. Weber, honored guests, ladies and gentlemen. Good morning. It is a great personal pleasure for me to be with you at the happy occasion of tribute to Elmer Montgomery in whose honor this ship is named. Congressman Hébert is with us because he is a great friend of the Navy and is always proud of the accomplishments of the people of Louisiana who are building this fine ship. On behalf of the Department of the Navy, I wish to thank you and your wife for joining us.

As small as the world has grown, the seas are still basic to our security—and sustenance. We must still depend on them. Strength at sea is still part of the framework on which American Defense is structured. It is the largest element of our terrain.

The Soviet Union recognizes this. After centuries of frustrating efforts Russia is now well established on the open seas. A modern, highly-mobile fleet of fast new helicopter carriers, cruisers, destroyers, and large sea-going fast patrol boats—all missile armed—cruise much farther than the Baltic, Mediterranean, Arabian, and Red Seas. They show themselves in bold formations on every open body of water of the earth. I am sure you are all familiar with the recent presence of Soviet ships in the Caribbean. Some three hundred and fifty Soviet submarines are available for employment for any ocean of the globe.

Russia is no longer tied to the land mass of Europe and Asia. Now, with long range missiles, a first class army, and a powerful air force, the Soviet Union has a mobile worldwide capability. But seapower is not a sum total of the number of weapons, aircraft, and landing forces a nation can float. Seapower requires a depth of logistics measured in merchant tonnage.

Right now, the Soviet Union is engaged in an effort to achieve naval parity with the United States. However, the competition between our merchant fleet has been going on since the end of World War II. A few weeks ago, President Nixon signed into law a bill passed by the Congress for a billion dollar merchant ship construction program, with 300 ships to be built over a ten-year period.

The well-balanced seapower of Russia—in both a combat navy and an efficient merchant marine—gives the Soviet Union a new depth in foreign policy. This depth can be consummated not only in offensive force, but as a blockade as well.

To date the new naval strength of the Soviet Union has not been employed directly in any armed contest. Yet, it has combined with the Soviet's massive land army in Europe, their world-wide nuclear capability, and their air force, to become a basic element of Soviet power.

I think the purpose of Soviet seapower is clearly defined in the world of the 1970's. That purpose is force—force to achieve ambitions and carry out policies in the spread of communist control in the overall struggle.

The Soviet move to sea with modern ships and modern equipment is of vital concern to this country in view of our maritime orientation and our dependence upon freedom of the high seas.

This ship, the USS Elmer Montgomery (DE-1082) and her sister ships of the Joseph Hewes Escort Ship Class are part of the Navy's modernization program that will provide sea power to meet and successfully cope with a greater variety of threats than have ever been faced in the world's oceans.

The Elmer Montgomery is a proud addition to the United States Fleet. A product of

the best shipbuilding, she has an overall length of 438 feet, a beam of 46 feet and nine inches. She will displace 3,963 tons and have a draft of 24 feet and nine inches. The ship is designed to accommodate 17 officers and 228 men in the most modern conditions of ship-board habitability. Her armament includes an Anti-submarine (ASROC) systems, one five-inch 54 calibre gun, and four torpedo tubes in two twin mounts. Space has been created so that a self-defense guided missile system can be installed later. This ship will carry the latest, most sophisticated electronic equipment.

Elmer Montgomery is designed especially for locating and destroying enemy submarines. Because of her swift and lethal capabilities, this ship can operate as a unit of a hunter-killer group; as a screen for amphibious or underway replenishment forces; continental defense by patrolling along coastal waters for missile firing submarines; or escorting military convoys. Like the destroyer, the escort ship has a wide variety of capabilities adaptable to many types of missions.

Today's ceremony, the launching of a ship is a tradition. It marks the moment that the land-bound ship escapes to her natural element. This ceremony, ancient in origin, gives us the occasion to express our thanks and appreciation to those who have labored to build this ship. As well, it gives us the opportunity to invest her with our own best hopes and to remember the man whose name she will carry proudly in service to this country.

I had the great personal fortune of knowing Elmer Montgomery.

We first met on Guam in later 1944 during the final phases of that campaign. I had been ordered to take over the G-4 logistics job for the 3rd Marine Division. We needed a clerk-typist. Sgt. Elmer Montgomery reported.

After Guam was secured attention shifted to the invasion of Iwo Jima. Work piled high and the hours were long in that little quonset hut office, but when Elmer did have a moment, I noticed he would lean his chair against the wall and pull a small, white leather-covered Bible from the hip pocket of his fatigues. It had a zipper around the edge that he would carefully loosen.

Wherever the Bible fell open in his hand, he would begin to read—and find serenity.

The other NCOs had trouble figuring Elmer, but they liked him. He was quiet and a bit withdrawn, but he was no "loner." He could chuckle at a bawdy joke and join in the bull sessions, though he winced at some of the more earthy profanity.

I remember one evening when we were working late. He went to the NCO Club and returned with a couple of cokes. They were a tonic on a steamy tropical night and we sat and chatted at my desk.

Elmer's glance fell on a stack of books.

"I see you have a copy of Omar Khayyam's Rubaiyat," he said. "It's one of my favorites."

The book was a gift from my wife. I explained that it offered a mental change of pace.

"What's your favorite verse?" I asked. "I sometimes think that never blows so red, 'The rose as where some buried Caesar bled.'"

He had it perfect.

In February we sailed for Iwo Jima.

After several days of fierce fighting, division staff sections were ordered to provide replacements for badly mauled front-line units. I had to provide two. It's not a pleasant job to pick men trained in support tasks to combat. I selected the two I thought could best be spared from my supply operation.

I was just about to send the names to the division adjutant when my executive officer, Major Malcolm Beyer (later a brigadier general) popped into my dugout.

Sgt. Montgomery wanted to see me.

The sergeant saluted and informed me

he had heard about the call for reinforcements.

"You're not one of them," I told him, thinking it would put his mind at ease.

"That's what I want to talk to you about, Colonel," he said, "I want to go forward."

I explained that I considered him essential to our supply mission and for the first time he argued. He wasn't loud, but he was firm. "I'll never feel right if I don't go up when I'm needed," he said. "I'm needed now."

"I'm older than most of these kids. I've had a lot of experience looking after myself while hunting back home in Montana. I can look after them up forward."

I realized he wouldn't take "No" for an answer.

I never saw Elmer again. A Marine from his frontline unit told me the story.

The platoon commander had been killed and Elmer was assigned under a staff sergeant, as assistant platoon commander.

The order came to attack.

The patched-up platoon moved across a slight rise and into a small saucer-shaped area where it was pinned down by a carefully camouflaged Japanese machinegun. If they stayed, they would soon be blasted apart by mortars.

Elmer crawled and rolled within yelling distance of the staff sergeant.

The Marine who told me the story paused, pulled on his cigarette and pressed a bandage on his arm tighter against his own wound.

Sgt. Montgomery yelled, "When I draw the fire, roll the platoon back over the rise," he said.

"And while the platoon commander was saying 'no,' Sgt. Montgomery stood up and firing his rifle from his hip, walked into the machinegun.

"We're here because he drew the fire long enough for us to slide back over that rise."

They never found Elmer. A few minutes after his platoon reached safety, our artillery laid down a barrage on the machinegun emplacement. The big shells churned the ground and everything on it mercilessly.

He and his little white, leather-covered Bible became, forever, part of the hallowed ground of Iwo Jima.

I suppose memories fade and maybe Sgt. Montgomery's decoration for bravery is almost forgotten, but whenever I think back to all the brave men I have been privileged to know, Elmer heads the list.

And whenever my eye falls on a copy of the Rubaiyat, I can't help but believe that if a rose were ever to bloom where Elmer fell, it would be more red than any "Where some buried Caesar bled."

And so we can learn a lesson from the character and sacrifice of the man whose name this ship bears.

Today it is the fad—the fashion—the thing—for many, too many who should know better, to disparage, to ridicule those who wear the uniform of the U.S. Armed Forces.

And so—to those who ridicule and disparage the military uniform, I pose this question—this challenge: I ask them, these self-appointed moralists, to reflect on this question. Do you serve your God, your country, your fellow man, as well as this quiet, God-fearing, patriotic and self-sacrificing Marine Sergeant from Montana?

I doubt that their answer will ever be yes.

For Elmer Montgomery, in emulating his Hero, demonstrated the inherent truth of the Savior's words: "Greater love hath no man than this, that he lay down his life for his brother."

Today's ceremony is not a sad remembrance of Elmer Montgomery, who gave his life so that his buddies would live. It is a joyful opportunity to preserve Elmer Montgomery's legacy with a ship bearing his name to insure the future security of this great

country Elmer Montgomery chose to defend. We are joined by three of Elmer Montgomery's sisters and their families: Mrs. Alice Kison, Mrs. Dan Baldwin, and Mrs. Daniel Weber, who is the sponsor and will christen this fine ship.

I would like to thank the employees of the Avondale Shipyard and others who are working on the ship for the dedication and effort that have resulted in this occasion. You have made a vital contribution to our national security and you have paid homage to an exceptional man. I am proud to be with you.

I join Mrs. Weber, and all of you, in wishing the USS *Elmer Montgomery* (DE-1082) wherever she may go, a fair wind, and a following sea.

#### AN INFAMOUS VIOLATION OF HUMAN RIGHTS

Mr. ALLOTT. Mr. President, according to shocking reports that have been appearing in the press during the last few days, this Nation has recently been a party to an infamous violation of human rights.

The full facts of the matter are not clear; someone, somewhere in this Government had better make them clear, with dispatch.

What does seem clear is that 1 week ago today officers of the U.S. Coast Guard, acting on directions the origins of which are not clear, cooperated with the Soviet Union in enslaving a free man.

Sometime last Monday afternoon a Lithuanian seaman, known only as Simas, made a 10-foot jump from the Soviet vessel on which he worked as a radio operator. That 10-foot jump was a leap to freedom. It carried him onto the deck of a U.S. Coast Guard cutter that was alongside the Soviet vessel.

Tragically, Simas's freedom was short-lived. One would have thought—as Simas obviously did think—that nothing could be safer than leaping into the arms of the U.S. military. But then something happened. At this point it is useful to cite the front page story from yesterday's New York Times:

About 10 hours later, after a flurry of ship-to-shore radio consultations, the seaman was forcibly returned to the fishing ship by Soviet crewmen who had boarded the American vessel with the permission of the Coast Guard. The man, according to eyewitness accounts, was severely beaten by the Russians while the American seamen looked on.

"Simas pleaded with [the Americans] to let him stay," a civilian who was aboard the cutter and witnessed the beating, said yesterday. He added:

"He was crying help and was on his knees praying and begging them to save his life. But the captain said he was just following orders."

According to the eyewitness, the Soviet sailors bound Simas "hand and foot and beat him until he was unconscious."

Mr. President, imagine the scene. A Soviet boarding party is using the deck of a U.S. cutter to beat a man who had mistakenly placed his faith—his life and liberty—in American hands.

The New York Times report raises some questions:

First. Just who gave the captain what orders which he was obeying by allowing the Soviet sailors to use his vessel for the sort of police-state chores one assumes they normally perform in dungeons.

Second. Who was talking to whom during those 10 hours of ship-to-shore radio consultations? The State Department was involved, but it is not clear how.

Third. What bargain did we strike over poor Simas' life? The Soviet Union got a slave back; we got a loathsome deed written into our national history. What else? What possible reason did we have for betraying Simas?

One report has it that the reason for our violation of basic human rights has something to do with negotiations we are having with the Soviet Union about fish.

Fish. Pray tell: What kind of fish? What kind of fish is more precious than a man's freedom? What kind of fish is so precious that we will violate our Nation's most precious principles in order to negotiate about it with Russian slave masters?

Anyway, whoever is responsible for this trade should tell us just who gave it the power to trade human beings for fish?

This act certainly appears to be a violation of article 33 of the Geneva protocol governing political asylum.

But it also violates something much more important and precious.

It violates the spirit of the United States. Although they have been forgotten by whoever engineered this slave deal, there are some important American words inscribed on the Statue of Liberty, which guards the port through which so many persons from the old world have entered the freedom of the new world. The words, written by Emma Lazarus, are these:

Give me your tired, your poor,  
Your huddled masses yearning to breathe free,

The wretched refuse of your teeming shore,  
Send these, the homeless, tempest-tossed, to me:

I lift my lamp beside the golden door.

The relevance of these words is clear. No man who escapes from a police state should ever be forced to return to the murderous hands of the police from whom he fled.

Mr. President, it is possible that some deep thinker from the State Department or elsewhere, has been chiseling added stanzas into the verse on the base of the Statue of Liberty. But if the words still say just what they have always said, they say nothing about sending only those poor whose yearnings to breathe free will not inconvenience U.S.-Soviet relations.

If negotiations about fish have once again involved the United States in the slave trade, then I am a modern-day abolitionist.

I am for abolishing all negotiations with the Soviet slavemasters until we feel composed enough to participate without collaborating with Soviet indecencies.

Mr. President, we should make no mistake about it. It is hard to have any dealing with barbarous totalitarian regimes without compromising our basic principles. And nothing—not fish, not parchment agreements, nothing—is worth that.

For Simas, life is virtually over. He will never have another try for freedom. He will not even enjoy the scant comforts of life as a normal Soviet slave. Thanks to a cold calculated act by the U.S. Govern-

ment, he is consigned to the darkest regions of Soviet tyranny.

Mr. President, I urge that all the responsible powers of this Government, including the Senate and including the responsible leadership in the State Department, cooperate in getting to the bottom of this matter, and in getting the culprits responsible for this ruinous deed.

Mr. President, so that all Senators can familiarize themselves with the outlines of this story, I ask unanimous consent that the article published in Sunday's New York Times be printed in the RECORD.

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

#### RUSSIANS SEIZE DEFECTOR ABOARD COAST GUARD SHIP

(By Robert D. McFadden)

At 2 P.M. last Monday, as the mother ship of a Soviet fishing fleet and a United States Coast Guard cutter rocked in the swells a mile off Martha's Vineyard, a Lithuanian seaman made a dramatic leap for political asylum.

The seaman, a radio operator known here only as Simas, hurled himself across a 10-foot gap from the Soviet vessel, the *Sovetskaja Litva*, and onto the deck of the cutter *Vigilant*.

About 10 hours later, after a flurry of ship-to-shore radio consultations, the seaman was forcibly returned to the fishing ship by Soviet crewmen who had boarded the American vessel with the permission of the Coast Guard. The man, according to eyewitness accounts, was severely beaten by the Russians while the American crewmen looked on.

#### DEMONSTRATIONS HELD

"Simas pleaded with [the Americans] to let him stay," a civilian who was aboard the cutter and witnessed the beating said yesterday. He added:

"He was crying 'help' and was on his knees praying and begging them to save his life. But the captain said he was just following orders."

The incident has led to a series of demonstrations here and in other cities, produced conflicting statements by the Coast Guard and the State Department, and raised questions over a possible United States violation of the Geneva Convention protocol on political asylum.

About 100 demonstrators gathered in Times Square yesterday to protest what they called the denial of political asylum to the seaman and the violation by the United States of his human rights under the protocol, to which the United States is a signatory.

The peaceful, two-hour demonstration here, which included picketing and angry speeches, was one of a number of protests staged yesterday and Friday in Boston, Philadelphia, Cleveland and Chicago by Americans of Lithuanian, Estonian and Latvian ancestry over the incident at sea.

The demonstrators, many of them wearing black armbands, carried signs reading "Is State Department trading fish for human lives?" and "Russians and Coast Guard kill brave Lithuanian sailor."

The two ships had met in Vineyard Sound, in American territorial waters, for a conference on fishing off the Atlantic coast, a subject of continuing Soviet-American controversy.

A spokesman for the State Department yesterday acknowledged that the seaman had been forcibly returned to the 300-foot Soviet ship by crewmen who were allowed aboard the American cutter, a 200-foot-long vessel.

The spokesman said the incident constituted an apparent violation of Article 33 of the Geneva protocol, which governs political

asylum, but he added that the State Department had not learned of the case until after the defector had been returned, and thus could take no action.

This was contradicted yesterday, however, by a spokesman for the First Coast Guard District in Boston, which had jurisdiction over the cutter in the authorized but unusual conference with the Russians.

The Coast Guard spokesman said that the decision to return the defector was ordered by the First District commander, Rear Adm. W. B. Ellis, but that both the State Department and the Coast Guard commandant in Washington had been apprised of the situation "early in the afternoon of the 23d," the day the incident took place.

#### DISCUSSIONS GOING ON

The spokesman said that "the decision to return the crewman was made in consideration of delicate international discussions which were being carried on regarding fishing problems." He added: "Their progress could have been endangered by any other course of action."

Admiral Ellis was reported yesterday to be recuperating from surgery and could not be reached for comment.

The meeting of ships during which the attempted defection took place was arranged at Soviet suggestion, according to the State Department, to take up the problem of "over-harvesting" the yellow-tail flounder along the North Atlantic coast.

The Russians had suggested that the matter could be dealt with "on the scene," the State Department spokesman added, and thus the Soviet factory ship was invited into United States territorial waters for the meeting, which took place about a mile west of Gay Head on the western tip of Martha's Vineyard.

#### SESSIONS CALLED CORDIAL

In addition to representatives of the Interior Department's Bureau of Fisheries, principals in the meeting at sea included representatives of fishing interests in New Bedford, Mass., including Robert Brieze, president of the New Bedford Seafood Products Association, and John Burt, an official of the New Bedford Fishermens Union.

The spokesman for the State Department, which authorized the meeting, described it as an "informal get-together" aboard the Soviet ship, "mainly for the benefit of regional people and fishermen from New Bedford." He added that the sessions were cordial and that there had been "a lot of visiting back and forth" between the Soviet ship and the Coast Guard cutter.

The ships were linked with hawsers and fenders were put over the side to prevent damage to their hulls at about 10:30 that morning. Mr. Brieze, Mr. Burt and the Government officials rode breeches buoys across to the Soviet ship. The conference took place in the Russian captain's quarters, according to Mr. Brieze.

#### OFFICER IS APPROACHED

Shortly before 2 P.M., Mr. Brieze said, the Lithuanian quietly approached one of the Vigilant's officers and told of his plan to defect. No action was taken on the information.

Ten minutes later the seaman leaped across the space between the ships and tumbled onto the deck of the cutter. He carried various papers, letters, his wife's photograph and his passport, all of which were taken by the Coast Guardsmen, Mr. Brieze said when reached by telephone yesterday at his home in New Bedford.

"He is known to have two children," Mr. Brieze said. "He speaks English, German, Russian and Spanish as well as Lithuanian. All the communication with the Americans was in English."

Mr. Brieze said that when the Russian learned of the defection, they asked permission to speak to Simas. A flurry of radio com-

munications followed between the ship and the First Coast Guard District in Boston, which says it notified the Coast Guard commandant in Washington. The commandant, in turn, notified the State Department, according to the First District spokesman.

#### NO OVERT ACT MADE

The Americans aboard the Soviet ship returned to the cutter at about 3:30 P.M., according to Mr. Brieze, and no attempt was made by the Russians to detain them.

Several hours later, after nightfall, the cutter's commander, Capt. Ralph E. Eustis, received Admiral Ellis's order to return the Lithuanian, and four Russian seamen were granted permission to come aboard to take him back.

"Simas pleaded with [the Americans] to let him stay," Mr. Brieze said. "He was crying 'help,' and was on his knees praying and begging them to save his life. But the captain said he was just following orders."

The Russians seized Simas just outside Captain Eustis's quarters aboard the cutter, Mr. Brieze said, and "beat him all up." Bloody from the beatings, in which the Americans did not interfere, Mr. Brieze said, Simas nevertheless broke free and ran up on deck.

In the darkness, it was believed that Simas had jumped overboard. Actually, he had hidden himself in the cutter's recesses, Mr. Brieze said.

#### BEATEN UNCONSCIOUS

Though the Russian seamen were still aboard, Captain Eustis drew the cutter away from the Soviet ship. Later, at about 11:30 P.M., the Russians found Simas and, according to Mr. Brieze, bound him hand and foot and kicked and beat him until he was unconscious.

The Russians, at their own request, were then lowered with their prisoner and two American seamen in one of the cutter's lifeboats and returned to the Soviet ship, Mr. Brieze said.

"During all this time, not a single American sailor or civilian went to Simas' aid, even though all said what they had seen was against their grain," Mr. Brieze added.

The State Department spokesman who was asked about the incident yesterday said that, had the department been apprised of the case in time, it probably would have asked the Coast Guard to handle it differently.

The United States policy, the spokesman said, was to grant asylum to persons from Communist-bloc countries "who manage to make it into our hands."

#### GOVERNMENT ASSAILED

Romas Kezys, chairman of the Ad Hoc Lithuanian-American Action Committee, which was formed last week to protest the handling of the incident, said the demonstrations had been organized after repeated appeals for information by telephone and telegram had been ignored by the State Department.

"We wish to draw public attention to this outrageous decision," he said.

The Baltic states of Lithuania, Latvia and Estonia have been part of the Soviet Union since 1940, when they were annexed, except for a time during World War II.

#### FORCIBLE RETURN OF LITHUANIAN REFUGEE TO SOVIET UNION

Mr. KENNEDY. Mr. President, I wish to comment on the incident involving the forcible return of the Lithuanian refugee who sought asylum aboard the Coast Guard cutter *Vigilant*.

If press reports are correct, the incident obviously raises some serious questions involving our Government's responsibility under the United Nations convention and protocol relating to the status of refugees, and also to our national com-

mitment to the right of asylum—so long a part of our country's tradition and history.

From early reports, it seems that in an incredible 10-hour period on November 23, our Government compromised our Nation's 200-year history of supporting the right of refugees. For in that period our Government permitted the captain of the Coast Guard cutter to have Soviet sailors come aboard, drag a defector from his hiding place, manhandle him in the presence of American personnel, and then transport him, in one of the cutter's own lifeboats, back to the Soviet vessel.

From all appearances the incident is another sad example of the low priority officials of our Government attach to humanitarian questions—whether it be the fate of one Lithuanian seaman desperately reaching out for freedom, or the lives of hundreds of thousands of East Pakistanis crying out for help. In each case it seems that a combination of official lethargy and confusion has allowed people to suffer unnecessarily, and against our best traditions and capabilities and interests.

Mr. President, just a week ago, members of my staff first made inquiries at the Department of State regarding the incident of the Lithuanian seaman. Regrettably, no answers were forthcoming. So I commend the President for demanding a complete investigation, and I hope that he will make the findings public at an early date. It was to this end that, as chairman of the Judiciary Subcommittee on Refugees, I wrote to the Secretary of State yesterday.

I ask unanimous consent that the text of this letter and other background information be printed in the RECORD.

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

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C., November 30, 1970.  
Hon. WILLIAM P. ROGERS,  
Secretary of State,  
Department of State,  
Washington, D.C.

DEAR MR. SECRETARY: As Chairman of the Judiciary Subcommittee on Refugees, I am deeply concerned over the press reports of the handling and forcible return of the Lithuanian refugee who sought asylum on November 23rd aboard the U.S. Coast Guard cutter "Vigilant". Given the conflicting information related in the press, it seems imperative that an official explanation of this incident should be made public as soon as possible. Apart from what appears to be a violation of our country's traditional commitment to the right of asylum, I am particularly concerned over the implications the incident has vis-a-vis our commitments under the United Nations Convention and Protocol Relating to the Status of Refugees. I would hope that a full account of the circumstances and actions relating to the decision to return the Lithuanian seaman to the Soviet vessel can be made available to the Subcommittee at an early date.

Many thanks and best wishes.

Sincerely,  
EDWARD M. KENNEDY,  
Chairman, Subcommittee on Refugees.

TEXT OF TELEGRAM TO SENATOR KENNEDY FROM SADRUDDIN AGA KHAN, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

As a result of the Simas incident of which I am sure you are aware, I sent today the following cable to Secretary Rogers:

"I have the honor to refer to reports of news media concerning Soviet seaman of Lithuanian origin called Mr. Simas.

"According to these reports, Mr. Simas hurled himself off the Soviet vessel, Sovietskaja Litva, and onto the deck of the United States cutter 'Vigilant'. His reported purpose in so doing was to seek asylum in the United States. The news media state that, despite his request and entreaties, Mr. Simas was forcibly returned to the Soviet vessel. The alleged incident was reported to have occurred Monday, the 23rd of November, 1970.

"If indeed there is truth in these reports, and there has been no indication to the contrary, I feel I must convey my deepest concern. The alleged 'refoulement' would be contrary to Article 33 of the 1951 convention relating to the status of refugees and to the 1967 protocol on this subject.

"In the past, my office has noted with gratification the unswerving importance that United States always accorded the principle of 'non-refoulement'. Your government championed the sanctity of this concept in repeated sessions of my executive committee, and most recently, through Senator Pell's strong statement to the Third Committee of the United Nations General Assembly, when activities of my office were debated. News reports of the present incident, therefore, cannot but cause greatest dismay.

"Under the circumstances and in view of the responsibilities entrusted me under Article 8 of the statute of my office, I would appreciate being informed of the details of the reported incident and in what manner the decision was taken. Such information would also accord with the purpose of Article II of the 1967 protocol, whereby state parties undertake to cooperate with my office in its fundamental duty of supervising application of provisions of the protocol. I need hardly add that my office remains available at all times to assist meaningfully in the implementation of this instrument.

"Highest consideration."

I am sure you share my deep anxiety regarding this matter. Kindest regards.

#### REFUGEE AGENCIES DEPLORE RETURN OF SOVIET SEAMAN

The Migration and Refugee Service of the United States Catholic Conference was joined today by its co-religionist groups in expressing its outrage over the forcible removal of a defecting soviet sailor from the U.S. Coast Guard cutter "Vigilant" with the permission of its American officers.

The Service and the other agencies have sent a telegram to the President of the United States protesting this rash action. An action which John E. McCarthy, the Services' director, described as "a serious blot to the essential worth this nation and its people have always placed on the dignity of the individual." "It is an incident," he said, "which destroys our belief that all people are entitled to those inalienable rights for which this country was created and it indicates perilous times for the degree of our humanitarianism, especially for those high moral and spiritual principles of our founding fathers,—to whom individual freedom and human dignity were the most important elements of a free nation."

The telegram read:

"The officers of the Committee on Migration and Refugee Affairs of the American Council of Voluntary Agencies for Foreign Service wish to express concern and, indeed shock and dismay at the report of the role of American officers aboard a U.S. Coast Guard Cutter in the forcible return of a defecting Soviet seaman of Lithuanian nationality.

As reported, the incident constitutes a contradiction of the long standing American tradition of granting of political asylum, as well as a violation of the United Nations Convention relating to the Status of Refu-

gees and the 1967 protocol to that document both of which have been acceded to by the United States.

We understand that the full facts concerning the alleged circumstances have not yet been revealed and urge that a thorough inquiry be undertaken in order to ascertain exactly what took place, through what reasoning determinations were made, and by whose authority instructions were issued.

However, there are vital considerations implicit in the alleged incident which extend far beyond the question at hand. They involve the principles of political asylum and the role and the credibility of the United States as a leader of the free world, as well as a direct contradiction of the extent and substance of all U.S. legislation dealing with refugees over the past quarter of a century.

We urge that regardless of the results of the investigation into this particular incident, the Administration make a clear statement reaffirming both the traditional American position with regard to political asylum and the relevant treaty commitments of the United States. Only such action can clearly indicate America's position to the American people and the world at large.

We further urge that necessary steps be taken to insure that U.S. policy is carried out in this regard.

Knowing of your sympathy for the plight of refugees, we would appreciate receiving reassurance from you on this vital issue."

COPY OF TELEGRAM SENT TO CLEMENT J. SOBOTKA, ACTING SPECIAL ASSISTANT TO THE SECRETARY FOR REFUGEE AND MIGRATION AFFAIRS, DEPARTMENT OF STATE, NOVEMBER 30, 1970

The incident aboard the United States Coast Guard cutter Vigilant reported in the press on November 29 in which a Lithuanian refugee who had sought asylum was forcibly and brutally seized by Soviet Naval personnel, allegedly with the consent of American officers, is a clear violation of United States treaty commitments under the 1967 protocol to the United Nations convention relating to the status of refugees. We urge that an official public explanation of the incident should be made, and that public assurance be given that the officers concerned have been disciplined.

We believe that a full explanation of the United States treaty commitment in regard to political asylum should be become part of official training manuals of all such responsible officers.

The right of asylum is a basic and inalienable part of American tradition. Because this is so, our fidelity to the terms of the United Nations convention must be exemplary and unequivocal.

R. NORRIS WILSON,  
Chairman,  
U.S. Committee on Refugees.

#### U.S. COMMITTEE FOR REFUGEES

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[From the Washington Post, Nov. 31, 1970]  
NIXON ORDERS PROMPT INQUIRY INTO FORCED RETURN OF DEFECTOR

(By Marilyn Berger)

President Nixon, deeply concerned about an apparent error in judgment, yesterday ordered a "full and immediate investigation" of last week's denial of political asylum to a Lithuanian sailor by a Coast Guard cutter.

Press Secretary Ronald L. Ziegler said a full report was due Wednesday on the handling of an attempted defection by a sailor who jumped from a Russian fishing vessel to the Coast Guard cutter Vigilant and was forcibly returned.

"It appears that the situation was very poorly handled," Ziegler said, "and there appears to have been an error in judgment."

The report is to come from the Secretaries of Transportation and State, Ziegler said. "Appropriate action will be taken," he added.

Officials in both departments were seeking answers as to why the sailor was pulled kicking and bloodied off the cutter after he had made clear his wish to remain with both his fists and with his prayers.

Ziegler said the President became aware of the incident, which took place off Martha's Vineyard a week ago yesterday, through weekend news reports.

The Coast Guard, meanwhile, announced that the would-be defector had been returned after the master of the Soviet ship alleged that the sailor had stolen \$2,000 from the ship's fund.

The story of the attempted defection and the response by Americans—from the sailors and officers on the Vigilant to officers in the Coast Guard and State Department officials—indicates that decisions were made almost exclusively without consultation with the government's policy-makers or with experts on Soviet-American relations.

As pieced together from officials in the Coast Guard, the State Department and the White House, as well as from reports of eyewitnesses, this is what happened:

About 10:30 a.m. on Nov. 23, the Coast Guard cutter Vigilant and a Soviet fishing vessel, the Sovietskaja Litva, met off Martha's Vineyard in American territorial waters. The rendezvous was arranged to allow informal discussions of fishing matters, particularly the "overharvesting" of the yellowtail flounder.

At 2:30 p.m. that day, Edward L. Killham, Jr., head of the Soviet Affairs desk at the State Department, received a telephone call from Coast Guard headquarters in Washington.

He was told that a Russian seaman had indicated to Coast Guard personnel that he wanted to defect. State Department Press Officer Robert McCloskey said yesterday that Killham told the Coast Guard that the United States did not want to encourage a defection and that there might be a provocation involved.

The Coast Guard caller was asked to keep the State Department informed, McCloskey said.

At 3:30 p.m. Killham received another call. No defection had actually been attempted, the Coast Guard caller said.

The would-be-defector on the Russian ship, an English-speaking radio operator known only as Simas, had apparently made his intention known to Coast Guard officers who had boarded the fishing vessel for the talks.

In addition to the officers, representatives of three fishing organizations in New Bedford and of the Interior Department's Bureau of Fisheries were on the Russian vessel. Among these persons was Robert Brieze, president of the New Bedford Seafood Products Association, a Latvian who left his native land in his own tugboat when the Russians occupied his country.

Brieze said that Simas apparently jumped on board the Coast Guard cutter and hid while the officials were holding discussions in the quarters of the Russian captain.

"The discussions were very good," Brieze said in a telephone interview from New Bedford. "We had a good luncheon and then we discussed . . . fishing, especially our yellow-tail problems."

During the discussions, Brieze said, the captain of the Vigilant, Ralph E. Eustis, was called out and left the Russian ship. When the discussions ended, Brieze said, the Americans invited 10 Russians on board the cutter. By 4:30 p.m., Brieze said, all but three, two Russians and their interpreter, returned to their own ship. By 5 p.m., Brieze said he and his companions learned from a Coast Guardsman there was a defector on board.

There ensued what Brieze described as "all kinds of telephone calls between Coast Guard headquarters in Boston and the Vigilant." At one point Brieze said Capt. Eustis told the Russians that they could ask the defector whether he wanted to return to his ship.

"I saw the Russians go out of the captain's quarters," Brieze said. "Then they returned and told the captain that Simas didn't want to leave." Brieze said he was not present when the Russians questioned the defector.

According to State Department spokesman McCloskey, the duty officer was informed at 7:45 p.m. that "a defection had in fact occurred and that the seaman had been returned to his ship and the ship was being escorted out of U.S. territorial waters."

But Brieze said that a nightfall, while the cutter was still in rendezvous with the Russian ship, Capt. Eustis told the Russians, through his American interpreter, that if the defector was not prepared to return they would have to leave without him for the Vigilant was about to go back to port.

It was at that point, Brieze said, that one of the Russians handed Eustis a piece of paper and at the same time asked for permission to call the Soviet Embassy from the cutter.

Brieze said he did not know if the call went through. Soviet Ambassador Anatoly Dobrynin said yesterday there had been no contact with the Embassy.

Again according to Brieze, at about 11 p.m. Eustis said he had received orders from the First District commander that he was to return the defector "by force if he did not want to go on his own."

This was more than three hours after the State Department duty officer was informed that the defection had been attempted and that the sailor had been returned to his ship.

Brieze said the captain told the Russians that he could use the American crew or permit Soviet crewmen to take Simas off the Vigilant. Coast Guardsmen who told Simas he would have to leave told Brieze and others on the cutter that Simas was on his knees praying not to be returned. Brieze said the Russians then went out to get Simas.

They soon returned, Brieze said, and informed the captain that they needed more help. Capt. Eustis, according to Brieze, told them they could bring over two more men

from the Russian ship. Brieze said the Russians protested that this was not enough and Eustis finally allowed them to bring three men to supplement the three already on board.

"We could hear Simas crying for help," Brieze said. "The Russians started beating him and we could hear him crying 'Help, help, help.'" Simas apparently tried to hide again but the Russians, Brieze said, found him and captured him. He was tied in a blanket and rope and placed in a lifeboat that American crewmen helped row over to the Soviet ship.

No one in the State Department or the Coast Guard can explain the discrepancy in time between the 7:45 p.m. call to the State Department and the forcible return near midnight.

In the department, meanwhile, it was learned that only Killham knew of the incident until early the next day. It was not until Tuesday that a deputy assistant secretary of state learned of the incident. He then informed the Assistant Secretary for European Affairs who in turn informed Under Secretary U. Alexis Johnson.

The Coast Guard Commandant, Adm. Chester R. Bender, announced yesterday that the decision to return the defector was made by the First Coast Guard District Commander in Boston, Rear Adm. William B. Ellis.

According to a Coast Guard release issued in Boston Nov. 25, Eustis had been told to inform the master of the Soviet vessel about the defector and to return the individual only upon receipt of a formal request.

#### REQUEST IS MADE

The release said that the formal request was made and "the man was subsequently forcibly returned to the mother ship at approximately midnight by members of its crew who were permitted to come aboard and take the man into custody."

"We naturally and deeply regret that this incident occurred," State Department spokesman McCloskey said yesterday. The chronology of the incident provided by the State Department indicates that the department was never given an opportunity to advise the Coast Guard on what action it should properly take.

Adm. Bender said that no specific advice had been received from the State Department or Coast Guard Headquarters. "While it is not yet clearly established whether or not he took the proper action, I believe it to be understood how he would make this decision on the existing circumstances," the statement said.

The commandant noted that the Soviet ship had been invited into U.S. territorial waters for a "friendly discussion" and that the master of the Russian ship had alleged that the would-be defector had stolen \$2,000.

Bender said that it was his "desire and expectation" that the State Department will provide specific instructions on what to do in such cases. "I do not approve of the use of force on a Coast Guard ship by personnel of another nation," the commandant said, "but do recognize that considerable force was required as the defector was resisting strongly."

In addition to the investigation ordered by Mr. Nixon, Rep. Hastings Keith (R-Mass.) and the Latvian Press Society, among others, have called for a congressional hearing.

#### AN AMERICAN PARADOX

Mr. HATFIELD. Mr. President, history reveals the character of the United States in manifold ways, both bad and good; at times violent, arrogant and egotistical; occasionally conscience-ridden, humanitarian, and forward-looking. These characteristics and others have appeared throughout our 200-year experience as a nation, and sometimes si-

multaneously in a seemingly contradictory manner. We are in an age dominated by science and technology. We, in our democratic tradition, have aspired to attaining the greatest good for the greatest number which has necessitated rational discussion and compromise—separating the issue from the emotionality behind it while trying to maintain a delicate balance between them. Yet, as has often happened, our means become our ends and we lose sight of our original goals. Such is the case today and it is reflected by various attitudes prevalent within our country as well as in our national policies. This balance has been lost. The values which have produced this country's finest hours and on which our society was founded have become clouded.

Mr. President, I have faith in the American people's resilience and our basic sense of freedom and judgment, yet the pendulum has swung away from that which we have held so dear. In the New York Times of November 29, 1970, James Reston speaks poignantly to the issues I have raised today. In my view, it is one of the most perceptive, contemporary analyses of the current paradox within our country. 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:

#### THE FORGOTTEN FACTOR (By James Reston)

WASHINGTON.—The mind of modern man seems to be stunned these days by facts that he feels are beyond his understanding or control. Millions of us watch football on Sunday afternoons and suffer with any maimed monster hobbling to the sidelines, but somehow the most appalling human tragedies and pointless miseries slip beyond our comprehension.

We do not know whether 150,000 individuals or 500,000 have lost their lives in the cyclone at the mouth of the Ganges in Pakistan during these last few days. The tickers have been stuttering in disbelief all week, but whatever the number, it is probably the worst human disaster since the Indonesian massacres or even since the atom bombing of Hiroshima, and somehow it gets beyond our grasp.

This cannot be explained by saying that man has become less sensitive to human suffering. Despite all the agonies of the modern world, there is undoubtedly more respect for individual life and thought, more pity for human distress and more of a sense of social justice today than ever before.

Nor can it be explained by saying that Pakistan is far away and that there is little we can do to avoid or relieve the unpredictable convulsions of nature. For we see much the same insensitivity to avoidable and highly publicized human suffering in Vietnam and even in Appalachia.

The facts of poverty and even hunger in America are well-publicized. The students and the blacks are protesting against the known facts, and a lot of people are protesting against the protesters, but somehow the point does not get through.

The facts are clear as well in the Vietnam war. The Pentagon says one of our reconnaissance planes was shot down over North Vietnam and that we retaliated with a raid by over 200 bombers, but the contrast between the punishment and the crime, and the meaning of such an attack on human life is somehow lost even on many of the most thoughtful minds.

So there is a puzzling paradox: A decent,

fair-minded, well-informed people somehow do not act upon, and often do not even think about, the information they have, not because they are wicked or pitiless, but because they do not feel what they know, or if they do, think they are helpless to do anything about it.

Thus, even when we have over 4.3-million people unemployed, and the Congress refuses to accept President Nixon's Family Assistance Plan on the ground that we cannot afford it Secretary of Defense Laird announces that the military budget must go up next year, and very few people even notice the paradox.

Archibald MacLeish helped explain the paradox long ago in an essay on "Poetry and Journalism." The trouble was, he thought, in the divorce between *knowing* and *feeling*. The journalists gave us the facts but did not make us feel them, and the woefully inadequate reporting of the Pakistan tragedy illustrates his point.

"We do not feel our knowledge," he said. "Nothing could better illustrate the flaw at the heart of our civilization. . . . Knowledge without feeling is not knowledge and can lead only to public irresponsibility and indifference, and conceivably to ruin. . . . When the fact is dissociated from the feel of the fact in the minds of an entire people—in the common mind of a civilization—that people, that civilization, is in danger."

And yet, even this analysis of the problem does not give us the solution. For we are not likely to get at the heart of this dilemma unless we wonder whether we have forgotten the central fact of our religious heritage, namely, that every life is sacred and inviolable—not only the lives of our fellow countrymen but of all members of the human family.

Walter Lippmann emphasized the point in his philosophic writings many years ago.

"What is left of our civilization," he wrote, back in 1940, "will not be maintained, what has been wrecked will not be restored, by imagining that some new political gadget can be invented, some new political formula improvised which will save it. Our civilization can be maintained and restored only by remembering and rediscovering the truths, and by reestablishing the virtuous habits on which it was founded. There is no use looking into the blank future for some new and fancy revelation of what man needs in order to live.

"The revelation has been made. By it man conquered the jungle about him and the barbarian within him. The rudimentary principles of work and sacrifice and duty—and the \* \* \* criteria of truth, justice, and righteousness—and the grace of love and charity—are the things which have made man free. Men can keep this freedom and reconquer it only by these means. These are the terms stipulated in the nature of things for the salvation of men on this earth, and only in this profound, this stern, and this tested wisdom shall we find once more the light and the courage we need."

#### MIDDLE-AGED AND OLDER WORKERS EMPLOYMENT AMENDMENT NEEDED NOW—SENATOR RANDOLPH URGES FAVORABLE CONFERENCE ACTION

Mr. RANDOLPH. Mr. President, last month's grim unemployment statistics clearly underscore the need for enactment of comprehensive manpower legislation during this session of Congress.

Today, approximately 4.7 million persons have lost their jobs, nearly 2 million more than in January 1969.

Workers of all ages are feeling the impact of our mounting unemployment problems. But older workers and their families have been especially hard hit.

Many are discovering that they have lost more than their jobs. Thousands have also lost their pensions.

Inflationary pressures—the most rampant in nearly 20 years—have added to their pressing problems.

In October there were 1 million unemployed persons 45 and older, nearly 400,000 more than in January 1969. This represents a 67-percent increase in the last 21 months.

Once unemployed, these mature workers run the greatest risk of long-term joblessness. In October persons 45 and older constituted 44 percent of the very long-term unemployed, 27 weeks or longer. From January 1969 to October 1970, their numbers have grown from 48,000 to 101,000—an astounding 106-percent jump. During this period, their long-term unemployment—15 weeks or longer—has nearly doubled, increasing from 115,000 to 218,000.

In spite of this critical need, older workers are still underrepresented in existing manpower programs.

The recently passed Employment and Training Opportunities Act, S. 3367, has a number of categorical programs for certain target groups—such as older workers, Indians, migrant workers, and Spanish-speaking minorities.

One such measure is my middle-aged and older workers employment amendment, which is also cosponsored by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Massachusetts (Mr. KENNEDY). This proposal—enthusiastically endorsed by the National Council of Senior Citizens, National Council on the Aging, National Retired Teachers Association—American Association of Retired Persons, and National Farmers Union—would authorize training counseling and special supportive services directed at the unique and growing employment problems of middle-aged and older workers.

Nearly 2 weeks ago the House of Representatives passed a comprehensive manpower bill, H.R. 19519. However, the House measure does not include the provisions for mid-career services for individuals 45 and older.

Older persons will, of course, be covered under the comprehensive manpower services and public service employment provisions in the House and Senate bills.

But under present employment and training programs, the emphasis has been on youth. Too often older persons have been overlooked or ignored. Without specific statutory direction, the prospects for effective employment assistance for the seasoned worker are not encouraging.

Despite the urgent employment needs of middle-aged and older persons, the United States still does not have a clear-cut, effective policy for maximum utilization of individuals now regarded as older workers.

The price the Nation pays for this inaction is a growing dependency ratio of nonworkers to workers.

Much can be gained through a national effort to raise the productive capacity and to provide new employment opportunities, as well as related manpower services, for persons 45 and older.

Today House and Senate conferees

hold their first conference to resolve the differences in both manpower bills.

A fact sheet, prepared by the Senate Committee on Aging, provides additional compelling arguments for inclusion of the middle-aged and older workers amendment in the conference bill.

Mr. President, I ask unanimous consent that the fact sheet be printed in the RECORD.

There being no objection, the fact sheet ordered to be printed in the RECORD, as follows:

#### WHY THE MIDDLE-AGED AND OLDER WORKERS EMPLOYMENT AMENDMENT IS NEEDED NOW

As persons move into the 45 plus age category, several discernible trends become evident:

Joblessness increases;  
Duration of unemployment rises sharply;  
Labor force participation declines; and  
Poverty increases.

#### 1 MILLION UNEMPLOYED

In October there were nearly 1 million persons 45 and older who had lost their jobs. Unemployment has increased by 67 percent for mature workers since January 1969.

#### LABOR FORCE "DROP-OUTS"

Moreover, these statistics only represent the tip of the iceberg because the unemployment figures do not include the labor force "drop-outs"—those who have given up the active search for employment. As of October 1970, there were more than 8 million males 45 and older who had withdrawn from the work force, too often unwillingly. Another 20 million women in this age category were also not in the labor force. Assuming that just 30 percent of these men (a conservative estimate) and 10 percent of these mature women wanted and needed employment, this would mean that the "real" unemployment for persons 45 and older would be approaching 5.4 million—about 700,000 more than the total unemployment in the United States now.

If current labor force participation trends continue, 1 out of every 6 men in the 55 to 64 age category will no longer be in the work force by the time he reaches his 64th birthday. Ten years ago this ratio was 1 out of 8.

#### LONG-TERM UNEMPLOYMENT

While the unemployment rate is higher for the Nation's youth, persons 45 and older comprise a disproportionately high percentage of the very long-term unemployment (27 weeks or longer). In October they constituted 44 percent of the total. And from January 1969 to October 1970, their numbers have grown from 48,000 to 101,000—a 106 percent increase.

During this same period, their long-term unemployment (15 weeks or longer) has nearly doubled, increasing from 115,000 to 218,000.

#### POVERTY

In 1969, 6.8 million persons 55 and older fell below the poverty line. More disturbing, their aggregate numbers in poverty actually increased by 100,000 since 1968. In sharp contrast, the number of younger persons in poverty declined by 1.2 million.

In 1969, 28 percent of all persons in poverty—about 3 out of 10—were 55 or older. Ten years ago they comprised only 24 percent of the poverty population.

#### UNDERREPRESENTED IN TRAINING PROGRAM

Under present training and employment programs, the emphasis has been on youth. Too often the older person has been left out in the cold. For example, among individuals participating in manpower programs in 1968, approximately 64 percent were 21 or younger and only 4 percent were 55 or older.

## DEATH OF LILLIAN M. TOBEY

Mr. MCINTYRE. Mr. President, the widow of a distinguished U.S. Senator from New Hampshire passed away last Friday, and I find it fitting to memorialize her today.

Lillian M. Tobey, a native of Atlanta, Ga., who married the late Senator Charles Tobey in 1952, was a gracious and courageous personality in her own right. Those who knew her personally, or knew of the depth of her devotion to worthy causes, will miss her as a source of inspiration.

Though her marriage to the late Senator was to last only 11 months, terminated by his untimely death, Mrs. Tobey chose not to retreat from public issues in her widowhood.

Instead, she fought on, still lending her physical presence and moral conviction to the cause of civil rights, for instance, until well into her seventh decade.

Sunday's Washington Post published Mrs. Tobey's obituary, noting her long-time chairmanship of the Senate Ladies unit of the Red Cross; detailing how she registered black voters in Virginia in the early and mid 1960's; and how she joined the second Selma, Ala., march in 1965 with Dr. Martin Luther King.

As a particularly appropriate salute to this grand and gallant lady, I should like the RECORD to include the following paragraph from Mrs. Tobey's obituary:

During a tense moment of the (Selma) march, when a Selma policeman stood near her swinging a nightstick, Mrs. Tobey, combining her Southern charm with New England wit, said: "It is wonderful how Selma chooses the handsomest men to be on their police force," friends recalled yesterday. The policeman lowered the nightstick, and smiled, they said.

## AMERICAN UNIVERSITY OF BEIRUT

Mr. HATFIELD. Mr. President, almost a year ago it was my pleasure to visit the American University of Beirut during a personal information-gathering visit to the Middle East. At that time I spoke with university administration officials, faculty, and students, and also toured various campus facilities.

I was impressed with the work being carried on in various areas—in the medical and natural sciences, the humanities and the arts, the social sciences and agriculture, in engineering and architecture. It was pointed out to me that about 80 percent of the university's living alumni are presently working in their home areas of origin as leaders in their professions. Their contributions in various fields have been immense.

The new medical center at the American University of Beirut was of particular interest. It includes a 440-bed teaching hospital fully accredited by the American Hospital Association and provides the most modern facilities in the Middle East for advanced training, research, and patient care. I spoke with medical center personnel, many of whom had training in hospitals in our country. They told me of visitations by outstanding American doctors who had helped in various programs at the center.

The American University of Beirut, a

105-year-old institution, has over 4,000 students in attendance from 63 countries around the world. With the normal stresses of 1970 academic life compounded by the particularly emotional complexities of Middle East events, it is small wonder that there has been some unrest on this campus in recent years. But to say the campus is a training ground for revolutionaries is to exaggerate the current situation, in my opinion. I believe the majority of the American University of Beirut personnel are pursuing constructive academic roles.

I am including with this statement various documents having to do with current activities at the American University of Beirut. These include articles, letter, and editorials from both university personnel and American writers, and also documentation about past accomplishments at the university.

I am not unmindful that the American University of Beirut receives sizable monetary support from the United States. I believe that there are today, as there have been in the past, important benefits to our Nation by support of this institution, not only in academic pursuits but also in the unique opportunity for young people from all over the world to learn firsthand about American contributions to the cause of peace and to the relief of human suffering through scientific advancements.

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

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

AMERICAN UNIVERSITY OF BEIRUT,  
New York, N.Y., November 2, 1970.

Mr. JOHN GREEN,  
Editor, the Canton Repository,  
Canton, Ohio

DEAR MR. GREEN: Your October 8 editorial is a discouraging sequel to the misrepresentations of purpose and fact about the American University of Beirut already published in the October 5 issue of *Newsweek* and telecast on the October 6 NBC network program *First Tuesday*. To my knowledge, there never before has been a case where a university was held responsible for the activities of its alumni. Why AUB should be singled out for such responsibility by a leading weekly news magazine, a leading national television network, and by responsible newspapers such as yours, is difficult to understand.

In the final paragraph of your editorial, you recommend that the United States "face facts and cut off any further aid to this type of an institution, regardless of its academic performance in the past." Such a suggestion is upsetting, not only because it calls for the end of vital financial support, but because it ignores totally the full facts of AUB's present academic performance as well as detailed plans for further enrichment and broadening of the academic program. It ignores the fact the AUB is a leader in the Middle East in the fields of the medical and natural sciences, the humanities and the arts, the social sciences and agriculture, and in engineering and architecture. It ignores the fact that eighty percent of AUB's living alumni are working in their regions of origin as leaders in their professions. It ignores the fact of recent contributions to the well-being of man through the research activities of AUB scientists: the development of Laubina, Najah wheat, and of Fycrete. It ignores the fact that AUB's new medical center (including a 440-bed teaching hospital fully accredited by the American Hospital Association)

provides modern facilities for advanced training, research, and patient care. It ignores the fact that AUB's four thousand member student body comes from sixty-three countries.

AUB is proud of its 105 year history. AUB is proud of the fact of its role in providing an American-type university education of unequalled quality in the Middle East. AUB agrees that the United States should face facts. AUB receives support from the United States because of these facts. And it is the totality of these facts that assures AUB of continued financial help from the United States.

Sincerely,

ROBERT W. CRAWFORD,  
Vice President.

[From the Canton Repository, Canton, Ohio,  
October 8, 1970]

## CUT OFF FUNDS

The American University in Beirut (AUB) has long been noted as the source of professional talent in the Mideast. Now it can claim a questionable distinction. It would appear to be the primary source of leadership for the hijackers and guerrillas.

The chief of the ultra-radical Popular Front for the Liberation of Palestine graduated from this university. The number two man, Dr. Wadia Haddad, and the alleged mastermind of last month's hijackings, was a fellow student at AUB. Leila Khaled, the terrorist who pulled off one hijacking and was captured while attempting another, studied at the American University in Beirut.

Despite this dubious record the United States continues to pour funds into Beirut to support AUB. Last year the U.S. Agency for International Development provided AUB with \$10 million in operating and building funds.

With campus politics today tied directly to the Palestine guerrilla movement, it is about time for the United States to face facts and cut off any further aid to this type of an institution, regardless of its academic performance in the past.

[From the New York Times, Nov. 12, 1970]

## DEALING WITH ARAB HIJACKERS

TO THE EDITOR: The multiple hijackings are over, the planes destroyed, ransoms paid, and hostages freed. What are the obvious lessons?

The British were generous to the girl air pirate who attempted to hijack an El Al plane. The plane was not scheduled to land in London. Why did they not make her stay on the plane and continue her flight? They permitted her to enter Britain and were rewarded for their generosity with Arab gratitude. A B.O.A.C. jet was hijacked and destroyed and the passengers held as hostages.

In Switzerland, Greece and Germany, Arab terrorists are free to commit crimes including murdering Greek children. Trials and convictions are irrelevant. Convicted criminals are freed when their gangster friends hijack another plane. In the understandable anxiety over safety of hostages, justice and punishment for criminals are forgotten.

Why not extradite such criminals immediately to Israel for just and humane punishment? With no ransom to pay, Europeans would then be immune to blackmail.

Americans have been hit hardest by air piracy. Yet the United States Government does nothing against air pirates and proposes additional taxes on American travelers to finance new security measures. American travelers and taxpayers are penalized for the failure of the United States Government to control air piracy. Victims are punished and criminals are rewarded.

The United States Government is responsible for the freedom of Americans to travel everywhere. The Arab terrorists and their

supporters should pay for destroyed aircraft and new security procedures.

The Popular Front for the Liberation of Palestine operates legally with government support in many Arab countries. Let these governments and their nationals pay for damages and expenses caused by air piracy, rather than the American taxpayer. Hitting them in their pocketbooks may bring them to their senses.

Nationals of such countries should be charged \$100 for entry visas. Students from these countries should not be subsidized by American taxpayers and should pay their full share of the cost of running a university, rather than a symbolic tuition fee.

American government funds should not support organizations in Arab countries which train terrorists, like the so-called refugee camps and the American University in Beirut, which proudly admit over American television that terrorists are trained there. The funds could be diverted to reimburse T.W.A. and Pan Am for their losses in destroyed aircraft.

Support for genuine humanitarian and educational purposes should not be stopped. *Bona fide* Arab students should not be penalized if they sign an oath that they do not support terrorist activities. But the American Government should know what it is doing, and should not use taxpayers' money to subsidize terrorism and air piracy.

HARRY J. LIPKIN,  
Rehovoth, Israel, Nov. 4, 1970.

[From the New York Times, Nov. 18, 1970]  
TERRORIST CHARGE DENIED

TO THE EDITOR: Prof. Harry Lipkin's letter (Nov. 12) from Rehovoth, Israel, must not pass unanswered. He suffers the fallacy of so many well-meaning individuals throughout the world—the fallacy of accepting as fact that which is not true, simply because it is emotionally appealing.

In his last two paragraphs, Professor Lipkin is wrong in his assumptions about the American University of Beirut. Obviously, he has accepted as fact the misrepresentation of A.U.B.'s purpose disseminated recently by some sectors of the media (e.g., Newsweek and N.B.C. Television). His words echo similar statements and recommendations made editorially by an Ohio newspaper. He states that A.U.B. trains terrorists and "proudly admits over American television that terrorists are trained there." This is completely false. On behalf of the university, I deny it categorically.

A.U.B. does not train terrorists. A.U.B. trains leaders in the medical and agricultural sciences, the humanities and social sciences, the hard sciences and the fine arts, and in engineering and architecture. A.U.B. does not train students for any sort of particular political or warlike activity.

As is true of any university or institution of higher learning anywhere in the world—including the Weizmann Institute of Science where Professor Lipkin is now teaching—A.U.B.'s student body, faculty and administration are individuals. Individuals develop differently in attitude and in degree of participation in society. But no university anywhere is, or should be, responsible for the individual activities or personal thoughts of its alumni or former students.

It is my profound hope that Professor Lipkin's lack of understanding of the American University of Beirut, as expressed in his letter, will be replaced by discrimination between fact and emotional fiction.

ROBERT W. CRAWFORD,  
Vice President, American University of Beirut, New York, Nov. 13, 1970.

[From Newsweek, Oct. 5, 1970]  
GUERRILLA U.

For the better part of a century, the American University in Beirut has been supplying

Mideastern countries with a steady stream of presidents, prime ministers, ambassadors, doctors, lawyers and businessmen. To that imposing list of professional elites can now be added two striking new categories: aerial hijackers and guerrillas.

Dr. George Habbash, chief of the ultra-radical Popular Front for the Liberation of Palestine, graduated from AUB at the top of his medical class twenty years ago. One of his fellow students was Dr. Wadia Haddad, the PFLP's No. 2 man and the reputed mastermind of last month's skyjackings. Leila Khaled, the 24-year-old terrorist who helped pull off one hijacking last year and was captured while attempting another last month, studied at AUB after attending the American Girls School in Sidon. And countless other students and former students at the picture-postcard campus overlooking the Mediterranean leave the university with a sophisticated grounding in Arab nationalist politics that helps carry them into the Palestinian guerrilla movement.

AUB, in fact, has long played an important role in Arab thought. A book by the university's distinguished professor of history Constantine Zurayk, "Arab Consciousness and Nationalism," was read clandestinely in schools throughout the Arab world during the last years of the British and French mandates. And in sharp contrast to other universities in the Middle East, most of which are state-controlled, AUB has always encouraged academic freedom. "The process of education," AUB vice president Robert Crawford told Newsweek's Madlyn Millimet last week, "consists of teaching people to question the society in which we live."

In that, AUB has been eminently successful. Although the school has tried to limit political activity on campus, it can contain young Arab firebrands no more easily than a U.S. institution can curb radical provocateurs. Like U.S. universities, AUB expects its intellectual training to exert a steady influence on its young graduates. "The university has been very careful to stay outside the political arena," insists an official of the U.S. Agency for International Development, which provided AUB with \$10 million in operating and building funds last year. "But individuals have not."

Commando: Politics at AUB today is tied directly to the Palestine guerrilla movement. Many students belong to one of the guerrilla groups, mainly the PFLP or Al Fatah, and often spend their summers and weekends in commando training camps. Some students have even been accused of stealing chemicals from university laboratories to use in making explosives. Most of the recruiting for rebel organizations takes place at a student hang-out called Fiesal's Restaurant, which faces AUB's main gate. There, students and former students sit around arguing politics endlessly over cup after cup of Turkish coffee, while guerrilla scouts quietly scrutinize the talkers in search of future leaders.

The guerrillas win sympathy, too, from a hard core of U.S. leftist students enrolled at AUB, who spread anti-U.S. doctrine among the locals and help organize pro-commando demonstrations. Last spring, some American students greeted Assistant Secretary of State Joseph Sisco with a big "Sisco Go Home" sign and pelted the U.S. Embassy with rocks. Equally vociferous, in their own way, are several U.S. faculty members, who have formed a pressure group called Americans for Justice in the Middle East and bombard the White House, Congress and U.S. publications with cables and letters arguing the Palestinian cause.

Chicken: Still, most of the university's 4,000 students (about 75 per cent from Arab countries) choose AUB not out of political motives but simply because it is the best university in the Arab world. Founded by missionaries in 1866 (but now nonsectarian),

AUB offers a broad undergraduate curriculum and sixteen doctoral programs, including agriculture, public health and medicine. In the early 1950s, concerned that it was educating mostly the sons and daughters of the Arab rich, the university instituted a concerted scholarship program that now offers financial assistance to 51 per cent of its students. And AUB is also responsible for impressive research achievements. AUB scientists created a strain of dry-land wheat and may double production in the water-starved Middle East, perfected a glass-fiber material to replace expensive steel reinforcement in concrete buildings and developed the hopelessly stringy Lebanese chicken into a bird tender enough to carry a \$30 million-a-year poultry industry.

The aggressive young men and women who spring from AUB appear torn between admiration for their American-style education and distrust of the country that offers it. "Of course we reject American foreign policy and the capitalist mentality of most Americans," an AUB student who doubles as a guerrilla group leader said recently. "But we have also learned to respect a culture that gives even rebels the right to think and say what they want. If there should ever be a Palestinian state run by us, it would be anti-imperialist, anti-Washington and anti-bourgeois. But I don't believe that it would truly be anti-American."

[From Newsweek, Oct. 19, 1970]

#### EDUCATION AND ACTIVISTS

While much of the article on the American University of Beirut (Education, Oct. 5) includes correct factual and positive interpretive information, some other parts, such as the title "Guerrilla U." and the pictures of Miss Khaled and Dr. Habbash, leave the reader with the distinct impression that AUB is devoted primarily to the training of those who disrupt society. This is not true.

The American University of Beirut, during its 105 years of existence, has provided a university education to thousands of Middle Easterners who have become leaders in all areas of life. As is true of any university, there are those among its alumni who have called attention to themselves by dramatic actions that are considered newsworthy at that given moment in history. As a result of the tragic events associated with the recent history of the Arab world, including the creation of hundreds of thousands of new Palestinian refugees, a number of AUB graduates—among others—chose to pursue the correction of what they believe to be a basic injustice. This choice does not mean that AUB trained them for such a role. AUB trained them in their chosen academic fields—in the medical and agricultural sciences, in the humanities, social sciences, the arts, engineering, and in architecture. In the United States, those who seek radical change (e.g., the new leftist, the member of the radical right, or the black militant) are not identified as specific products of any particular university. Nor is it assumed that an activist of any special persuasion is an activist because of the education he received at an identified institution of higher learning. Why should AUB be considered differently?

ROBERT W. CRAWFORD,  
Vice President, American University of Beirut, New York City.

NBC NEWS PRESENTS: FIRST TUESDAY,  
OCTOBER 6, 1970

SANDOR VANOCUR. Good evening. This is the First Tuesday in October, and I'm Sandor Vanocur. We'll be back with a report on Arab students at American University in Beirut, Lebanon. The university is supported largely by American funds. It's become such a breeding ground for Arab revolutionaries

and terrorists that it's becoming known as Guerrilla U.

Never before have so many Americans been drawn so close, emotionally and physically, to the Middle Eastern caldron. We are intricately connected to the Middle East in obvious ways, and in other ways not so obvious. Jetliner hijackings, the blowing up of aircraft, holding Americans as hostages, obviously all this hits close to home.

It probably is not so well known that American interests are involved in the nurturing of Arab leaders, including Palestinian guerrillas and terrorists. American University in Beirut, Lebanon is a political greenhouse. Extracurricular activity among students there extends to guerrilla recruitment and training.

The university was founded by Americans, chartered in New York State, it gets money from the United States Government, from some of the best known American foundations, and from large American corporations, especially oil companies.

A number of students from the school come to the United States on scholarships provided in many cases by American institutions. These Arab students hold to the emotional and philosophical thought which links them to events in the Middle East, where other more militant Arab students take active roles in the growing guerrilla movements.

These are future Arab commandoes; they are 6 to 12 years old, and their rifles hold live ammunition.

(Shouts by trainees.)

For these children the future of the Arab world does not rest with the graying politicians who sit in palaces and executive mansions. They look to leadership to a younger breed, to militant and hardheaded Arab college students.

For many years the American University in Beirut has been a spawning ground for Arab leaders and activists, such as Dr. George Habash, the popular front leader, and hijacker Lila Colette. It is today a pipeline to the Palestinian guerrilla movement.

MAN. Our greatest problem here is that of the students who come from originally the Palestine area, and who over the years, of course, have felt that theirs is a special problem, and they feel that they would like to regain the territory in which they were living.

Naturally the problem is a political one. The university feels that every student has a right to express his views and to do whatever he can do to influence others into accepting his views.

WOMAN. We really still appreciate studying, and most of the revolutionaries go to the universities at the same time and all try to cope with their studies. Maybe they leave for some years and they come back. We have to recruit personnel or we have to use the manpower resources that we have for the revolution, for the good of the revolution.

So each year the revolution is gaining new masses, whether from the Palestinians or Arabs or all the—

VANOCUR. Students from the campus oppose Jordan's King Hussein as well as Israel and the United States.

(Student protest noise—chants and clapping.)

The Jordanian Embassy. School officials make little attempt to prevent this type of protest, even when the United States is the target. When rocks were thrown at the American Embassy, campus officials said it was necessary to allow students to express their feelings.

(Arab language over PA system.)

Politics and warfare are followed avidly by students in Beirut.

RADIO VOICES. The Palestinian leader, Yasir Arafat, Commander-in-Chief—

VANOCUR. Their counterparts in the United States, other Arab students, are just as eager

to keep in touch with the Middle Eastern developments. Social clubs on campuses are used to acquaint non-Arabs with the Arab points of view.

One estimate is that there are ten thousand Arab students in this country. Many are Palestinians. Many came directly from the American University in Beirut.

And with their politics intact they have blended into American college life.

MAN. The Arab are pictured in the frame of desert, the camel, the veal(?). These things do not exist anymore. Our societies have undergone a lot of changes. Some of the people were astonished that an Arab would look like this, just as an American would look. Probably they have expected me to come to M.I.T. riding my camel everyday.

After getting my doctorate—doctoral thesis finished, I'm planning to stay for one year in a factory, in a nuclear firm in the States to get practical experience. Then I think by then somewhere in the Arab world nuclear energy would be needed. We have increased demand on energy, and I hope by then I will be able to put the knowledge that I have learned here into useful applications somewhere in the Arab world.

WOMAN. We cannot forget that there is a war; we cannot forget that there is something called the Palestinian revolution, and we don't want to forget it now.

MAN. The Palestinians are definitely the underdogs; they are definitely the oppressed people.

WOMAN. I think that the Palestinian revolution is not just a Palestinian revolution. I think it is the avant garde of an Arab revolution.

MAN. Our conception of Palestine is not a piece of land or a farm or a house. It's the concept of a home. And this is the main motivation for the young Palestinians to go back to Palestine.

MAN. I would like to see the Jews, the Arabs, the Christians all live happily, but not under those circumstances where you are forced to get out of your country; you are forced to get out of your home, and yet there is nobody recognizing your rights.

MAN. Maybe I'm not the sort of person to go around hijacking planes, but perhaps I have other different aims in life. But perhaps I can understand the feeling of this person who has been living in an awful place for the past twenty years. I mean he's lost everything. He's lost his house; he's lost his land. There's nothing more to lose.

MAN. What I don't understand is why is so hijacking such a big thing in the news. It seems to be much more in the news than wiping out whole villages.

MAN. The Arab guerrilla, the latest happening, the hijacking and other things, they are not killers. They are trying to waken those people in the world.

WOMAN. When we go back home it is going back to a country that is involved in a war. Every day there is something going on.

MAN. In despair, like men clutching at straws, they find themselves through expressing their will to have manifest destiny, an identity of their own; and in so doing, it seems to me at least that the label of freedom fighter is fairly justified.

WOMAN. It's going to be a long, long, long struggle.

(Children training shouts.)

VANOCUR. The militancy of Arab youth is echoed by preteen boys and girls, led by a cadre of Arab students who in turn are educated by American teachers in American schools.

(Arab voices in training.)

There is nothing playful about the group of children. This camp is said to be in a front line area. The loaded guns are carried at all times. Children bivouac, take turns at guard duty, and are instructed by the college students to fight if the outpost is ever attacked.

WOMAN. The students know that our way is

very long; they know that maybe our children will go back to Palestine.

VANOCUR. Attorney General John Mitchell has said that federal law enforcement agencies are keeping Arab students and other Arab nationals under surveillance in the United States. Mitchell said that foreign nationals are frequently kept under surveillance. However, in the case of the Arabs, one reason for the surveillance seems to be based on government fears that Palestinian guerrilla groups might use Arab nationals to bring the Middle East conflict to the United States.

COPY OF CABLE SENT BY PRESIDENT KIRKWOOD TO MR. JULIAN GOODMAN, PRESIDENT, NATIONAL BROADCASTING CO., OCTOBER 14, 1970

"In name of American University of Beirut aye protest strongly reporting in October six first Tuesday report by Sandor Vanocur. Image created equates university purpose and activities with training terrorists and sponsoring guerrilla activities. This absolutely untrue. Purpose of AUB is to provide American type education to peoples of Middle East leading to their constructive participation as leaders of society. Your program an insult to all graduates as well as to current students faculty administration and trustees. Among AUB graduates are present Prime Minister Lebanon, Jordan, four members new Lebanese Cabinet, many members diplomatic missions to United Nations as well as secretariat staff, immediate past president International Association of Universities, former President of General Assembly Charles Malik who led White House prayer at request President Nixon, president and board chairman Middle East Airlines plus other leaders business, education, communications media. AUB as institution is non-political. As is true all universities in world we do not control or advocate policies followed by individual graduates. Request NBC rectify misrepresentation of AUB role with documentary program showing scope our undergraduate and graduate programs in medicine, agriculture, engineering, as well as humanities, social sciences, arts and sciences."

NBC NEWS  
THIRTY ROCKEFELLER PLAZA,  
New York, N.Y., October 21, 1970.

DR. SAMUEL B. KIRKWOOD,  
President,  
American University of Beirut,  
Beirut, Lebanon

DEAR DR. KIRKWOOD: Your cable to Mr. Goodman has been passed on to me as a matter pertaining to NBC News.

I am sorry the reports transmitted to you about the treatment of your University during a film about the relationship between Palestine students and Arab guerrillas led you to conclude your University had been misrepresented.

The subject, of course, was not the American University of Beirut, nor did it pretend to be, and the association of the activities of some of the students with the administration as policies of the school was no more valid in your case than in the case of the Massachusetts Institute of Technology, Oklahoma State University, or any other of several institutions of higher learning shown because Arab students sympathetic to Palestinian activities, or participating in them, are students there.

We did not, as your cable said, equate "university purpose with training terrorists and sponsoring guerrilla activities" any more in your case than in the others. In the case of the American University of Beirut we did show a member of the faculty Dean Najamy, stating, as your cable also states, that the University does not presume to control political views and activities of students.

The very purpose of using the word "extracurricular" in the introduction was to make

clear that whatever activities we showed of your students was not under the aegis of the University. There were other such instances in the script of the report itself.

You may or may not remember that what may have been the first, and what to my mind was certainly the best, American television network treatment of the development of laubina and its use and its promise was John Chancellor's NBC News report on November 28, 1967. It would have been unthinkable to introduce that report or somehow associate with it the information that the Americans University of Beirut is also where many young Palestinians study and some of them are recruited while physically there (although not by the University) for guerilla activities or to guerilla sympathies.

The activities of undergraduate and graduate students at many universities and many others around the world are often in the news these days, sometimes in ways large numbers of people find objectionable. But although the suggestion keeps recurring, I would find it difficult to accompany each such news report, or any of the subsequent reports outlining new developments and often some background, with the more positives and often more important achievements of each such university, its illustrious graduates, its contributions to knowledge and progress.

Otherwise, it seems to me upon review, as it seemed to me at the time, that the subject itself is definitely a valid one, the role of students, very often the best students, in Palestinian guerilla activities, a general area certainly of current concern at the time the report was presented. It was not the subject of your cable but it may be of interest to you that we have received some criticism from viewers that the treatment was too sympathetic to the guerilla movement.

I hope some of the points I have raised in this letter will serve to allay somewhat your concern about how the American University of Beirut fared in the program. I appreciate the concern and once again assure you it was not our intent to distort your University's purposes, nor do I feel this was done.

Very sincerely yours,

REUVEN FRANK.

AMERICAN UNIVERSITY OF BEIRUT, REPUBLIC OF LEBANON

BEIRUT.—A five-man international team of nutritionists at American University of Beirut has successfully developed and tested a protein-rich diet supplement to help defeat starvation among infants and pre-school children in North Africa, the Middle East, India, and Pakistan.

The total cost of Laubina, as the new supplement is named, would be three and one-half cents per child daily, according to Dr. James W. Cowan, team spokesman.

Dr. Cowan, Assistant Dean of AUB's Faculty of Agriculture, said that wholly palatable Laubina has proved its effectiveness in deterring and curbing protein calorie malnutrition through six years of testing and is now ready for commercial manufacture.

The international team of Lebanese, Jordanian, British and American doctors and nutritionists from AUB's Faculties of Agriculture and Medical Sciences developed Laubina from such native products as the chick pea, boiled wheat and dried skimmed milk. The chick pea is a common dietary ingredient in all Middle Eastern countries, North Africa, India and Pakistan.

Laubina in its final form is a fine powder which can be used as a sole food or diet supplement, providing four calories per gram to users. It may be suspended in a bottle for nipple feeding or made into a paste for spoon feeding, like Pablum. Laubina may also be sprinkled into thin soup or on vegetable dishes of lower protein value. It can be mixed with citrus juices or on fresh fruits for Vitamin C. Laubina could also conceivably be made into a breakfast food.

"Laubina is better than any native cereals because it has a higher amount of protein and better protein balance," said Dr. Cowan. "Three and one-half cents per day would furnish a child's total protein requirement and one-half his calories. Two feedings with 100 grams of Laubina each day plus two other meals from any source covers a child's complete calorie requirement. Two hundred grams of Laubina equals the protein in a half-pound of steak or a quart of milk."

Team members included Dr. Cowan, AUB's Assistant Professor of Nutrition when the first batch of Laubina was mixed in 1963; Lebanese doctor Raja Y. Asfour, a pediatrician who named Laubina after Lebanon and the American University of Beirut; Jordanian food technologist R. I. Tannous; and British professors Donald S. McLaren, a medical doctor and research professor of clinical nutrition, and Dr. Peter Pellet, AUB nutritionist.

They stressed that while development of Laubina marked a major breakthrough in the effective uses of sources of protein to combat malnutrition and starvation, its greatest impact would be achieved through a far-reaching educational campaign in the countries concerned. Improvement of local diet then becomes an integral part of a nation's total social and economic reform program.

AUB's research into protein calorie malnutrition began in 1961. Dr. W. H. Sebrell, Director of Columbia University's Institute of Nutrition Sciences obtained a National Institute of Health grant and AUB's assistance in developing a protein-rich infant food mixture suitable for use in the Middle East. The United Nations International Children's Emergency Fund provided the equipment which made the program possible.

American University of Beirut has requested copyright privileges from the U.S. Public Health Service through Dr. Sebrell.

#### FOUR-MONTH TESTS SAVE MIDEAST BABIES

During a series of four-month tests begun in 1963, Lebanese and Jordanian children suffering from severe protein deficiency were saved by Laubina. In just four months the babies, who had been near death when brought to the doctors, were restored to full and vigorous health, plump and bright-eyed. They enjoyed eating it, too.

Part of the present testing includes a psychological unit under Dr. McLaren's direction aimed at determining the relationship between protein calorie malnutrition and mental retardation. No definitive conclusions have been made by the unit thus far.

"Laubina attacks the twin problems of starvation and misinformation on how to restore health," Dr. Cowan said. "Local parents, especially among the poor, spend their limited income on protein foods for the father. Many mothers just don't understand how to provide necessary proteins from foods available to save the children from the chronic malnutrition and, many times, death which plagues the area."

The nutritionist, a native of Beaver Falls, Pennsylvania, said that children whose lives were saved by Laubina had similar family and nutritional backgrounds.

"The child was weaned early from the breast. The mother then put the child on a diluted formula mixture. Diarrhea developed and the food was withdrawn to stop it. The child began a slow deterioration into death because the parents did not understand what was needed to restore health. Laubina stopped the diarrhea in one or two days without the use of antibiotics. It furnished the necessary protein for the starving children and in four months turned them into healthy, active babies," he said.

Middle East nutritionists are quite concerned about the starvation threat here. Annual population growth is 2.9 per cent, but food production is a mere 1.8 per cent per year. The Food and Agriculture Organization of the United Nations estimates that

the Middle East must treble its food production and increase the output of animal products by seven times to achieve a reasonably adequate diet by the year 2000.

The rapidly fading world supply of protein and the slow growth of food production in the Middle East have stymied the desired growth rate, however, and the grim spectre of malnutrition haunts the area.

#### TWO PLUS TWO EQUALS FIVE

Laubina's effectiveness in restoring health has given rise to a favorite formula around AUB: "Two plus two equals five." This means that the chick pea and wheat proteins complement each other so perfectly in the mixture that the sum of the two is greater than the total of the components if eaten at different meals.

"Most Americans are used to meat, eggs and milk as their sources of protein," the 37 year-old professor said. "Few even consider that vegetable mixtures available in abundance throughout the Middle East, India and Pakistan offer an equally nutritional protein supply. Common American foods are simply too expensive or are not available for people out here."

Nutritionists in Latin American have developed Incaparina, a vegetable protein mixture now in commercial production. Highly successful in curbing malnutrition and starvation, Incaparina is a totally different type of cereal-legume mixture based on native corn to match the diet pattern of the area's people.

"The best thing about Laubina is that any Middle East, Indian or Pakistani mother can make it in her kitchen or at the family brazier for the baby's food because wheat and chick peas are commonly found in the home," he said.

"We are firmly in the diet pattern of the area's people and can use the products which they grow and consume regularly," he continued.

"Laubina has performed well not only in the laboratory," he said, "but was also acclaimed highly acceptable by mothers in a two-year field trial conducted by Dr. Raja Asfour through the Out-Patient Department of the American University of Beirut hospital."

LAUBINA: AMERICAN UNIVERSITY OF BEIRUT REPUBLIC OF LEBANON

#### 1. What is Laubina?

A powdered mixture of boiled wheat and chick pea with added vitamins, minerals and a small amount of dried skim milk.

#### 2. What is the purpose of Laubina?

It was developed especially for feeding infants; its protein approaches the quality of milk but the product is much less expensive than milk.

#### 3. Is it a sole food or a supplement?

It was developed as a food supplement with the idea that 100 grams per day would give the child most of his protein and calorie requirements.

#### 4. How is Laubina fed?

It is re-constituted by adding water (or milk); it forms a porridge-like paste which can be fed by spoon. In certain clinical tests, Laubina has been effectively fed by bottles; excess water is added to form a suspension which will pass through a nipple.

#### 5. What were the reasons for the development of Laubina?

a) Protein malnutrition in children is prevalent in the Middle East because good quality protein food such as meat, milk and eggs are expensive and in short supply.

b) Thus Laubina was developed as an inexpensive yet good quality protein food derived from plant rather than expensive animal sources.

#### 6. Why were chick pea and wheat chosen as the basic ingredients?

Four main reasons:

a) The proteins of wheat and chick pea complement each other; the resultant prod-

uct is more nutritious than either one eaten alone.

b) Both wheat and chick pea are produced in the Middle East and are prevalent in the dietary patterns of the area. Thus, no real cultural change is needed for the introduction of the food.

c) It is known that wheat and chick pea are found in most homes in the Middle East, even the poorest. Thus, if the family could not afford to buy such a product, the mother could be instructed to make it in the home for her child.

d) When mixed in the proper proportions, Laubina is well tolerated by even small infants. This is not true for other cereal-legume mixtures which cause gas and intestinal upset.

#### 7. What is the history of Laubina?

a) In 1961, Dr. Henry Sebrell, Director of the Institute of Nutrition Sciences of Columbia University, obtained a research grant from NIH. One of the objectives of this project was to develop a high protein vegetable food mixtures suitable for feeding infants in the Middle East.

b) Pilot work was conducted in 1962 and 1963 under the director of Drs. Zakaria Sabry, Raja Asfour and James E. Campbell. During the early stages, many different mixtures were tried and the final Laubina mixture as used now was established in early 1964.

c) Dr. Sabry left AUB in 1964 and the work was carried on by Drs. D. S. McLaren, James W. Cowan, Raja Tannous and Raja Asfour. This group tested the mixture extensively both in laboratory animals and in malnourished children.

d) Dr. Peter Pellett joined the team in 1965 and directed feeding trials and further studies on improving preparation procedures.

#### 8. When will Laubina be produced commercially?

Maybe never. But it is hoped now that a commercial food processing company will begin to manufacture and promote Laubina.

9. If Laubina is never produced commercially, does this mean that all the research was wasted and the project is a failure?

Absolutely not, for through a proper education program mothers can be taught to produce Laubina in their own homes and instructed on proper feeding practices for their children.

One of the most serious problems today among the poor in the Middle East is the misuse of proprietary baby foods. These products are expensive and the mother, in an attempt to make them go further, dilutes the food with resulting poor health in the child. The weakened child falls prey to infections such as diarrhea at which time the mother withdraws all food and the baby slowly starves.

With an inexpensive product such as Laubina, or with the knowledge of making it at home, the mother will be encouraged to feed her child better, thus avoiding the chain of events which lead to marasmus and, in all too many instances, to death.

#### AMERICAN UNIVERSITY OF BEIRUT OPENS NEW MEDICAL ERA IN THE MIDDLE EAST

BEIRUT.—New buildings, new medical education programs and the new concept of total health for the Middle East highlighted the official opening of the American University Hospital and medical center here on June 26th.

Financed by the US Agency for International Development at a cost of \$20 million, the modern double-building includes a 440-bed teaching hospital, medical research laboratories, private doctors' offices and an out-patient department capable of treating up to 100,000 people per year. His Excellency Rashid Karami, Prime Minister of Lebanon,

and His Excellency Habib Moutran, Minister of Health, presided over the opening of the new center, the first of four modern structures which will comprise the planned medical complex. Three other buildings valued at \$9 million and slated for completion in 1974 will include a Basic Medical Sciences Building now under construction near Van Dyck Hall; a 100,000-volume Medical Library; and a Post-Graduate Medical Education Building.

#### TOTAL HEALTH CONCEPT

The bright, new center emphasizes AUB's dedication to a completely different concept of medical care—that of total health for the peoples of the Middle East. That concept will be reinforced by novel interdisciplinary medical education programs and regional service activities by AUB to carry out a long-standing dream of area medical leaders.

"Health may be considered in three classes," said Dr. Samuel B. Kirkwood, President of AUB. "Curative health is the treatment of illness after it occurs. Preventive health is the attack on factors which contribute to the cause of disease, such as garbage in the streets or mosquitoes in swamps. Productive health, or total health, is the creation of physiological mechanisms which free the human environment of health hazards. The society's total promotion of the best nutrition for all citizens is an example of the total health concept in action. So is the addition of a physician to a state's accident board to recommend methods of preventing traffic accidents, a leading cause of illness and death in many countries.

"The new medical center will help the countries of the Middle East meet their health needs through co-operation between AUB and the new national medical schools. We will emphasize exchanges of faculty, consulting services, graduate fellowships for training and research and regional seminars. AUB is introducing new interdisciplinary graduate degree programs in nutrition, population studies, community health, biophysics, development administration, and the social sciences. We are also establishing a centralized program for the training of para-medical personnel in an Institute of Health Sciences Training to assist doctors, public health leaders, nursing supervisors and pharmacists who serve in the region's health ministries and agencies," Dr. Kirkwood continued.

A test of the total health approach to regional problems is already underway in the new center. On July 6, thirty-five participants from 14 countries convened here for the first regional training conference on food and nutrition. Sponsored by UNICEF, the UN's Food and Agricultural Organization, the World Health Organization, the government of Lebanon and the American University of Beirut, this unique two-month conference is designed to give delegates a first-hand look at nutrition and food problems as they exist in the home, the food preparation and processing plants, in hospitals and in research units. Conference members are from the ministries of Health, Education, Agriculture and Planning of Afghanistan, Cyprus, Iran, Iraq, Jordan, Lebanon, Pakistan, Saudi Arabia, Somalia, South Yemen, the Sudan, Syria, Tunisia, and the United Arab Republic. Their first-hand look at field problems will be reinforced with seminars, demonstrations and discussions by AUB professors and United Nations specialists. The primary aim of the conference is to train government officials in food and nutrition problems so they will be able to carry out concrete programs to help the 50 per cent of the world's peoples who lack adequate protein for a healthy and productive life and the 16 per cent of the world's peoples who are underfed by any standards.

The best plans are worthless, however, without the research which is the cornerstone of all medical advances in any region of the world. Lack of research money continues to

be the new medical center's primary headache.

"The new medical center is designed for increased research and services. But we must cut back on our research in such areas as open heart surgery and the special diseases of this region such as arteriosclerosis and coronary illness if additional funds are not received. We have budgeted from \$1 million to \$3 million in research for the new center and we must raise that amount in ten years from private sources, industry or the foundations," said Dr. Kirkwood.

"We had planned on expanding our research activities in area disease and health problems, but we are now in difficulty on that score. We relied heavily on the post-World War II National Institutes of Health grants which are drying up. Private sources of money for research have this far not been available to this university. An example of AUB's special problem is the 75 per cent cut in funds for nutrition research. Some of this research led to the development of Laubina, a protein-rich, palatable, inexpensive diet supplement which is now under study by one potential manufacturer. The reduction in funds comes at a time when we were making major progress studying and attacking the malnutrition problems of our region," he said.

"Surgery needs money for research, too," said Dr. Timothy Harrison, Chairman of AUB's Department of Surgery. "Lack of money is holding back the first kidney transplant in the Arab World. We would like to study the effects of different types of operations on the circulation of blood in the heart and lungs. Another common Middle Eastern problem which needs intensive research is the presence of stones in the urinary tract. We would want to make an up-to-date study of the endocrine functions which are essential to the proper functioning of the human body, including the regulation of blood pressure and the excretion of salt by the body. We can begin research in these areas of human life when we have the money."

#### MEDICAL CENTER FACILITIES

The continuing need for research money in no way hampers the daily operations of this region's most up-to-date medical center, however. Rising twelve floors above ground level and towering over the hospital which it replaces, the new medical center offers the most comprehensive, modern facilities for teaching and patient care to be found anywhere in this region. Even long-time staff physicians and surgeons are impressed with the spacious, well-lighted and brightly-decorated facilities.

Modern equipment now available includes ten operating suites in the hospital basement, two more in the emergency rooms and four delivery suites on the seventh floor, which is devoted to obstetrics and gynecology patients; a six-bed coronary care unit unique to this area; a cardiac catheterization unit to diagnose heart lesions for open heart surgery; a twenty-bed intensive care unit; cobalt therapy for treatment of cancer; and a comprehensive X-ray system which takes pictures at various levels of the human body and processes the plates in 90 seconds.

Phase I of the new medical center, which includes research laboratories, private offices and the out-patient department, commenced its activities in October 1968. The Departments of Anesthesiology, Clinical Pathology, Internal Medicine, Obstetrics & Gynecology, Ophthalmology, Otolaryngology (Ear, Nose & Throat), Pathology, Pediatrics, Roentgenology, Surgery and the Nutrition Laboratory took residence in the U-shaped part of the structure as work commenced on the hospital, known as Phase II.

#### FAMED OUT-PATIENT DEPARTMENT

Hundreds of thousands of Middle Easterners, whether plain folk, businessmen, political leaders or kings, have known the Ameri-

can University Hospital best through scores of years for its out-patient department, which this year treated 68,000 people for the simplest as well as the most difficult of diseases. Patients pay what they can afford for these medical services; but the overwhelming majority cannot afford more than \$1 to \$5. Some of the unique services available to the afflicted include the Marie Azeez el Khoury Eye Clinic, where 4000 people were treated last year for cases as simple as medication of a sty to the complex surgery required in a corneal autograft or transplant; the Speech and Hearing Center, where 3,356 people received medical care to improve or restore hearing; and the prosthetics-orthotics center, where rehabilitation of cripples is carried out.

#### PATIENT CARE

The American University Hospital staff is more than 98 per cent Middle Eastern in origin and all but a few of the doctors are American-trained and American board certified. The roster comprises 134 full-time and part-time doctors; 70 resident physicians; 36 interns; 144 nurses; 20 practical nurses; and 60 AUH volunteers, female members of the AUB community who assist in the non-medical aspects of nursing service.

The existing hospital service of 240 beds will be in use immediately, according to Dr. Craig Lichtenwalner, Dean of the Faculties of Medical Sciences. The remaining 200 beds will be occupied over the next twelve months as the hospital staff is trained in the use of new facilities. AUB will continue throughout that time to seek the nurses required to serve the full 440-bed capacity.

Rooms are in use on seven floors of the new hospital, according to Mr. David Egee, Director of American University Hospital. There are 62 private rooms with one bed each; semi-private rooms with 39 beds; and 139 beds in wards. Charges for service vary according to the patient's ability to pay and include daily rates ranging from a low of \$3.75 (12 Leb. pounds) to the largest suites, which cost \$33.84 (110 Leb. pounds) daily. Sixty per cent of the beds now occupied are being used by patients who can pay only the lowest and second-lowest rate, which is \$6.10 (20 Leb. pounds) per day.

#### IMPROVED REGIONAL MEDICAL SERVICES

Whatever may be said of the new facilities and services of the American University Hospital and medical center, the fact remains that most people in this region do not have nearby the kind of medical care required for comprehensive medical care. One aspect of AUB's drive to improve health services is its cooperation with the Government of Lebanon in the development and operation of the Sidon Government Hospital, one hour's drive south of Beirut.

"Medicine in Lebanon is not the AUB medical center," said Dr. R. Sulayman, a second-year resident in pediatrics. "To acquaint doctors with the actual medical problems of this country and region, AUB sends each resident to the Sidon Government Hospital from two to four months in one of his residency years. Interns spent at least one and one-half months during their year at AUB studying and working in the AUB-Sidon project."

"We have developed a relationship between the Sidon Government Hospital and the AUB Medical School which is beneficial to all concerned," said Dr. Riad Tabbara, Chairman of AUB's Department of Internal Medicine and co-ordinator with the Lebanese Government on the Sidon Government Hospital project. "AUB provides residents, interns and consultants to support the physicians there who are appointed by the Government of Lebanon. This increases the academic standing of the Sidon Government Hospital and, we hope, will bring that standing to the university level. On the other hand, we want our residents and in-

terns to learn what medicine is really like outside this brand new medical center. In Sidon they get first-hand ideas of the difficult problems faced by the people of the area and they learn something about functioning successfully in less-than-ideal conditions. We emphasize what valuable service they are performing for their country and hope that they may be motivated to reside permanently in the Lebanese south and other developing areas of this region."

AUB and the Lebanese Government established their medical relationship at the Sidon Government Hospital in 1960. The Ministry of Health formalized that status in 1969.

"We send one resident doctor each in Surgery, Medicine, Pediatrics and Obstetrics & Gynecology—usually second and third year residents—to Sidon every Tuesday afternoon for the medical rounds. The group is usually accompanied by one or two AUB medical faculty members. If help is needed in an unusual operation, this medical center supplies it. Telephone links are always available when required," he said.

"We want the Sidon Government Hospital to be the base hospital for southern Lebanon so that people there can save money, time and effort by obtaining basic local medical care rather than coming to Beirut for treatment. We also hope to spread public health practices throughout all the villages of the South, with Sidon Government Hospital playing a key role in the new attention being given this area," said Dr. Tabbara.

#### PATRIOTS IN TROUBLE

Mr. PROXMIRE. Mr. President, today's Wall Street Journal contains on its editorial page an article written by Jerry Landauer on what happens to civil servants who try to save money. In particular, he writes on the cases of Gordon Rule and A. Ernest Fitzgerald, both of whom exposed waste and attempted to save money for the taxpayers. In the case of Gordon Rule, he was denied promotions and honors accorded to others. In the case of Ernest Fitzgerald, he was denounced, lied about, spied upon, and finally fired. But both are genuine American heroes who should be honored rather than snubbed.

As I have written elsewhere,

What the Pentagon seems intent on proving is that it has no place for anyone determined to cut costs and stop military waste. The firing of A. E. Fitzgerald will discourage every free spirit who works for the government.

It mocks the original intent of the Civil Service system by making it a protection system for the time-servers. The Pentagon action portends a Kafkaesque bureaucracy composed of those who combine lethargy with servility in a feudalistic system.

Political democracy cannot function in that atmosphere. Report From Wasteland, p. XV.

I ask unanimous consent that the excellent article by Mr. Landauer, an article which is also noteworthy for its factual accuracy, be printed in the RECORD.

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

PITY HIM WHO TELLS OF COST OVERRUNS  
(By Jerry Landauer)

WASHINGTON—On April 26, 1951, an earnest young Republican from California rose in the Senate chamber to denounce the Truman Administration for harassing witnesses testifying before Congressional committees. "It is

essential to the security of the nation that every witness have complete freedom from reprisal when he is given an opportunity to tell what he knows," the Senator declared.

After his brief speech the Senator proposed a tough amendment to existing witness-protection laws. His amendment, co-sponsored by such eminent lawmakers as Sen. Robert A. Taft of Ohio, would have provided extraordinary penalties: Up to five years in jail for any Government official convicted of retaliating against any subordinate who had appeared before Congress within the previous year. The mere demotion of any testifying employee was to be considered prima-facie evidence of the boss' guilt.

The young Senator who made this drastic proposal was Richard M. Nixon. He and other Republicans were denouncing Mr. Truman's sacking of such troublesome dissenters as Adm. Louis E. Denfeld, leader of the famous "admiral's revolt" against Air Force plans to hog much of the defense budget by building a costly B36 bomber fleet. As Senator Nixon said, Congressional hearings are futile if witnesses representing the Executive Branch must all speak as docile "yes men" for Administration policies.

#### PENTAGON TO THE RESCUE

Now that he's the commander-in-chief, Mr. Nixon naturally wants his Administration to speak in cadence. Neither he nor any other Chief Executive will for long allow subordinates to challenge him publicly on issues of global strategy. Yet Senator Nixon's sentiments are worth recalling today, because President Nixon's Justice Department refuses to apply the witness protection statutes even to clear cases of reprisal against civil servants who have done no more than follow the Nixon principle of 1951.

Nowadays top-level wrath is directed not so much against military men arguing about allocation of defense dollars but against civilians protesting the Pentagon practice of rescuing big contractors from the consequences of what is delicately called "cost growth." Indeed, even "to participate in discovering cost overruns is a very hazardous occupation," says Rep. Daniel Flood (D., Pa.), a senior member of the House Defense Appropriations subcommittee.

The worst overrun in recent years involves F111 warplanes built for the Air Force and the Navy by General Dynamics Corp. Despite the expenditure of \$5 billion more than initial estimates for all models of the swivel wing plane, General Dynamics couldn't produce a satisfactory Navy model; among other things, five performance specifications weren't met. Yet after issuing stop-work orders for the too-fat Navy F111B in 1968, the Pentagon quietly decided against trying to cancel the contract for default.

This go-easy decision has never been explained; it appears, however, that in addition to doubting that they could legally terminate the contract, the policymakers feared the financial effect on General Dynamics. Whatever the reason, the decision infuriated Gordon W. Rule, a ranking civilian working at headquarters of the Naval Material Command. Though the reason for default may be debatable, he wrote in a sharply worded memo to procurement policymakers, the fact of it is all too vivid; hence it was the Government's plain duty to sue for default and make the company try to prove that it wasn't responsible.

"Some will complain and wring their hands about our being unfair to the contractor, etc.," Mr. Rule wrote. "I reject these protestations because the proper test to apply is what's fair to the taxpayer. General Dynamics signed a contract, they guaranteed certain performance, they failed to live up to their contract and they should not be paid one cent more than they could receive under a default termination unless the Armed Service Board of Contract Appeals decides they are entitled to more."

Mr. Rule's superiors didn't relish this advice. Censors stamped his memo "For Official Use Only" because Congressional critics might use it to embarrass the brass. Later, four members of a special team appointed to negotiate another particularly difficult contract were all promoted and a military member received the Legion of Merit. Somehow, though, the promoters overlooked Gordon Rule, the team captain.

A. Ernest Fitzgerald, former deputy for management systems in the Air Force, was another valued Pentagon employee—until he followed the concept that a witness should tell Congress what he knows. Specifically, Mr. Fitzgerald testified about cost overruns being incurred by Lockheed Aircraft Corp. in building a fleet of C5A cargo-carrying jets. Though his testimony was accurate ("Mr. Fitzgerald's position on the C5A has been correct," Defense Secretary Melvin Laird concedes), the Air Force reacted as if enemy planes had appeared on the radar screens.

Just a year before, the Air Force had cited Mr. Fitzgerald for "exceptional initiative . . . remarkable insight . . . and outstanding leadership on improving cost analysis capability." But once he stepped up to the witness table of Sen. William Proxmire's Economy in Government subcommittee, the bureaucrats promptly cut him off from cost information about major weapons systems, putting him to work instead on mess halls and bowling alleys.

Next they revoked his job protection (a unique "computer error" had given him civil service tenure by "mistake," they explained) and then the Office of Special Investigations opened an "inquiry file." According to Air Force Secretary Robert Seamans, the investigators were merely keeping track of "newspaper clippings, summaries of meetings and so forth," assertedly just to document Mr. Fitzgerald's new status as a public personality.

Finally, the bureaucrats slyly abolished his job, purportedly as part of an economy move. (On the same day, however, a \$107-a-day consultant arrived to take over part of the job.)

Taken together, the indications of reprisal seem so persuasive that the Justice Department presumably had no choice but to investigate possible violations of the law that Senator Nixon once sought to invoke on behalf of the Navy's rebellious admirals; the statute makes it a crime for anyone to "injure any witness in his person or property on account of his having attended (a Congressional) proceeding, inquiry or investigation." Nearly a year ago, in December 1969, the department promised to give the Fitzgerald case "priority treatment." But so far G-men haven't found time even to interview the victim.

#### A MATTER OF TIMING

This reluctance to act points up the significance of Mr. Fitzgerald's dismissal. He wasn't sacked merely for testifying about C5A cost overruns; what really brought the bureaucratic furles crashing down was his timing. For just as he was appearing before the Proxmire panel, the Pentagon was preparing an artful exercise to rescue hard-pressed Lockheed.

Essentially, the C5A contract called for two production phases: Run A for 58 planes and Run B for 57 more. To protect the company against catastrophic loss, the contract contained an intricate formula increasing the price of all 115 planes if costs of producing the first 58 exceeded a predetermined ceiling. But the repricing could be triggered only by Government exercise of an option to buy Run B. As costs kept climbing, Lockheed's hope of salvation depended on purchase of the optional Run B.

"Most contractors have been able to get bailed out through change orders and other procedures when they get into trouble," Dep-

uty Defense Secretary David Packard has explained. "This particular contract was structured so Lockheed could do that."

As the Feb. 1, 1969, option deadline approached, both sides started covering up. The contractor wasn't candid with its Pentagon customer and the customer wasn't candid with Congress.

The cautious General Accounting Office, Congress' fiscal watchdog, has found that the Air Force "could reasonably have predicted as early as December 1967 that actual costs would exceed the ceiling price"; by that date, among other things, Lockheed had incurred 10 million more labor hours than originally planned. Yet in March 1968 an assistant defense secretary predicted to Congress that the costs wouldn't exceed the ceiling. In June, "by direction of higher headquarters," indications of overruns disappeared from internal Air Force cost reports and a briefing paper suggested that costs be allocated in a way to "avoid the appearance of excess profit on Run B aircraft."

Lockheed kept its cost profile similarly low. One Air Force report, dated April 1968, speaks of the contractor's attempt to "limit USAF visibility on costs." As reasons for secretiveness, the report cites "stock-market impact" and "production Run B decision." Had Lockheed admitted its severe cash crisis, according to Lt. Gen. Otto J. Glasser, deputy chief of staff for research and development, "we never would have exercised an option for any of the aircraft in Run B."

Yet if the Pentagon wasn't entirely aware of Lockheed's cash problems, it surely knew all about the C5A's. In October 1968 an official estimate placed Run A costs at \$2,436,000,000, or \$1 billion above target. This means \$600 million extra for repriced Run B planes if the option was exercised. But procurement policymakers stopped cost analyst Fitzgerald from preparing a statement for the Proxmire hearings. They also refused to provide cost projections to the General Accounting Office until Jan. 14, 1969, barely 48 hours before announcing an order for Run B.

#### AN AMBIGUOUS CONTRACT

At that point something particularly noteworthy occurred. In exercising the option the Pentagon unmistakably stated that it wanted only 23 more C5A's. But ranking civilian officials deliberately let stand an ambiguity in contract language that lets Lockheed contend—with some justification—that the Government is legally obliged to pay for all 57 planes, even if it wants only 23. Because of the effect of the repricing formula, a resolution of this ambiguity in Lockheed's favor could cost the Government as much as \$500 million.

And there the matter stands as of today. Now the lame-duck session of Congress seems set to vote Lockheed a \$200 million contingency Fund, to keep production going while negotiators seek to settle the option dispute, and \$200 million more may be budgeted in the next fiscal year. "We're in the same boat with them," Gen. Glasser says, referring to Air Force needs for the giant jets, "so we're bailing us out, if that's the word to use."

Meanwhile, boat-rocking Ernest Fitzgerald still waits for a hearing to fight his dismissal, and Gordon Rule still waits for his promotion. What has happened to them is not lost on Government employees who might be tempted to risk retribution for the sake of saving some tax dollars—or to uphold Senator Nixon's principle that public servants should tell Congress what they know.

#### COMMERCE TODAY—A NEW MAGAZINE

Mr. BAKER. Mr. President, the Department of Commerce recently started publishing a new magazine, Commerce Today. I call attention to this new pub-

lication because, in my judgment, it represents a new era of communication between the Department and public and related interests.

While Commerce Today is new in title, format, and content, it is a continuation of publications distributed by the U.S. Government since 1880. The first was Reports from the Consuls of the United States, and all have been devoted to international trade exclusively. The first publication was by the Department of State, and I assume State continued until the Department of Commerce was established by Congress as a separate Department in 1913—from 1903 to 1913 it was the Department of Labor and Commerce.

In 1913, when Commerce became a separate Department, it was then published by the new Department and continued that way through the years under the titles of Commerce Reports, Foreign Commerce Weekly, and Foreign Commerce, to list a few. International Commerce was the title of the last publication. All had in common the fact that they were devoted exclusively to international commerce.

Commerce Today reports coming development from the 20 different agencies of the Commerce Department—technology, the business services, economic development, and international trade, too.

The launching of Commerce Today is another step in the Department's "continuing effort," as Secretary Stans puts it, to improve communications with the press, the businessman, those engaged in commerce, the scientist, the educators, and the general public, to take in the whole spectrum of the department.

The new magazine is filled with information, it is well written, and the makeup is excellent. I recommend it as a means of keeping in touch with the Department.

I also take this opportunity to commend the editor of Commerce Today for the excellent magazine that is being published under his direction. Dick Evans, the editor, is from Knoxville, Tenn. Mr. Evans is a former managing editor of the Knoxville Journal, was with the Associated Press, and was a professor in journalism at University of Tennessee.

The Department is fortunate to have a man with Mr. Evans' experience and ability and his selection to direct this new undertaking for the Department and the country.

#### SENATE SUBCOMMITTEE ON MONOPOLY INVESTIGATION OF PROCUREMENT OF DARVON BY THE DEPARTMENT OF DEFENSE

Mr. PROXMIRE. Mr. President, in the past few years much has been said in Congress about economy in Government. As the size of the Federal Government has increased, and its expenditures have mushroomed correspondingly, the possibility of waste in the use of public moneys has grown to alarming proportions.

It is my belief that one of our most important duties as elected Representa-

tives is that of insuring that economy and efficiency in Government is raised to the highest possible level. An excellent example of this very necessary "watchdog" role of the Senate was provided in August of this year, when the Subcommittee on Monopoly of the Senate Select Committee on Small Business conducted hearings into the drug procurement practices of the Federal Government.

These hearings, presided over by my fellow Senator from Wisconsin (Mr. NELSON), revealed the possibility that millions of the taxpayers' dollars are currently being wasted through widespread purchasing of high-priced drugs which have no more healing power than other vastly cheaper types of medication.

The specific case dealt with in Senator NELSON's hearings was that of the purchase by the Department of Defense of propoxyphene hydrochloride, commonly known by its brand name, Darvon. This drug has recently come under fire by such groups as the American Medical Association, whose August Journal reported that Darvon, "is not superior to codeine or aspirin in terms of analgesic effect." As Senator NELSON pointed out to the Department of Defense witnesses appearing before the subcommittee on August 17, the Pentagon, in the case of Darvon alone, could have saved almost \$4.2 million by buying equivalent doses of aspirin. Whether this case is an isolated example, or whether it is a part of a larger picture, its existence should certainly be a cause for concern and further investigation.

In the November issue of the Progressive the findings of these hearings before the Subcommittee on Monopoly were detailed in an excellent article entitled "Praise the Lord and Pass the Propoxyphene Hydrochloride," by Erwin Kroll. I commend this article for the reading of all concerned about economy in Government and ask unanimous consent that it be printed in the RECORD.

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

PRaise the Lord and Pass the ProXy-  
PHENE Hydrochloride  
(By Erwin Kroll)

Americans are a pill-swallowing people. They take pills for what ails them and for what bugs them. They take pills to prevent conception and to promote fertility. They take pills to relax and to go to sleep. They take pills to wake up and to stay alert. They take pills that make them sick and pills that make no sense. They take pills to counteract the effects of other pills.

Because of their proclivity for pill taking, Americans have made the pharmaceutical field the most profitable manufacturing industry in the United States. According to a recent study by the Federal Trade Commission, the nation's twelve largest drug companies earn average annual profits after taxes of 18.8 per cent on stockholders' investment. Five pharmaceutical firms—with profits averaging at twenty per cent or higher—are among the nation's sixteen most profitable corporations.

In recent years the profit picture of one of these big five—Eli Lilly and Company—has been substantially enhanced by sales of propoxyphene hydrochloride, a painkiller produced and marketed by Lilly under the brand name Darvon. Since 1967 or so, Darvon has

been the most frequently prescribed drug in the United States. The Apollo astronauts carried Darvon to the moon last year in their medical kits. The Department of Defense which buys more than \$100 million worth of drugs a year, spent \$4.3 million for Darvon in fiscal year 1969.

*The Medical Letter* is published by Drug and Therapeutic Information, Inc., a non-profit organization devoted exclusively to providing physicians with an independent, objective evaluation of new drugs. This authoritative drug-rating publication reported early this year that there is no evidence to "establish the superiority of 65-mg. doses of propoxyphene to two tablets of either aspirin or APC (aspirin-phenacetin-caffeine)." In 32-mg. doses, *The Medical Letter* added, Darvon "has consistently proven inferior to aspirin." In August, the *Journal of the American Medical Association* reported that Darvon "is not superior to codeine or aspirin in terms of analgesic effect."

Medical scientists of the National Research Council have investigated Darvon in the course of their massive review of all medicines marketed since 1938—a review required by the Kefauver-Harris Drug Act. Their findings—not yet officially made public by the Food and Drug Administration—include the observation that large doses of Darvon are "not always" more effective than administration of a placebo—a dummy pill. In small doses, the NRC panel found, Darvon "has often been found indistinguishable from placebo."

"Well, why use Darvon?" Senator Gaylord Nelson, the Wisconsin Democrat, recently asked medical officers of the Department of Defense. Nelson, whose Subcommittee on Monopoly of the Senate Select Committee on Small Business provides the only continuous Congressional oversight of the huge pharmaceutical industry, has been looking into the Government's drug procurement practices. Federal purchases—or Federally assisted State and local purchases—account for more than \$1.6 billion in drug sales every year.

In the case of Darvon alone, Nelson suggested when Defense witnesses appeared before his Subcommittee on August 17, the Pentagon could have saved almost \$4.2 million by buying equivalent doses of aspirin. The Defense Supply Agency, which buys drugs at the lowest wholesale rates, paid an average of \$12.72 for 500 units of Darvon. The Pentagon's price for aspirin is thirty-five cents per 500.

Since there are well-established, effective analgesics, why, Nelson asked, are military doctors permitted to prescribe a much costlier product? The answer, as Nelson probably intended, told more about the general state of American medical care than about the Pentagon's procurement system. The witness was Captain L. M. Fox, chief of medicine at the National Naval Medical Center in Bethesda, Maryland.

"Well, Senator," Captain Fox said, "the armed forces do not practice a brand of medicine that is any different from civilian medicine. Most of our doctors are civilians who come in and spend a few years—two, usually—and then go out, and our turnover rate is very high, as you know. We are just part of the civilian medical community, and I do not think we can try to enforce standards that are not being enforced in the civilian practice."

A week earlier, when Nelson had put a similar question about Darvon to medical officials of the Veterans Administration, Dr. Benjamin B. Wells, the VA's deputy chief medical examiner, had replied: "I think Darvon can be equated to a certain amount of aspirin or a visit from the chaplain. But . . . we are in an area of incomplete control."

Government agencies, Nelson repeatedly suggested, are in a far better position than

other drug consumers to insist on "rational" prescribing and to ban the use of heavily promoted drugs that are costlier, less effective, or more hazardous than alternatives of proven efficacy.

"How are we ever going to accomplish the objective of higher standards for the profession in terms of rational prescribing unless we require that the young people who come into medical practice in your jurisdiction or the Veterans Administration be required to prescribe rationally?" Nelson asked the Pentagon witnesses. If a physician insists on prescribing drugs found wanting by the best medical experts, he added, "I do not think he ought to be practicing medicine."

"When I went into the Army they did not allow me any of my idiosyncrasies for very long," Nelson said.

But the military witnesses indicated they take a benign view of civilian idiosyncrasies where medical practice is concerned. Said Rear Admiral H. S. Etter, chairman of the Defense Medical Material Board:

"As you well know, the military medical services are all having a desperate time keeping enough qualified physicians in the hard core of the services to practice medicine, and as a result we try to do everything we can to make service life just as attractive and professionally rewarding to them as we possibly can . . . When young doctors come into the service, one of the first things that can really tee them off is when the old man or skipper says, 'You cannot prescribe that drug.'"

"Well," Nelson responded, "that is like saying we will let him practice bad medicine because we do not want to lose him."

The case of Darvon is by no means unique. In the interests of making service life "attractive and professionally rewarding," the Pentagon permits its doctors to prescribe millions of dollars worth of costly drugs where cheaper (or better) alternatives are available. Some examples culled from the Nelson Subcommittee's files:

The Defense Department spent \$238,383 in 1968 for Fiorinal, a painkiller composed of APC and butalbital. According to *The Medical Letter*, "it has never been convincingly shown that the combination of aspirin, phenacetin, and caffeine, as in Fiorinal, has greater analgesic effectiveness than aspirin alone." The price for an equivalent amount of aspirin would have been \$19,504.

(Colonel J. P. Fairchild, deputy commander of Walter Reed General Hospital in Washington, told Nelson he was "personally concerned" about the inclusion of Fiorinal in the hospital's drug formulary. "I would not like to see it in there. I would like to see it not in there," he testified. "However, when the young doctors come out of their schools from other parts of the country, they have been using a drug, Fiorinal. They want to continue to practice as they have practiced where they came from.")

Another analgesic, Zactirin (ethoheptazine citrate and aspirin) accounted for Pentagon purchases totaling \$472,131 in 1968-1969. According to the National Research Council, Zactirin is "possibly effective" as an analgesic—but only because it contains aspirin. The comparable cost for aspirin is \$22,467.

Two widely used tranquilizers, Librium and Valium (chlordiazepoxide and diazepam) were purchased by the Pentagon in amounts totaling more than \$6.1 million in 1968-69. *The Medical Letter* has reported that both drugs "are effective sedatives but . . . it is still not clear that they have any important advantage over barbiturates." A common barbiturate, phenobarbital, costs fifty cents per thousand, whereas the Defense Department paid \$43.50 per thousand for Librium and \$53 per thousand for Valium, Nelson pointed out. The use of phenobarbital would have resulted in a saving of \$5.9 million.

The Pentagon spent \$4.3 million for an antihistamine called Ornade "for use in the treatment of upper respiratory infections." The National Research Council has found that Ornade may be useful in the treatment of allergic rhinitis, but not in the treatment of upper respiratory infections. According to the NRC report, "several carefully controlled studies, in which different antihistamines were tried, disclosed no alleviation of symptoms or shortening of the duration of symptoms of colds."

"We brought Ornade up before our Board several months ago," Colonel Farichild told Nelson, "and just because of the extra expense we felt this was a drug we could perhaps do without and use something else instead. And we asked all our chiefs to justify the continued use in our formulary of Ornade, and those who were for it were in the majority. So we had to continue the use of Ornade.")

Last year, the Task Force on Prescription Drugs of the Department of Health, Education and Welfare defined seven types of "irrational" prescribing:

One—The use of drugs without demonstrated efficacy.

Two—The use of drugs with an inherent hazard not justified by the seriousness of the illness being treated.

Three—The use of drugs in excessive amounts, or for excessive periods of time, or inadequate amounts for inadequate periods.

Four—The use of costly, duplicative, or "me-too" products when an equally effective but less expensive drug is available.

Five—The use of costly combination products when equally effective but less expensive drugs are available individually.

Six—The simultaneous use of two or more drugs without appropriate consideration of their possible interaction.

Seven—The multiple prescribing of drugs which may be useless, cumulative, interactive, or needlessly expensive.

Almost every form of irrational prescribing may be found in the practice of military medicine, Nelson pointed out. "I just keep coming back to this question," he told his Pentagon witnesses. "How can we have rational prescribing in this country at all if the military cannot achieve where they are in total control of what should be purchased and what should be prescribed, and where they can call upon the best expertise in the United States to help them make the judgment?"

But Admiral Etter replied: "You just cannot dictate to doctors summarily how they are going to practice medicine. It just does not work. They are not that breed of cat. As Dr. Fox pointed out, these that we have here are a cross-section of civilian physicians, and as long as they want to do these things, they are doing these things in their own way, we have to go along with them up to an extent." Pass the pain killer please, Aspirin will do.

#### HANOI'S PAWNS

Mr. DOLE, Mr. President, an article published in Newsweek for November 30, 1970, aptly describes our American prisoners of war as "Hanoi's Pawns."

Three American POW's have been held captive more than 6 years and 75 have been held for more than 5 years.

The Communists' description of the treatment our POW's are receiving differs markedly from the situation as described by the few POW's who have been freed or escaped from North Vietnam.

The Newsweek article compares the two versions of treatment and notes that it seems "highly improbable" that Amer-

ican prisoners of war "are gambling under the North Vietnamese sun."

Newsweek is right.

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:

#### HANOI'S PAWNS: THE U.S. PRISONERS OF WAR

*Somewhere in a Hanoi suburb, a shady park surrounded by one-story houses opens its gates to us. In the middle of the lawn, weeping willows stoop over a pond with water lilies. Where are we? One only needs to look to the right to know. In a courtyard, big husky fellows, bareheaded and tanned, leap around a basketball court. These are some of the American pilots captured in North Vietnam.—A French Communist reporter*

*The North Vietnamese use torture but not on a regular basis. It would at least break the routine if they'd come in and punch you around every so often. But the Vietnamese are crueler and subtler than that. They simply put you away, leave you there and let you rot.—A former American POW freed by North Vietnam*

That American prisoners of war are gambling under the North Vietnamese sun seems highly improbable. But whether they are still really mistreated in Hanoi's jails, no one outside North Vietnam can know for sure. And it is this cruel uncertainty that will be at the heart of the anguish felt by the families of the U.S. POW's as they sit down this week for Thanksgiving dinner. It is the fifth Thanksgiving since Hanoi began capturing American fighting men on a significant scale, and according to Pentagon officials the North Vietnamese now hold an estimated total of 378 American prisoners.<sup>1</sup> Some 1,100 other Americans are listed as missing in action in Southeast Asia, and many of them may be in the hands of the North Vietnamese as well. But no one really knows that for sure either, for throughout the course of the war, Hanoi has consistently refused to give out a complete list of names of the men whom it holds captive.

In recent months, the names on Hanoi's list have taken on more than humanitarian significance. For with the U.S. steadily withdrawing its ground forces from South Vietnam, many fear that the POW's may be left stranded behind. Apparently to allay such worries, the Nixon Administration has itself brought the POW issue to the fore, unleashing a high-powered publicity campaign designed to expose the plight of the prisoners. Not to be outflanked on the propaganda front, the North Vietnamese have begun shepherding sympathetic left-wing journalists through Hanoi prisons, trying to put the best face on their role as captors.

For all the public-relations efforts, the picture of life in the prison camps remains as murky as ever. Few independent observers have managed to get close to the prisons; not a single official of the International Red Cross, for example, has been allowed to investigate the POW situation. Letters from POW's are infrequent and censored. And only nine American prisoners have so far been freed by North Vietnam and have told their side of the story.

One who has spoken out is Air Force Col. Norris Overly Jr., a 41-year-old pilot whose B-57 Canberra was shot down Sept. 11, 1967, about 60 miles north of the demilitarized zone. According to Overly, who was released

<sup>1</sup> Of those, three have been POW's for more than six years and some 75—including Maj. James H. Kasler, Comdr. James Bond Stockdale, Lt. Comdr. Raymond Arthur Vohden and Lt. Col. James Robinson Risner—have been held for more than five years.

five months after his capture, American fliers downed in North Vietnam suffer brutality almost from the moment they are on North Vietnamese soil. Marched from village to village on the way to Hanoi, Overly was a constant target for angry peasants. "People hit me, they kicked me, they urinated on me, they spit at me," he recalled in a recent speech on behalf of "Tell It to Hanoi," a campaign organized by prisoners' families seeking a complete list of POW's. "The people I feared most were the women, the children and the old people. Little children in particular. They would pick up rocks and come up to you and bash you in the face."

#### BEATEN

It is, of course, more than two years since Overly was released by the North Vietnamese. But his recollections of his captivity are still chilling. Once a prisoner arrived in Hanoi, Overly recounted, he underwent intensive interrogation. During this period, prisoners were often beaten, bound with ropes and kept for days without sleep. Eventually they were moved into another part of the compound, where they began the grindingly dull routine of POW life. Usually two men occupied a 10- by 6-foot cell equipped with plank-board beds. Every other day, the "criminals"—as they were forced to call themselves—were permitted to take a five-minute bath. Guards doled out two meals a day—usually watery soup (sometimes with a silver of pork fat), a loaf of heavy bread and a pitcher of hot water.

About once a month, on a cell-by-cell basis, prisoners were taken to a central reading room where they were allowed to peruse selected clippings from the American press. Heavy emphasis was given to dispatches detailing riots, anti-war protests, civil disturbances and any other symptoms of social turmoil in the U.S. "The whole theme is to make the prisoner feel his country is in an uproar 24 hours a day," Overly told Newsweek's Thomas DeFrank. "They try to make you feel that you're a forgotten man, that your country is going down the drain and nobody gives a damn about you."

#### DIALOGUE

Compounding their feeling of physical and psychological isolation was the fact that the prisoners were kept rigidly separated. There was no activity, says Overly, that brought members of one cell into contact with those of another. Even when the inmates were called together for special propaganda meetings, a sheet was hung from the ceiling between prisoners, and guards were stationed at intervals to prevent communication. "It is safe to assume," says Overly, "that there are some guys who have talked to only one other prisoner in six years." And as might be expected, that dialogue soon wears thin. "You know every family secret of your cellmate," Overly says. "You know every movie he's ever seen, every book he's read. You talk about sex, politics, everything you can think of. But you finally always run out of things to say."

Overly's view of prison life in Hanoi is, not surprisingly, vigorously contradicted by the North Vietnamese. In the latest Hanoi-authorized version of life in the camps, Theo Ronco, writing in the French Communist Party publication L'Humanite, described one prison in terms suitable for a boys' summer camp—complete with outings and team sports. "Their rooms are whitewashed and well-ventilated," wrote Ronco. "They have an occupancy based on their size, with three to five beds, each having a straw mat, a mosquito netting and blankets. . . . On the day of our visit, the menu for lunch included a thick soup, followed by ground meat with cabbage. For dessert, there were fruits: persimmons or oranges. In addition, there were 300 to 400 grams of bread."

## PROOF

As a committed ideologue, Ronco's idyllic portrayal is highly suspect. And with North Vietnam's steadfast refusal to honor the guarantees of the 1949 Geneva Convention on POW treatment (Hanoi claims the convention is not applicable to U.S. "war criminals"), the burden of proof of humane treatment rests squarely on Hanoi. But one observer who has visited Hanoi recently finds the U.S. interpretation somewhat questionable as well. For while accepting the fact that the POW's are surely under psychological pressures, this source believes that the rations and treatment—however bad they may seem by U.S. standards—are probably similar to those received by North Vietnamese troops.

Whatever the truth, the POW issue has taken on added significance at the Paris bargaining table. In the wake of the Administration's publicity campaign, some optimistic U.S. officials believe that Hanoi is squirming under the pressure of public opinion. "We've finally got them on trial in the court of world opinion," explains one Pentagon official, "and they're afraid the verdict is starting to go against them." Other observers, however, speculate that the publicity has in fact strengthened the enemy's position. "The prisoners are the single weakest point in our negotiating position," says one U.S. diplomat. "We want those men back and Hanoi knows it."

## GESTURES

Concrete evidence that Hanoi has begun to appreciate the growing importance of U.S. prisoners as a diplomatic bargaining counter came early this fall, when the Communists unveiled their new peace proposal in Paris. Upgrading the prisoner issue to a major point, the Communists announced that in exchange for a U.S. pledge to withdraw all its troops from Vietnam by June 30, 1971, "discussion of release of captured military men" would begin immediately. At the same time, the North Vietnamese and Viet Cong delegations in Paris began exhibiting a subtle change in attitude toward the relatives of POW's—suddenly responding to their desperate inquiries with courteous, if indefinite, promises to release more information about the prisoners. And in Hanoi, there have been indications that the POW's lot is improving. The diet for inmates is reportedly more substantial than in the past—and there has been a dramatic increase in the mail received from the prisoners. Early this month, too, Hanoi announced that the prisoners would be allowed to receive bigger Christmas parcels this year.

All in all, these gestures have been relatively easy for the North Vietnamese to make and they seem to have been dictated more by a desire for bargaining advantages than by any fundamental rethinking of the POW issue. And that, of course, bodes ill for the stranded POW's. For if it was ever in doubt in the past, it has now become painfully obvious that the fate of the prisoners is inextricably linked to ultimate settlement of the war itself. And that, as of Thanksgiving week 1970, still seems a very distant project.

## UTILITIES HOUSING ACTIVITIES

Mr. MAGNUSON. Mr. President, the housing bill (S. 4368) passed by the Senate last month contains a section which would amend the Public Utility Holding Company Act to make it clear that the Securities and Exchange Commission has the authority to permit holding company utilities to engage in low and moderate-income housing projects in their own communities. I am especially pleased by the Senate's action since the

provision was incorporated from a bill which I introduced—S. 4272. I hope the House will agree to the amendment.

As I said upon introducing S. 4272, I believe it is extremely important that we encourage utilities in this country to play an active role in making our Nation's cities more livable and viable. The utilities have both the qualifications to undertake such projects and the self-interest of their own companies to induce them to make the necessary investment and provide the required leadership. They are accustomed to close regulation and supervision, they have the managerial talent, they have the ability to raise the required capital, and they have positions of influence and respectability within their own service areas. In a sense, they must insure that the communities they serve will be strong and successful since, in effect, they are locked into those areas—they cannot pack up their facilities and go to another area.

At the annual meeting of the National Association of Regulatory Utility Commissioners held in Las Vegas, Nev., earlier this month, a panel discussion was devoted to the subject of the role of utilities in meeting the Nation's housing needs. One of the participants in the panel was Lee C. White, former Chairman of the Federal Power Commission, who participated as head of the Utilities Housing Council, a nonprofit organization of telephone, electric and gas utilities dedicated to assist in achieving the Nation's housing goals. Mr. White's statement provides a clear, concise summary of both the benefits of the utilities' activities in the field of housing and the impediments, real and potential, that must be eliminated. I ask unanimous consent that Mr. White's statement and panel discussion, published in the New York Times of November 22, 1970, be printed in the RECORD.

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

[From the New York Times, Nov. 22, 1970]  
UTILITIES ENTER HOUSING FIELD TO PROTECT THEIR MARKETS IN DECAYING AREAS OF CITIES

(By Anthony Ripley)

LAS VEGAS, NEV., November 20.—Electric, natural gas and telephone companies, encouraged by the Federal Government, have taken their first strong steps into the housing field.

Some of these publicly regulated monopolies have entered the field for profit and some have made nonprofit arrangements, but most say they are acting to protect their markets in the decaying older sections of America's cities.

The emphasis has thus far been on building low-income and moderate-income housing on urban renewal land in the core cities or blighted suburbs. Among the areas are the Elwood Village project of low-income housing in Detroit, sponsored by Michigan Consolidated Gas Company, and similar projects in Rome and Troy, N.Y., sponsored by the Niagara Mohawk Power Company.

Other projects have included remodeling dilapidated houses and planning homes for the elderly.

But some power companies have sought to build fresh markets by participating in the development of "new towns" where entire cities are created on vacant land.

## A 2-YEAR EFFORT

One utility, according to the Department of Housing and Urban Development, has gone even further. The Florida Gas Company, in addition to its role as a developer and sponsor of housing, has created a subsidiary, Contemporary Building Systems, Inc., that will manufacture modular housing systems.

The move into housing has been quietly gathering momentum for the last two years. So far, utilities have remodeled 2,800 units of housing and have built or are finishing construction of 669 new units, with more than 1,000 additional planned, according to Federal figures. Two "new towns" are also being planned.

Eleven major utility companies, including the American Telephone and Telegraph Company, the General Telephone and Electronics Corporation, the Consolidated Edison Company of New York and the Southern California Gas Company, agreed last summer to form a nonprofit promotional group called the Utilities Housing Council.

## FEDERAL BACKING CITED

Lee C. White, former chairman of the Federal Power Commission who is now a lawyer in Washington, is spokesman for the council. At a national convention of state utility regulators in Las Vegas this week, Mr. White said that building low-income and moderate-income housing had support in all areas of the Federal Government.

G. Richard Dunnells, special assistant to the Under Secretary of Housing and Urban Development, also addressed the convention of the National Association of Regulatory Utility Commissioners. He said that utilities had an "enormously high" stake in remaking the rundown sections of American cities and were "particularly well-equipped to handle the problem."

He said that the department had specifically set aside \$1 million to encourage utility effort.

There are, however, at least two major, intertwined problems facing the utilities in the housing field. One involves profits. The other is exemplified by the difficulties of the Penn Central Railroad.

## LIMITATION ON OPERATIONS

Utilities are regulated by public service commissions in most of the 50 states and by Federal laws and regulating boards. In the nineteen-twenties, speculators built empires in utility holding companies and diversified them into such unrelated fields as motion picture theaters, colleges and experimental orchards. Some of these empires collapsed dramatically in the nineteen-thirties. Because of this experience, most states have strictly limited utilities to providing service.

However, the trend toward merger and diversification in modern business has touched federally regulated companies. The recent filing for bankruptcy by Penn Central, which had heavily diversified into nonrailroad businesses, raised anew all the old questions of how far afield a government-regulated monopoly business should be allowed to go.

## SAYS NEED IS GREAT

Mr. White, the council head, said that the matter should be carefully examined by state utility commissions and might require drawing specific lines as to what outside activities were reasonable and what were unreasonable.

"So far as I am concerned," he said, "the need for low- and moderate-income housing is so great and the supervision by all governmental levels is so comprehensive that these housing programs should, if they are sound, be received sympathetically by regulatory bodies."

Such diversification also brings with it a chance to increase profits. Utilities which are often limited to 6 to 8 per cent profits by government rules, can earn as much as 15 to 20 per cent in outside housing ventures if

permitted by state public service commissions.

Ralph T. McElvenny, president of Michigan Consolidated, who also spoke at the convention here, made it clear that, if utilities were barred from taking advantage of higher profits, many would lose interest in developing badly needed housing.

Michigan Consolidated, a wholly owned subsidiary of the American Natural Gas Company, has other problems, too. It is prohibited by the Holding Company Act of 1935 from entering into outside business ventures.

The Securities and Exchange Commission, charged with enforcing the act, at first allowed Michigan Consolidated to go into the housing field, then reversed itself. The Mississippi Power and Light Company, a subsidiary of Middle South Utilities, also found itself barred by the S.E.C. and sold its outside holding in Jackson, Miss.

Hugh F. Owens, a member of the commission, said that the agency supported amending the act specifically to allow holding companies to develop low-income and moderate-income housing within their service areas.

"In my own mind," Mr. Owens said, "it certainly was in the ordinary course of business for Michigan Consolidated to protect its present market for gas in Detroit and, hopefully, to expand that market. A very direct way of accomplishing that end was to assist in the creation of new housing which could utilize gas power."

#### THE ROLE OF UTILITIES IN MEETING THE NATION'S HOUSING NEEDS

(Remarks by Lee C. White, Utilities Housing Council)

At the outset, I would like to commend NARUC for including in the Convention program this panel discussion on the role of utilities in meeting the Nation's housing needs. It represents, I believe, both the increasing awareness of the business community to social problems and the widening range of issues faced by regulatory bodies. Hopefully, the discussion will be informative, will provide interest, and will result in increased efforts by utilities to assist in meeting one of the Nation's most pressing needs: adequate housing for low- and moderate-income families.

In view of the identity of the other members of the panel, it is not necessary for me to devote much time to the details of the various housing programs available to utilities for sponsorship; to a description of the special capabilities of utilities to participate in these programs effectively; to the strong support and encouragement provided by the administrations of both President Johnson and President Nixon; to the range of benefits that the individual utilities may receive as a result of such participation; and to the step-by-step process that any interested utility should pursue in making its own decision. Rather, I shall discuss some of the policy issues and problems, including those that are regulatory in nature.

#### Utilities Housing Council

First, however, a few words about the Utilities Housing Council which I represent here, would be appropriate. Eleven utilities—including telephone, gas, and electric—joined together last summer to establish a non-governmental, non-profit organization to stimulate and promote the interest of utilities in housing projects and to assist utilities in their efforts in this regard. Some of the member utilities have already successfully completed projects in their service areas; others have not yet decided whether they should engage in such projects, but I believe such a decision will be more soundly based if they have available to them the best possible information and analysis.

The Council has worked closely with the

Department of Housing and Urban Development and other government agencies to resolve any problems in connection with utility participation in housing programs and to serve as a conduit for the exchange of information and experience between utilities and government policymakers.

#### THE PUBLIC UTILITY HOLDING COMPANY ACT

Since Commissioner Owens will undoubtedly discuss the subject extensively, I would like to note only briefly that there has been some misunderstanding of the SEC's rulings in the three cases in which it disapproved applications for permission by holding company utilities to participate in housing programs. As I read the Commission's decisions, it has not said that utilities *should* not engage in such projects, but rather that under the existing law, they *could* not. Any doubt that this is the correct interpretation vanishes by virtue of the fact that the SEC has formally and unanimously indicated that it has no objection to the Holding Company Act's being amended to make it clear that the Commission does have such authority—a view that two of the five members of the Commission hold with regard to the existing statutory language.

The reason this is significant is that unfortunately some utility executives, including many whose companies are not subject to the Holding Company Act, have been deterred from even considering housing projects on the mistaken premise that the Federal Government has a divided view on whether utilities should be encouraged to enter these fields. I hope that the effort to amend the law will be successful for two reasons: first, to enable the utilities that are in Holding Companies to participate, and second, to make it clear to all utilities that both the Executive and Legislative branches of the Federal Government support the concept of utility participation in helping meet the Nation's housing needs.

#### STATE REGULATORY ACTIONS

Obviously, the attitude of state regulatory agencies toward these programs is of great significance. Thus far, there has been only a trickle of applications to state bodies, but if utilities are to assume a vigorous and energetic role—an objective that the Federal Government and many outside experts in the housing field believe is essential—the decisions of state commissions will be critical. And, quite candidly, utility requests for permission to engage in housing projects, which I hope will become a flood, will come at a difficult time. Capital needs for utility plants are enormous—\$350 billion for the electric utility industry alone in the next 20 years; the Penn-Central bankruptcy has focused public and governmental attention on non-utility activities by regulated companies; questions about the quality of service by utilities have never been greater. But as legitimate as these issues may be and as deserving of evaluation as they are, the great need for housing in this Nation and the universally acknowledged capability of utilities to do the job must also be weighed. There will, of course, be different factual and background situations surrounding the various applications and each will be weighed on its own merits.

The first state commission to have focused squarely on the question is the New York Public Service Commission, which last August approved the application of the New York State Electric and Gas Company to invest a million dollars of its funds to finance low- and moderate-income housing and redevelopment area commercial facilities. The Commission, in granting approval, adopted the opinion of the hearing examiner which had focused on a number of questions which I assume other state commissioners will want to examine in acting on similar applications.

*The need for the particular project and its character*—Although the need across the country for housing for low- and moderate-income families is enormous, it makes sense for a regulatory body to satisfy itself that there is a real and identified community need that the utility is planning to meet. Additionally, it makes sense, where a commission under its statute must approve any investment of utility funds, for it to have a fair description of the proposed undertaking, including the financial aspects.

*The prudence of the investment in terms of the ability of the applicant to meet its utility responsibilities*—The New York examiner recognized the capital investment requirements that utilities, including New York State Electric and Gas, face in the years ahead and found that the requested \$1 million investment, in light of the applicant's total assets of over \$700 million and its annual net income of \$28 million, would not impair its ability to render satisfactory gas and electric service and to finance future utility investment.

*The diversion of management attention and energy*—Similarly the examiner found that, on this ground, the applicant would not impair its ability to provide adequate utility service.

*The inclusion of the investment in the rate base*—In this connection, the examiner noted that under the New York Commission's regulations, the housing investment would be excluded from the rate base and attendant expenses would be excluded from the utility expense accounts. Obviously, this is a matter that should be examined at the outset and in all likelihood will be controlled by state statute, by commission regulations, or prior decisions.

In addition to the action of the New York Commission, in June of this year the Illinois Commerce Commission approved the request of Northern Illinois Gas Company to invest \$100,000 in the National Housing Partnership. Under the authority of the Housing and Urban Development Act of 1968, the National Corporation for Housing Partnerships was established—President Johnson appointed the incorporators and President Nixon reappointed them. The purpose of the organization is to raise private capital to be used as development seed money and for equity investment in housing for low- and moderate-income families. The capital of the Partnership will be combined with that of other investors to supply the equity necessary to secure 90 percent government-insured mortgages. Industry throughout the country was asked to invest in the National Housing Partnership and \$42 million has been invested in the first partnership formed under the Housing Act of 1968.

In addition, there is presently pending before the Illinois Commission an application by Commonwealth Edison Company to participate in one of the local limited housing partnerships created with the assistance and financial participation by the National Housing Partnership. The purpose of the limited partnership is to develop, construct, maintain and operate a low- and moderate-income rental housing project of approximately 164 units together with related facilities in the City of Chicago.

A few additional projects have been undertaken by utilities, but under such circumstances that approval by state regulatory bodies was not required. There are, however, a number of utilities that are seriously contemplating such projects and it is fair to assume, therefore, that the number of applications for state commission approval will increase considerably in the months and years ahead.

#### POLICY QUESTIONS REGARDING UTILITIES PARTICIPATION IN HOUSING PROJECTS

Despite the absence of any significant opposition on the part of government officials, including members of Congress and state

regulators, the press, or any other quarter, some questions have been raised that are both legitimate and worthy of consideration.

First has been the suggestion, referred to earlier, that this is no time for utilities to be engaging in non-utility activities when service problems are perhaps at a peak. In balancing the ability of a utility to perform a highly useful and desirable service in the communities it serves, it is proper to ensure that its financial and management resources are not so heavily burdened as to impair the utility's primary obligation to its customers. In my view, almost every utility in this country should be capable of engaging in some projects without detracting from its ability to provide satisfactory utility service.

Doubts have been expressed as to whether a utility with a monopolistic position in its service area would not use its housing projects to compete unfairly with alternative energy sources, thereby, in effect, adding improperly to their natural monopoly position. This is obviated, at least in those programs that are federally subsidized, by the Federal Housing Authority regulations which would prohibit, for example, an electric utility from building all-electric homes, if the cost differentials for particular services would bar the use of that particular energy source for any non-utility sponsor of an FHA-subsidized project. Moreover, there is no suspension or grant of immunity from the antitrust laws for utilities, or for that matter, any other housing sponsor—simply because a housing project is undertaken. This point was recently made in a speech by a member of the Antitrust Division of the Department of Justice. In my view, it would be shortsighted to prohibit a highly desirable program on the ground that the potential for some abuses might exist. Rather, we should make every effort to prevent abuses, or, where this is impossible, to detect them and insist on remedial action.

Another question that has been raised is whether it is appropriate for a utility whose profits are limited to a statutory or regulated level in the range of perhaps 6 to 8 percent to engage in a housing project where the rate of return on the investment would exceed that level, perhaps as high as 15 or 20 percent. These figures rest on a statutorily limited return of 6 percent on equity, but assume the ability of the sponsor to take advantage of Federal tax incentives. My response to that question—which is limited to the type of undertaking under discussion here this morning, namely, providing of housing, for low- and moderate-income families—is that a utility which engages in these programs should have no preference or no burden different from other sponsors. In the Tax Reform Act of 1969, the Congress singled out the tax shelter relating to housing for low- and moderate-income families for preferential treatment—thus, it now has the most favorable accelerated depreciation, recapture and re-investment treatment of any type of construction. Clearly the Legislative and Executive branches intended that these tax incentives induce businesses to participate as housing sponsors—it is equally clear that if utilities, unlike other businesses, are denied the benefits of the Federal tax statutes, they could not afford to take the risks their housing investments would entail. It makes sense, therefore—indeed, it is essential—that regulatory bodies permit utilities to take advantage of these tax inducements in ruling on applications for approval to enter housing undertakings and in the accounting treatment of those undertakings.

Probably the most fundamental question of all, in light of the sharply increased public attention generated by the Penn-Central bankruptcy, is the participation by regulated utilities in any non-utility activities. This issue warrants close attention; and, in my view, it would be appropriate, desirable and constructive for NARUC to establish a com-

mittee to study the broad range of problems involved. This could be done in cooperation with Federal regulatory agencies and perhaps in conjunction with some foundation or other type of institution which has no operating responsibilities. The issue should be examined—and promptly. In the interim, regulatory bodies would be well advised to give cautious and detailed review to proposals for non-utility activities submitted to them for approval. It may well be that some line-drawing would be required, that is, some activities would be permitted and others barred. So far as I am concerned, the need for low- and moderate-income housing is so great, and the supervision by all governmental levels is so comprehensive that these housing programs should, if they are sound, be received sympathetically by regulatory bodies.

#### CONCLUSION

In a general sense, the public attitude about regulatory bodies has been that they are involved in relatively prosaic undertakings somewhat on the fringes of the public policy issues that swirl in our states and across the country. A glance at the agenda for this meeting of NARUC, cataloging the very difficult and very significant spectrum of problems and issues facing the Nation's regulatory agencies quickly dispels that view. With waves of rate increases that are before you and more coming; with the likelihood of energy shortages becoming deeper, more widespread, and chronic; with serious service questions at an unprecedented level, you have a mighty full load to bear—and without trying to palm myself off as a clairvoyant, I can predict you will continue to have great difficulty in securing much-needed increases in appropriations to do your jobs.

Even taking this pile of gloom into account, I remain optimistic that the Nation's regulatory bodies will be positive and constructive in their response to the requests of utilities to play leadership roles in the communities they serve. A country of our size and diversity is constantly facing change—it is not only that today's problems are here with us and therefore demanding our attention, but, in fact, they appear to be so fundamental and enormous as to pose serious threats to our ways of life. We all must do more and act now—and that includes our Nation's utilities.

#### KING FAMILY TESTIMONIAL

Mr. PEARSON. Mr. President, the terrible tragedy of the crash of the airplane carrying the Wichita State University football team, university officials, and friends in the Colorado Mountains on October 2, 1970, was visited upon many families. One of those was the Ray King family of Hesston, Kans. Mr. King, an active booster of the Wichita State Shockers, and his wife, Yvonne, were killed in that crash. They were survived by their seven children.

The eldest of the King children, Lynne, has recently written a moving and eloquent testimonial couched in the spirit of Thanksgiving. It is a tribute to Mr. and Mrs. King, who were able to instill in their children a powerful sense of family unity and a deep personal strength, reinforced by an abiding Christian faith. It is a tribute to the children who have shown a remarkable resilience and who have faced up to life and carried on in the wake of this incomprehensible tragedy. It is a tribute to the many relatives and friends who have been so generous of their time and love. It is, in-

deed, a tribute to the human spirit, to its tenderness and its strength.

Mr. President because this testimonial has a meaning for all of us I want to call it to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

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

#### O GIVE THANKS UNTO THE LORD FOR—

Time. We are very glad for the short time we had with our parents, although it seems I was just really beginning to understand in depth what made them the wonderful Christians they were. Time heals all wounds, and as a family we have found that in times of tragedy the wounds aren't quite as deep and heal faster as a result of our belief in God.

Honorary contributions to the mission fund. Due to the active role Dad and Mom played in missions and vice versa, the entire family felt that a memorial set up for missions would be a living tribute to our parents. The response has been overwhelming. A specific project for the Oriental Missionary Society will soon be chosen for which the memorial funds will be designated.

Administration of affairs. The funeral was a moving sight with attendance reaching 2000. Richard Capin, OMS; Dennis Kinlaw, Asbury College President and Ford Philpot, The Story, Inc., in turn spoke inspiring words delving deep into each person's mind and heart. The matter of guardians has gone through court naming Clifford King and Mrs. Leroy King (Lois). The will, which has been probated, sufficiently provides for us. We children will be together in our present home.

Now. We are very fortunate to have Charles and Rebecca Ratzlaff temporarily staying with us until Rebecca has her baby in March. Please continue to pray with us that God will lead us to a couple who would lovingly be brought up by seven children (or vice versa).

Kin. Although circumstances were such to cause grief and sorrow, it was wonderful to see all Dad's and Mother's immediate families as well as other relatives and friends. The morning previous to the funeral there was a memorial service in our beautiful new United Methodist Church which Daddy so dedicatedly helped nurture and build into existence. Many relatives attended, revitalized by the celebration of eternal life rather than a meditation on death, led by Uncles Rev. Charles Turkington and Rev. Elton Jones.

Siblings. At the top of my ten most wanted list is to have the rest of my sisters and brothers instilled with the faith my parents helped me attain. But to let you know what an example and influence my parents' lives were in the few years they were with the three youngest, here is a prayer Lisa gave at bedtime devotions the night before the funeral. "Dear God, we're sorry Daddy and Mommy had to die, but we know you needed them up in heaven. And while they're gone You're here to watch over us—and Lynnee too. Amen." I don't think that needs any explanation.

Growing children. The kids have been beautiful to say the least. Social activities and school continue at their normal pace, if not faster. Gary has a role in the junior play being presented this weekend. Teri, 13, is at the stage where the opposite sex becomes a necessary evil and I'm suddenly confronted with familiar situations of eighth grade for me. Ha! Ha! Lori has learned to crochet and finds Girl Scouting fun. Lisa lives for Brownies on Tuesday

afternoons and reads anything she can get hold of. Juli—well, you have to see, to believe. I wear out watching her. She's learning to read in first grade. Dina attends nursery school Tuesday and Thursday mornings and is shoveling in knowledge as fast as it comes her way. It's quite an experience going to parent-teacher conferences, Halloween parties, and attending Brownie mother-daughter day, but I thoroughly enjoy it.

**Intercession.** Words can't express our appreciation for all of your cards, prayers, and other expressions you've bestowed on us this far. We hope you continue to pray for us and for the requests mentioned.

**Visitors.** Though life won't ever be the same without Dad and Mom, we try our best to keep the routine situation alive. And that means we want all of you to continue to visit us. It was never home unless we had visitors in one day and out the next. We hope this happy hectic home wedges into your travelogue whenever you're out our way.

**Inheritance.** No inheritance of tangible items would be of any real importance if it wasn't for the Christian inheritance our parents passed on to us. This gives us the wisdom to realize of what little value anything is after we've left this world.

**Near future.** My near future includes rings and things—such as wedding bells and a very handsome young man. I am engaged to Larry Knott, son of Robert, grandson of Kenneth, who are all from rural Hesston. Larry and I have dated for four years. After two years of college he enlisted (four years) in the United States Air Force and is presently an airman stationed at Sheppard Air Force Base in Wichita Falls, Texas. Larry is in the Accounting and Finance Specialist Division of Technical School and will be permanently based toward the end of February. Plans include marriage on March 29, 1971. (My parents' wedding anniversary).

**Government.** The picture enclosed was to be for Daddy's campaign for his third term in the Kansas House of Representatives. During the middle of October all the committeemen and committeewomen of the 89th Legislative District of Kansas met to nominate and elect a Representative to complete Dad's unexpired term and run for that office in the November election. Harold Dyck, present mayor of Hesston, was nominated and elected. Due to hard work, enthusiasm and dedication, he was elected on November 3 as our Republican Representative of the 89th District. As a personal friend of Dad and our family, I know his capabilities will serve us well.

Through all tragedies and through this year and the new one to come, let's all try harder to live the spirit of Thanksgiving.

He is good: for His mercy endureth forever. Psalm 107: 1.

For Gary, Teri, Lori, Lisa, Juli and Dina.  
LYNNE KING.

#### BRINGING HOPE TO THE POW

Mr. DOLE. Mr. President, in the New York Daily News of Monday, November 30, Ray Cromley, a Washington correspondent for Newspaper Enterprise Association and a former POW, writes of his experience.

I believe that because of his personal experience, Mr. Cromley is in a better position to assess the recent POW raid at Son Tay than some of the critics who quickly denounced the effort as a total failure. The raid was a success from the standpoint of demonstrating American concern and it will, in my opinion, pro-

vide hope and encouragement to the hundreds of Americans imprisoned in Indochina by the enemy.

I ask unanimous consent to have printed in the RECORD the article by Mr. Cromley, preceded by an explanation of why the article was written.

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

[From the Washington Daily News, Nov. 30, 1970]

#### WHY RAY CROMLEY WROTE THIS

Ray Cromley, who is Washington correspondent for the news syndicate, Newspaper Enterprise Assn., was a correspondent for the Wall Street Journal in Tokyo on the day of the Pearl Harbor attack. On that day he was arrested and held in Nishi Sugamo Prison in Tokyo.

He was tried, convicted of "sending information to the United States which could be used against the national defense of Japan" and sentenced to 1½ years in prison. An exchange of prisoners was arranged between the United States and Japan in July, 1943. He was moved into Sumire Concentration Camp about one week before exchange and was brought home—to New York—along with other exchanges on the SS Gripsholm in September, 1942.

Mr. Cromley grew so thin in prison that he couldn't keep his pants up, but after transfer to concentration camp he was fed well and ate eight meals a day to prepare himself for the trip home. When he enlisted in the U.S. Army eight months after his return home he had to sign a weight waiver in order to be accepted.

In the aftermath of the daring attempt to rescue U.S. prisoners of the North Vietnamese at the Son Tay prison camp near Hanoi, Mr. Cromley has been reflecting upon his experiences as a war prisoner and trying to put himself in the place of the men now held by the North Vietnamese. He describes his feelings in this article.

#### BRINGING HOPE TO THE HEART OF THE POW

I was a prisoner of the enemy in war. For six months of solitary confinement. In a Japanese prison in World War II.

Perhaps, then, I can describe in some small way how the American prisoners of war now in North Vietnam feel after this attempt at their rescue. I don't know, of course. I can only think back 28 years to my own feelings.

I remember two things quite vividly from that time:

The Doolittle raid of April, 1942, and the visit of the Swiss Government representative after I'd spent about five and a half months in solitary.

(During the war the neutral Swiss Government represented U.S. interests in Tokyo).

I remember these two things strongly even today because they brought hope to the heart of one prisoner, who, thru no one's fault, had had no sign from his government and his country during the months of imprisonment.

It did not matter that the Doolittle raiders had not come to free those of us who were in prison, but were over Tokyo for an entirely different purpose. You could look out the barred window and see the American fliers were there. For hours afterward you could relive this flight by watching the rising smoke and by listening to the excited conversations of the guards. You could feel and hear and know yourself that something was being done—and in a way you could feel that it was being done for you. You were part of it.

Then the other incident. When the Swiss came, I cried. I cried because I said to my-

self "my country cares!" I said it again and again in happy agonizing gulps. In the months of holding in during daily questioning by teams of guards and of sitting, eating, sleeping in my cell, I had not realized how alone I had come to feel myself.

The freedom in my soul and in my voice was not the thought of rescue or release (pleasant as release would be) that mattered so much as the thought that my country cared enough for me—for us—that the Swiss should come to see each of us individually even for a few minutes and should be attempting, whether successfully or not, to do something for us.

I still remember the room in which the Swiss representative and I sat. I remember the expression on his face and the way his lips moved when he talked.

He asked me a few questions and we talked a little, the normal things men say to each other. He did not promise me anything. It was not yet clear then whether negotiations for an exchange of prisoners would be successful. But I walked back down that prison hall with music singing in my heart as loud, as strong, as powerful and as triumphant as the sound of a gigantic choir in a cathedral—as if heaven had opened wide.

I was a man and an American and nothing could defeat my soul.

I have never seen that Swiss again. But he will remain my friend until the day I die.

It is hoped that men require when they are prisoners of war. And a belief that their country cares. And their wives and children.

With these a man can endure all things. Sickness, loneliness, beatings, death.

#### WEEK OF DECEMBER 10 IS OBVIOUS TIME FOR CONSIDERATION OF THE GENOCIDE CONVENTION

Mr. PROXMIER. Mr. President, on December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights. The 22d anniversary of the declaration, referred to as Human Rights Day is fast approaching. Twenty-two years ago, by accepting this Universal Declaration, the family of nations acted to affirm their faith "in the fundamental human rights" which are necessary for a tolerable life. This declaration is a standard by which all nations can measure their success in guaranteeing the basic human rights of their citizens.

Corresponding with the declaration, the United Nations has produced other great human rights documents, among them the Genocide Convention which is now before us.

We in the Senate thus have a unique opportunity to honor our commitment to the Universal Declaration of Human Rights, as well as to the Genocide Convention. By ratifying the Genocide Convention during the week of December 10, we would reaffirm our commitment to both the Universal Declaration of Human Rights and the Genocide Convention. It is my conviction that we should not let this unique opportunity pass without Senate action on this important human rights document. I hope that we can follow the leadership given us by the Committee on Foreign Relations in this area.

#### TAOS INDIAN PUEBLO

Mr. BROOKE. Mr. President, the return of the sacred Blue Lake to the Indians of the Taos Pueblo will soon be

considered and voted on by the Senate. I am convinced that this land must be returned to its rightful owners, who will preserve it in perpetuity for future generations as a sacred shrine and pure natural resource.

Earlier this year, Mr. Leonard Garment, Special Consultant to the President, delivered a message to the people of the Taos Pueblo on behalf of the President. I was impressed with his words and believe they merit the attention of the American people. I ask unanimous consent that the complete text of his remarks be printed in the RECORD.

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

REMARKS AT THE JUSTICE DAY CEREMONY OF THE TAOS PUEBLO, N. MEX., JULY 25, 1970

Two and a half weeks ago, the tribal council of the Taos Pueblo were guests of the President and the Vice President in the White House.

Yesterday we had the great privilege of visiting the sacred tabernacle at Blue Lake and enjoying the untouched beauties of the lands surrounding it. We thank you for the concern and care with which you conducted us on this wonderful journey. It was an impressive, beautiful, and deeply moving experience for all of us.

Today, it is fitting that we come as guests to your house, the home of the Taos Pueblo.

We are here today to acknowledge with gratitude this ceremony of respect to the President and Vice President of the United States.

But we are also here in an act of recognition that it is not only the Federal Government in Washington that has something to give. We are here to recognize, with deep respect, how much the Indian people can contribute to the restoration of the spirit of the entire Nation.

Increasingly in recent years, and most dramatically in the past year, we have, as a nation, become deeply concerned with the pollution of our water and air, the misuse of the land, the commercialization of our open spaces. We have begun to sense the link between these concerns and the deep divisions in the spiritual life of the nation. We have come to see that there is a relationship between the unthinking exploitation of nature and the indifference of one human being to the suffering of another. We have started to understand the lines of an English poet which warn us to "Clear the air! Clear the sky! Wash the mind! Wash the brain and wash the soul!"

As these ideas—so central to Indian philosophy for so long—have begun to take hold, interest in dealing with the historic injustices to the Indian people have also been aided and strengthened. Out of all this—and out of the years of work of dedicated men and women of different political faiths—came the President's historic message of July 8.

If this is a time of hope for progress it is equally a time for vigilance in pressing these issues and in sustaining momentum by identifying what the President's Indian message says to all Americans.

For the Indians are too few in number, and too weak in political power, to go the course alone. They need the aroused conscience of millions of other Americans—Black, Brown and White—in support of their cause, if the legislation we propose is to become a reality.

As a nation, we have, at least since the thirties, recognized the right of self-government and political self-realization for the Indian nations. We have acknowledged that the Indian nations should be able to establish their own form of government and de-

termine their own destiny. But while we have recognized that right by statute and treaty, we have not honored our word, because our promises were not rooted in full respect for Indian culture, Indian religion, and the Indian spiritual heritage. Recognition of political sovereignty and of territorial integrity was eroded because it did not go hand in hand with respect for what is really central: the right to religious and cultural self-determination.

Now we have proclaimed that there must be a new day for the Indian—a new policy and a new commitment. But government policies are all too easily discarded unless they stem from a genuinely-felt commitment.

If there is truly to be a new day in Indian affairs, if there is to be a true break with the past, then it will stem from respect for the Indian dream, from a willingness to pay tribute ungrudgingly, without being patronizing, without qualifying phrases, and without condescension to the richness of the history, culture, religion and heritage of the Indian people.

That is why the President in his July 8th message and the President and the Vice President in their meeting in the Cabinet Room on July 8th singled out the Taos Pueblo claim to Blue Lake as one to be dealt with specifically and immediately. It is not because the Taos people are the only Indian nation that has suffered injustice or deprivation. This Administration has committed itself to affording to all Indians self-determination in running their affairs, in managing their own programs, in operating their own schools, and in developing their own economic life. But with one exception, all these proposals are of a general nature. The one place where the President's message ceased to be general—and dealt with a particular problem and a particular Indian people—was in connection with the Taos Pueblo claim to Blue Lake. And that is symbolic of the spirit of the message and the new policy the President undertook to articulate.

In the long struggle to regain title to Blue Lake the Taos Pueblo have symbolized the dream of all Indian peoples.

In their rejection of money as the claims award they have stated to all America that a vision and a religious tradition so unique as this cannot be compensated for by money.

In their longstanding faith that somehow, someday, justice would be done, they have affirmed by their patience their belief that this nation was capable of responding—not to threats, not to pressure—but to a simple claim upon the national conscience.

They have said they believe the United States is capable of honoring its word, righting injustice, and keeping its pledge simply because it is the right, the honorable, and the just thing to do.

You have my word that this Administration will do its utmost to see that the legislation restoring these lands to you in trust is passed. This can be one tangible and symbolic test of this nation's spiritual commitment to justice and to respect for diversity.

I make no promises beyond saying we will do our best. But I have belief in the American people and in their commitment to do justice. And I think it is right that the question should be put to the nation and to the Congress in terms of the Indian claim to spiritual, religious and cultural freedom.

Other ceremonial canes have been presented to the Taos Pueblo people—by Charles the Fifth in recognition of their right to self-government, by Abraham Lincoln in recognition of their political integrity. The cane we present today should be taken to symbolize the Taos Pueblo's right to religious and cultural self-determination.

A genuine respect for diversity is the key to the restoration of a sense of national unity.

Once again, the first Americans, the Indian people, have given—and given something far more precious than land. They have given this nation the opportunity to reaffirm its fundamental values, to make good on its commitments, and to rededicate itself to a very old dream—the dream of justice and equality and brotherhood for all our peoples.

VIRGINIANS' EFFORT ON BEHALF OF POW-MIA'S

Mr. SPONG. Mr. President, a number of recent events have rightfully focused attention on the plight of some 1,500 U.S. servicemen believed held as prisoners of war in Southeast Asia.

Whatever our disagreements over policy in Asia might be, we must remain united in our efforts to assist these men and their families. We must make every effort to see that the captors of these men abide by the Geneva Convention and that they treat those they hold humanely.

Consequently, I am pleased to report to the Senate on the activities of the Virginia division of the National League of Families of American Prisoners and Missing in Southeast Asia. On October 22, at the opening of the league's State headquarters at Virginia Beach, the decision was made to send a delegation of Virginians to Paris with petitions on behalf of prisoners of war and those missing in action. Petitions with more than 170,000 signatures and more than 25,000 letters were gathered in the Tidewater area and delivered on November 18 to Mai Van Bo, North Vietnam's delegate general in Paris. The delivery was made by Mayor Roy B. Martin, Jr., of Norfolk; Mayor Donald H. Rhodes of Virginia Beach; Metropolitan Editor Edwin H. Brandt, Jr., of the Virginian-Pilot; and Vice President William Mitchell of the Old Dominion University student body. In addition to their 50-minute meeting with Mr. Bo, which marked the first time the North Vietnamese had met with private citizens since April 1970, the group also met with chief U.S. negotiator, David K. Bruce.

In making the trip, the group sought a complete list of those men held, humane treatment for the prisoners, release of the sick and wounded, and inspection of the prisoner-of-war camps by an impartial inspection team.

The petitions which were prepared and the trip which was made are representative of a concern at the grassroots level in our country for those men who are held and a desire to mobilize individual efforts in support of them.

I am proud of this project undertaken by Virginians. I commend those involved. The North Vietnamese should understand the effort as an expression of the true concern of the American people.

I ask unanimous consent that the text of the statement issued upon the group's return be printed in the RECORD.

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

STATEMENT BY DELEGATION OF VIRGINIANS UPON THEIR RETURN FROM DELIVERING POW-MIA PETITIONS TO PARIS

The delegation is back home after what is considered a remarkably successful trip.

We were able to present to one of the major leaders of the North Vietnamese in Paris, the signatures of more than 170,000 people of the Norfolk-Virginia Beach area, executed on behalf of the wives and families of American Prisoners of War and those Missing in Action.

Mr. Mai Van Bo, Delegate General of the North Vietnamese Consular Staff in France, accepted the signed petitions, and in addition, discussed the POW-MIA situation with our group for nearly an hour.

The major points discussed included the release by the North Vietnamese of a complete list of those held, humane treatment for the prisoners, release of the sick and wounded, and neutral inspection of the Prisoner of War camps. In addition to presenting a list of all Norfolk and Virginia Beach men who are either Prisoners of War or Missing in Action, we also asked specific questions about the men on the list who are listed as Missing in Action but are believed to be captured.

While we cannot report immediate, specific results, we nonetheless, regard our trip as overwhelmingly successful.

We were fortunate, with the help of several excellent people in Paris, in overcoming many frustrating difficulties and in being able to meet with Mr. Mai Van Bo, who talked reasonably with us, and with only a couple of exceptions, generally spared us the North Vietnamese propaganda line on the POW-MIA question. We were the first group below the level of the U.S. Congress to be thus allowed a visit in many months, a breakthrough in itself.

Also, we were able to present the signatures, an expression which observers say has a strong effect and we were able to transmit, we believe with some considerable effect, the feeling of the people of Tidewater Virginia for the U.S. captives, some of whom have been imprisoned for more than five years.

Already, the tide of public opinion has loosened somewhat the grip of the North Vietnamese on their captives, and we are assured that our mission is one more positive step toward a successful settlement.

#### TYPHOID VACCINE BREAKTHROUGH

Mr. MATHIAS. Mr. President, I have spoken often in the past of the great benefits to the Nation's health which can be derived from the talented research staff and facilities at Fort Detrick in Frederick County, Md. My statements are dwarfed, however, by the direct impact of the work being carried on there. It has recently been announced that Morton Reitman, Ph. D., of the medical sciences laboratories at Fort Detrick has developed the first live typhoid vaccine. Testing carried out by the research staff at the University of Maryland, using human volunteer subjects, has demonstrated the great effectiveness of this wholly new approach to typhoid immunization. I can not overemphasize the magnitude of this breakthrough. I hope that the significance of Dr. Reitman's work will underscore the vast potential of the staff and facilities at Fort Detrick to make far-reaching contributions to our national health.

I thank Senators for their approval of the amendment to the Labor-Health, Education, and Welfare appropriations bill which will allow the vital research at the fort to continue. Let us hope that this investment in the Nation's health will be favorably considered in conference.

I ask unanimous consent that the text of the typhoid vaccine announcement be printed in the RECORD.

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

#### FORT DETRICK NEWS RELEASE

FORT DETRICK, FREDERICK, MD.—It has been reported in the Nov. 9, 1970 issue of the Medical News Section of the Journal of the American Medical Association that the combined efforts and talents of a Fort Detrick microbiologist and an MD from the University of Maryland School of Medicine, have produced a new and very promising typhoid vaccine.

Six years of joint research and experimentation by Morton Reitman, PhD, a principal investigator in the Medical Sciences Laboratories, U.S. Army Biological Defense Research Center, Fort Detrick, and Richard B. Hornick, MD, director, Division of Infectious Diseases at Maryland, have resulted in the development of the first oral live typhoid vaccine to show real promise.

Dr. Reitman actually began working with the typhoid vaccine in 1952 when he first isolated and developed the vaccine strain. In 1963 Dr. Reitman presented the vaccine to the University of Maryland School of Medicine and recommended it be tested in man.

Dr. Hornick, and Dr. Herbert L. DuPont, a staff member, have reported on the efficacy of the vaccine at the Tenth Interscience Conference on Antimicrobial Agents and Chemotherapy in Chicago. They administered orally the living streptomycin-dependent typhoid bacterium vaccine to 30 healthy adult male inmates who volunteered for the test from the Maryland House of Correction at Jessup. A month and a half after the original 30 volunteers received the oral vaccine, they were exposed, along with 26 additional volunteers who had not been given the vaccine, to an infective dose of virulent typhoid bacilli.

This initial test was successful. Of the 30 who were vaccinated, 25, or 83%, were protected against a typhoid dose that produced illness in 50% of the 26 non-vaccinated men.

Because the results from the first experimental test were so favorable the scientists feel that the vaccine should be employed in field trials to evaluate its effectiveness against naturally acquired typhoid fever.

They are now working to determine: What is the best number of doses? How much vaccine should each dose contain? What is the best interval between doses? When these questions are answered it is hoped that a living vaccine for typhoid fever will be available for use in man that will provide superior protection to the chemically-killed vaccines that have been used for the past 70 years.

Dr. Reitman is the son of Mr. Harry Reitman of 27 N. Dover Ave., Atlantic City, N.J. Dr. Reitman and his wife and two children live on Grant Place in Frederick.

He graduated from Transylvania College in 1941 with a bachelor of arts degree in biology and chemistry, from the University of Kentucky in 1950 with a master of science degree in bacteriology and from George Washington University in 1955 with a doctor of philosophy degree in microbiology.

Dr. Reitman is a lieutenant colonel in the U.S. Air Force Reserves and is a member of the American Society for Microbiology, Research Society of America and Sigma Xi. His bibliography contains over 30 publications.

#### TIME REPORTS ON OUR PRISONERS OF WAR

Mr. DOLE. Mr. President, Time magazine for December 7, 1970, contains an article which recounts the events surrounding the raid on the American pris-

oner-of-war compound at Son Tay and poignantly describes the agony of those who wait at home for word of their loved ones who are prisoners of war or are missing in action.

"Acting to Aid the Forgotten Men" describes the many attempts by the Nixon administration and the State Department to win the release of our prisoners and the loneliness and uncertainty of the wives and families who wait.

Such reporting in a national news magazine can only help to increase public understanding of the magnitude of the problem and the intransigence of North Vietnam.

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:

#### ACTING TO AID THE FORGOTTEN MEN

For two years no bombs had fallen in the Red River Valley in North Viet Nam, and only occasionally had the sirens disrupted Hanoi's nights when unarmed U.S. reconnaissance flights triggered radar shields. Suddenly, in the early morning hours, radar screens all over North Viet Nam blossomed in menacing blips. Across communications nets flashed word that waves of U.S. planes were bombing heavily south of the 19th parallel: north of the DMZ, east of the Laotian border. That had happened before in the interim since the bombing halt—five times, in fact. But this was something far more.

Scores of fighter-bombers were weaving back and forth across North Viet Nam north of the 19th parallel in what appeared to be bewildering bombing patterns. Flares were drifting down to illuminate the vulnerable ships and docks of Haiphong harbor. As North Viet Nam's air-defense commanders opened up with cannon and missile, MIGS scrambled into action all across the country, and South China also went into a state of advanced military readiness. To many North Vietnamese, it looked as if the U.S. were invading their country. It was 2 a.m. when allied monitors in South Viet Nam heard the top-priority emergency transmission crackling from Hanoi: "There's a landing! There's a landing!"

Landing, yes; invasion, no—although the confusion and panic engendered by the illusion of invasion was precisely the aim of the U.S. planners. In one of the most daring and meticulously rehearsed operations of the long war, a fleet of U.S. helicopters was skimming into North Viet Nam at treetop level, slipping through the narrow "windows" or gaps in Hanoi's radar system frantically preoccupied with the fighter-bombers high in the Vietnamese sky. Aboard the choppers were about 40 Green Beret and Ranger troops led by Colonel Arthur ("The Bull") Simons, 52, a near-legendary veteran of World War II, Laos and Viet Nam. He is considered by many to be quite simply the finest derring-do combat commander in the U.S. Army. Like the 20 or so Air Force specialists manning the helicopters, all the raiders had been volunteers for a mission unknown, one with only a fifty-fifty chance of success; for many on board the choppers, it had been enough to know that The Bull was in charge.

#### ON THE MINUTE

Their target was a scant 20 nautical miles from the center of Hanoi: Son Tay, an American prisoner-of-war compound. As the tiny fleet scuttled into North Viet Nam, National Security Adviser Henry Kissinger followed its progress at the Pentagon. The radio monitors in Washington were only two minutes behind the actual events. When the choppers passed their first checkpoint, they

were seven minutes ahead of schedule. Kissinger made a quiet joke to a high-ranking officer about the plan's being off. Just wait, Kissinger was told. By the time the squadron passed the last checkpoint, it was only a minute ahead; the raiders came down on Son Tay, guns blazing, right on the dot. Incredibly, they had not been detected by the North Vietnamese until one minute before touchdown.

All but one of the helicopters were HH-53s, giant ships able to fly at almost 200 m.p.h. carrying 38 fully armed infantrymen and refueling in mid-air. The exception was a single HH-3 chopper, in which rode The Bull and his initial assault squad. The smaller craft came down inside the cramped camp yard; as its rotor tips whacked into the trees, the pilot deliberately crash-landed it in the middle of the compound. Simons probably wanted to waste no time under fire while positioning for a landing. The other choppers landed outside the compound. There was a smattering of ground fire as the troops came in. The soldiers expected to meet as many as 100 guards, but there were only an estimated half a dozen. Colonel Simons found himself five yards from one North Vietnamese, who, he reported wryly, seemed very surprised to see him.

Unhappily, the Americans were surprised as well. There were no American prisoners to be found. For some 50 minutes, the soldiers dashed from building to building, breaking locks and searching the abandoned cells. Though U.S. fighter-bombers rocketed and strafed nearby anti-aircraft batteries and troop areas to prevent a North Vietnamese reaction force from reaching Son Tay, some North Vietnamese reinforcements did arrive. One American was slightly wounded by an AK-47 automatic-rifle burst. Another broke his foot in the crash landing of the HH-3 helicopter, which was blown up before the Americans left. There were no other casualties; there was only an awful sense of dismay. All the courage, the long training, the perfectly executed mission, had come to naught. Said First Lieut. George Petrie, one of the raiders: "When we realized that there was no one in the compound, I had the most horrible feeling of my life."

#### INVITATION TO THE DANCE

The raid had its genesis a year ago, when President Nixon received a group of 26 wives of prisoners at the White House. His staff found Nixon clearly affected by the meeting; it imparted a human dimension to the problem that Nixon had not felt before. Some of the women, he said, had been separated from their husbands for nearly five years, but they showed no bitterness and did not demand an end to the war at any price. Nixon asked Secretary of State William Rogers, Secretary of Defense Melvin Laird and Kissinger to get to work on a two-track approach to the problem of the P.O.W.'s. He wanted increased diplomatic pressure on Hanoi; one White House aide says that since then hardly a week has gone by that there has not been some new move to get the P.O.W.'s freed. None has worked.

At the same time, Nixon asked the military for some unconventional rescue ideas. Contingency plans for commando search-and-rescue missions into North Viet Nam already existed, and a number of similar raids had been carried out in enemy-held areas of South Viet Nam over the years. (Significantly, none of them had ever found a single live prisoner either, but the omen was discounted.) Eventually, Laird told the President that his intelligence people had recommended a P.O.W. camp at Son Tay as a likely target for search and rescue. Nixon was enthusiastic. On August 11 he gave a go-ahead for planning the operation without actually authorizing the mission. The Pentagon assigned Brigadier General LeRoy Manor, head of air commandos

at Eglin Air Force Base, Fla., and Colonel Simmons, an ex-Green Beret then stationed at Fort Bragg, N.C., to lead what became known as Joint Contingency Task Group Ivory Coast.

With some 100 carefully chosen Army and Air Force volunteers, most of them Viet Nam veterans, Manor and Simons set up a secret training center at Eglin. "It was sort of by invitation only," says an Army officer. "The invitation didn't indicate when the dance would be over, but it did mention that it would be dangerous." A full-size mock-up of the Son Tay camp was built in the vastness of Eglin's preserve, based on intelligence from travelers and diplomats who had heard about the camp in Hanoi, and aerial reconnaissance. It was put up each night and taken down each morning to preserve security. There were other security precautions as well. The training, which began Aug. 20 and continued for 2½ months, included 150 nighttime practice assaults on the camp. It was, said Lieut. Petrie, "very meticulous, very long and very arduous."

On Oct. 7, President Nixon proposed "the immediate and unconditional release of all prisoners of war held by both sides." (Laird said last week that Saigon holds 35,000 P.O.W.'s to the enemy's 3,000.) When that got no response, the U.S. turned again to the Ivory Coast alternative. Weather and moonlight conditions looked good for an assault either at the end of October or at the end of November. The weather worsened, so the October date was scratched. After a National Security Council meeting on Nov. 5, Laird stayed behind and told Nixon that it was time for a decision if the raid was to be held that month. On Nov. 11—Veterans Day, renamed "Prisoners of War Day" this year by presidential proclamation—Nixon assembled Rogers, Laird, Kissinger and Admiral Thomas Moorer, chairman of the Joint Chiefs of Staff. Moorer reviewed the plans. The hazards were clear. The slow, low-flying, vulnerable helicopters could be detected and shot down. There might be more enemy units defending Son Tay than the 100 men that the raiders expected. Finally, the P.O.W.'s might have been moved; this was considered the least likely possibility. Nixon wanted to go ahead. "If you get 50 men out, it is worth it," said one of his advisers. "No," the President replied, "if you get five, it is worth it."

#### SCATHED SECRETARY

The raid coincided with the bombing strikes south of the 19th parallel in retaliation for the loss of a U.S. RF-4 reconnaissance plane over North Viet Nam on Nov. 13. Those bombings were justified on the grounds that Hanoi had violated the "understanding" Washington claims it reached when Lyndon Johnson called a halt to bombing North Viet Nam on Nov. 1, 1968. (The U.S. insists that under the terms of the understanding it has the right to overfly North Viet Nam with unarmed reconnaissance aircraft. Hanoi denies that it agreed to such an arrangement.)

Planes would also be needed to create a diversion over central North Viet Nam, where Son Tay was located. Most of those sorties would drop flares or noise devices that go off like strings of giant firecrackers, creating much noise but capable of no damage. Some, however, would have to neutralize soldiers and planes close to Son Tay with hard stuff—actions sure to bring violent protests from Hanoi and probably from the U.S. peace movement. There seemed no other resort to protect the raiders during the hour they would need to extricate the prisoners. The risk was grave, and Kissinger had one last session with the President. When Kissinger started to speculate as to how many of the helicopters might get out, Nixon cut him off: "That's bad luck. Don't speculate."

The raiders set off from Nakhon Phanom, a search-and-rescue base in Thailand. They approached their objective overland across Laos and mountainous inland North Viet Nam, a route that avoided the enemy's heaviest radar and anti-aircraft defenses. When they returned empty-handed, Nixon telephoned both Laird and Moorer. He had no regrets, he said; it had been a good plan, the right thing to do. If nothing else, the raid had clearly embarrassed Hanoi by pointing up the holes in the North Vietnamese air defenses.

If the raiders came through virtually unscathed, Laird was not so lucky when he appeared before the Senate Foreign Relations Committee early last week. The hearing room resounded when he told Chairman William Fulbright: "The intelligence in this mission was excellent." It was—but only up to the crucial point of whether or not prisoners were still at Son Tay. "Obviously the raid wasn't successful because of faulty intelligence," said Vice President Spiro Agnew from Palm Springs where he was golfing. Laird's only explanation was feeble: "We have not been able to develop a camera that sees through the roofs of buildings." The Pentagon insists that since prisoners are exercised only rarely in the open, there is simply no way to tell when they have been moved. One former senior Washington official found the intelligence failure unbelievable. Reconnaissance by satellite as well as by manned and drone aircraft can pick up vehicles, road activity, defense positions and many other telltale clues as to whether or not a camp is occupied. If, as Laird suggested, intelligence cannot function any better than it did at Son Tay, disturbing questions arise about the thousands of targets bombed by the U.S., North and South, throughout the war. The raiders found waist-deep grass around the compound; from the evidence, General Manor concluded that Son Tay had been abandoned for several weeks.

The operation raised other questions: Was the raid directed at more than P.O.W. rescue? There was some speculation that, beyond the stated aim, the mission was meant to signal U.S. toughness toward Hanoi. There were also some fears that the President or his advisers means to step up the air war against the North, in hopes of still somehow achieving military victory. There was no evidence of this. But the raid unquestionably did serve notice that the U.S., while winding down the war, was still prepared to go to extraordinary lengths to keep Hanoi off balance.

Why was the raid launched now? New York Post Columnist Pete Hamill sarcastically suggested that it might have been staged in order to get the Son Tay prisoners home for display at the White House on Thanksgiving. There may be a modicum of truth in that, but a major factor in President Nixon's mind was his recent conclusion—supported by Pentagon doctors and specialists consulted by the Administration—that lengthy confinement under difficult conditions has cost the lives of a number of American prisoners in both North and South Viet Nam. A recent list had marked as dead six Americans whose fates had not been known for certain. That report was sent from Hanoi on Nov. 6 to Mrs. Cora Weiss, co-chairman of the anti-war Committee of Liaison with Families of Servicemen Detained in North Viet Nam. Mrs. Weiss has given Washington the names of 22 such Americans in all. None of the information she has received from Hanoi indicates whether the men died in captivity or earlier, when their aircraft were knocked down, and she bitterly complained last week that the Government had twisted her report to justify the raid. The Administration, however, says that it has proof that some of the men did die in P.O.W. camps; in two of

the six cases on the Nov. 6 list, for example, the Pentagon has photographs and recordings of the men made after they were captured. If they are now dead, they must have died in captivity.

How many prisoners could have come out? The U.S. estimated that anywhere from 15 to 70 P.O.W.s would be found at Son Tay, and there was plenty of space in the HH-53 helicopters for them. (In a pinch, as many as 60 people can be squeezed inside an HH-53.) The U.S. knows definitely that 339 Americans are in North Vietnamese hands; about 400 others are listed as missing in action in North Viet Nam.

What if the P.O.W.s had been there? One former P.O.W., Specialist Four Coy Tinsley, said that he felt that if there had been prisoners at Son Tay, the guards "would probably have annihilated them and moved out." The Ivory Coast planners obviously felt that surprise would stun the enemy. "They never had time to get together," Lt. Petrie said. "They never expected an American force to come blooming down on them." Had the prisoners been there, though, there would have been many more guards—and their rifles could have damaged the American helicopters seriously. Indeed, some critics of the operation think that had the prisoners been there, disaster would have ensued, that none of the raiders would have come back.

The startling raid on Son Tay is the culmination of mounting concern over the American P.O.W.s, much of it stimulated by the men's families. At first, following a service tradition reinforced by official advice, the wives kept quiet. The Johnson Administration put Ambassador Averell Harriman discreetly to work exploring diplomatic avenues toward winning release of the prisoners. Nothing came of it, and in the controversy over the bombing the prisoners seemed almost forgotten. In 1968, when demonstrations were the mode, no one took a second look at a tiny group of P.O.W. wives with their little hand-lettered placards forlornly picketing the State Department's main entrance.

Then the wives began to organize in earnest, increasing political pressure on Washington, rousing the press and public to the plight of the prisoners. Early in his Administration, Richard Nixon pronounced earlier efforts to win the prisoners' release "not good enough." Nixon directed his top officials to speak out on the subject at every opportunity. Civic groups, city councils and state legislatures started deluging Washington with resolutions and petitions. H. Ross Perot, a Texas computer multimillionaire, began a well-publicized campaign last year to get Christmas packages through to the P.O.W.s and even arranged for a plane load of wives to go to Paris for meetings with the North Vietnamese that produced few tangible results. The President sent former astronaut Frank Borman on a 25-day round-the-world tour in the prisoners' behalf last summer.

#### WOODEN KNIFE

Never before have Americans been fighting for so long. Two of the P.O.W.s have been gone for more than six years: Air Force Captain Floyd Thompson, lost in South Viet Nam on March 26, 1964, and Navy Lieut. Everett Alvarez Jr., captured on Aug. 5 of the same year. Some 300 have been missing or in captivity for over four years. The men have subsisted on a meager diet of rice, squash and pork fat; medical care has sometimes been adequate, sometimes not.

Dispassionate accounts of the treatment of American P.O.W.s by Hanoi are understandably hard to come by. While Lieut. Frishman spoke of torture and malnutrition, a correspondent for Rome's Communist daily *L'Unità* last month published interviews with four P.O.W.s and pronounced their condition fair to good. One of them was Everett Al-

varez, who, *L'Unità* said, found the medical care sufficient and the food much better "lately." Alvarez's mother in Santa Clara, Calif., has poignant words for the feelings of the P.O.W. families: "There is an old Spanish saying that there is nothing worse than a wooden knife. It does not cut but keeps wearing away at the same old spot."

The relatives of the missing and imprisoned have a particularly difficult life because of the nature of the Viet Nam War. Where, in another kind of conflict, their men would be heroes, now antiwar groups in their own land denounce the cause for which the men were fighting in language like that used by the enemy. Crank telephone calls interrupt whatever tranquillity they can find. President Nixon has pronounced himself pleased with their patience, but their patience is wearing thin. Increasingly, some of the wives complain that the U.S. Government is not doing enough. Some of them have been driven to espouse the offer put forward by the Viet Cong's Mme. Nguyen Thi Binh in Paris last September: that talks on releasing the prisoners would begin when the U.S. agreed to withdrawal within a set period. Says Mrs. Frankie Ford of Orange Park, Fla.: "If it is true that they will not be released until the U.S. gets out, then why don't they set a date and get out now? This war cannot be successful. Why should one more man die on the battlefield or in the prisons?"

There is an extra cruelty, an extra reason to despair for those whose men are identified by the Pentagon as missing in action. North Viet Nam has yet to release a complete list of the Americans it holds captive, so in some cases the family has not known for three or four years whether son, husband or father is still alive. Timothy Bodden has been missing since June 1967. Says his mother, Mrs. Dorothy Bodden of Downers Grove, Ill.: "Even after 3½ years, I still find myself losing control and breaking down. There is an answer to what's happened to him, but you just don't know what it is."

For Hanoi not to make known the names of its P.O.W.s is a violation of the Geneva Convention, which North Viet Nam signed in 1957—with the reservation that it would not abide by the convention in the case of anyone it deemed a war criminal. Hanoi, in effect, has tried to apply the principles of the Nuremberg trials to U.S. captives; to the Communists, the Americans are not prisoners of war in the Geneva sense, but war criminals.

#### TEARS IN THE POST OFFICE

The U.S. and South Viet Nam have not always adhered scrupulously to the Geneva Convention, notably those provisions that bar torturing prisoners of war. But the U.S. charges North Viet Nam with massive violations. Not only does Hanoi refuse to list its prisoners, but also the North Vietnamese bar the International Committee of the Red Cross from free access to P.O.W.s. Under Article 13, "prisoners of war must at all times be humanely treated." Instead, former astronaut Borman told Congress, the average P.O.W. has lost 45 to 60 lbs., and in some cases the men have been "beaten, dragged through villages, and tortured." U.S. peace groups that have traveled to Hanoi, however, claim that conditions in the camps are at least adequate.

The convention also calls for a minimum of two letters and four cards to be allowed in to each man every month. Some letters are getting through to the P.O.W.s now, and sometimes there are replies, squeezed into six short lines on a standard North Vietnamese official form. Those letters can change lives, as one did for Mrs. Carol North of Wellfleet, Mass., whose husband, Ken, was shot down in an Air Force F-105 near Hanoi. She had not heard from him for 3½ years, though she and her four daughters wrote to him regularly. Then last April there was an excited

telephone call from the Wellfleet postmaster. In her mailbox was a small white envelope postmarked Hanoi. The letter was brief and bland, but it was enough. She burst into tears. So did the postmaster and everyone else in the post office. "We all stood there with tears running down our faces," she recalls.

Mrs. North is New England coordinator of the National League of Families of American Prisoners and Missing in Southeast Asia. Her organization is the one approved by most of the wives and families who share her burden. They tend to be suspicious of Cora Weiss's Liaison Committee in New York. They are resentful of the fact that Hanoi has plainly chosen to deal with antiwar organizations and leaders like David Dellinger and Rennie Davis, who have succeeded in opening lines of communication between the P.O.W.s and their families. By the time the U.S. stopped bombing North Viet Nam regularly in November 1968, only about 100 letters had reached families in the U.S. In the past year, Cora Weiss's Liaison Committee has received and relayed more than 2,600 letters from P.O.W.s. "I don't understand how Americans can cooperate with the enemy," says Mrs. Charlotte Christian of Virginia Beach, Va., "but you can't bite the hand that feeds you."

The National League, by contrast, has yet to make much progress with Hanoi. The league women work out of a small fourth-floor office donated by the Reserve Officers Association on Washington's Capitol Hill. With growing success, they have pressed their cause on editors and television producers. Senators and Representatives. Mrs. Bobby Vinson, whose husband has been missing since April 1969, is national coordinator; she has made three futile trips to Paris to see the North Vietnamese negotiators. The league has offered to build and equip a hospital for the North Vietnamese in exchange for freedom for the P.O.W.s. "But no luck," Mrs. Vinson sighs. "No luck at all."

Last week's Army-Navy game was dedicated to the P.O.W.s; there Mrs. Vinson was presented with sacks of letters from Americans to representatives of North Viet Nam. It was all in aid of the league's campaign to deliver 100 tons of mail—some 32 million pieces—to Xuan Thuy, chief North Vietnamese negotiator in Paris, by Christmas. The Teamsters have offered to truck the mail from Washington to New York at their own expense; in New York, longshoremen have volunteered to load the mail free on ships bound for France. A similar campaign to dramatize the treatment of the prisoners is sponsored by the San Diego-based Concern for Prisoners of War, Inc. One of Concern's leaders is Joseph McCain, a former newspaper reporter, whose brother is a P.O.W., and whose father is Admiral John McCain, U.S. Pacific Forces commander. McCain's group in collecting signatures on petitions to Hanoi that he reckons will be five miles long (at 187,000 signatures to the mile). "We're gonna go to the Eiffel Tower," McCain promises, "and unroll the petitions right down the Champs-Élysées."

#### THAT WOMAN IN PUYALLUP

With a combination of frustration and wry human, many of the wives and families try anything they can think of to get word from Hanoi about their missing relatives. In Puyallup, Wash., Mrs. Emma Hagerman douses her daily letters to Hanoi's chargé d'affaires in Moscow with cheap cologne. She has had no word about her husband, shot down in November 1967, and she thinks her scented missives just might get attention. "Even if he doesn't open the letters," she says, "he will know they're from that woman in Puyallup again."

Virginia Nasmyth, 21, a San Diego State College senior, made three trips to Paris to

try to learn something about her brother John Jr. ("Spike"), an Air Force captain first listed as missing in September 1966. Once, in a sexy outfit, she bearded Xuan Oanh, an aide to Xuan Thuy. "Oanh was cordial but evasive," she reports. "I don't think he'd ever seen any American girls in miniskirts." Just over a year ago, the Nasmyths heard that Spike was alive. Their penchant for attention-getting persists. They have spent \$2,000 for 100 billboard posters calling for the release of P.O.W.s.

Since 1966, Frank Sieverts, a special assistant to the Under Secretary of State, has been laboring full time to free the Viet Nam P.O.W.s. Sieverts, 37, has become a kind of unofficial counselor to the wives and mothers. "The telephone rings all the time," he says. "In the holiday season, it is especially bad. Wives call up asking me what to say to their children, how to explain that they don't know where their husbands are, whether they are dead or alive, when all the other kids have their fathers."

The U.S. has approached a number of third countries, asking them to intercede with Hanoi on the P.O.W.'s behalf; among them are Sweden and the U.S.S.R. Sweden, which has diplomatic relations with Hanoi, has made cautious overtures, but has shied away from accepting a role as a neutral site for the internment of P.O.W.'s, which the U.S. would like it to do under a Geneva Convention provision. The Communist countries generally express sympathy but contend that the U.S. must work the problem out directly with the North Vietnamese. Since December 1968, the Soviet Union has served as a conveyor belt for packages to North Viet Nam. Parcels are sent directly to Moscow. From there they are flown in sealed bags on Soviet planes through China to Hanoi.

All of this public and private activity was beginning to surface long before the Son Tay raid, but Son Tay brought the whole effort into the open. "After this, I believe that nothing is impossible," says Mrs. Kevin McManus, secretary-treasurer of the National League. "It's a tremendous boost. People do care now." Many wives take the Son Tay raid as an overdue sign of concern on the part of the U.S. Government; they also feel that it will buoy the morale of their imprisoned husbands. No one, however, is quite sure just how the prisoners will find out about the raid, for Hanoi has not specifically mentioned the rescue mission.

#### DIPLOMACY OR FORCE?

Some in Washington believe that the Son Tay raid left the U.S. worse off than it was before. With Hanoi surely tightening the defenses of the P.O.W. camps, further rescue attempts will be vastly more difficult—but President Nixon has already hinted that he has just that in mind. At his Thanksgiving dinner for injured servicemen, speaking to Marine Sergeant George Lowry, the President likened the situation to a football game. "Sometimes you have to take them by surprise," he said "You run a play and it fails. Then you turn around and call the same play again because they aren't expecting it."

Nixon's resort to force, and his threat to use it again, may well have set back the prospects for a peaceful exchange. The Administration has said that if the Paris negotiations continue to drag on without a settlement, it will simply keep on with Vietnamization. Many of the prisoners' wives are well aware that with the American troops out of South Viet Nam, there would be little bargaining leverage left to secure the release of American P.O.W.s still held by the Viet Cong or by the North Vietnamese. "It's a problem," admits one top Administration official. "We have 35,000 of theirs, but they may not care."

#### TAOS PUEBLO INDIAN CLAIMS

Mr. PERCY. Mr. President, the Senate will take up tomorrow the consideration of H.R. 471, as amended by the Senate Committee on Interior and Insular Affairs, to settle certain claims of the Taos Pueblo Indians. I join the distinguished Senator from Michigan (Mr. GRIFFIN) and the distinguished Senator from Oklahoma (Mr. HARRIS) in urging that the Senate accept amendment No. 1083, which is the language of H.R. 471 as originally passed by the House. I believe that the House bill is a more equitable and desirable proposal.

The Senate committee substitute and the House-passed bill differ in several important aspects. The most significant issues are that of trust title to the sacred Blue Lake lands and the proposed creation of the special Rio Lucero watershed.

Under a law passed in 1933, the Taos Pueblo Indians have exclusive use of some 32,000 acres for a period of 50 years with provisions for renewal of this permit. In 1965, however, the Indian Claims Commission held that the Pueblo had established title to 130,000 acres of land which had been taken by the United States in 1906 and later incorporated in a national forest. The Commission sought to settle this claim; however, having only powers to award cash settlements, the Commission could not satisfy the Pueblo claim of title to the Blue Lake lands.

The permit arrangement has proved unsatisfactory for several reasons. The Taos Pueblo consider the sacred Blue Lake area theirs, and there is a growing feeling of insecurity and uneasiness over the fact that their rights to this area could be taken away. In addition, Forest Service control and supervision of the Pueblo lands have not proved satisfactory from either the Department's or the tribe's point of view. Both the Department of the Interior and the Department of Agriculture have clearly indicated that a more acceptable arrangement should be made.

The House-passed bill resolves this issue by conferring specific land title in trust to the Taos Pueblo and stipulates that the Interior Department shall have final control. This is acceptable to the Pueblo Indians and the Interior Department.

The argument has been raised that to confer specific title of land to an Indian tribe will set an undesirable precedent for other Indian claims. However, as pointed out in the Interior Department's report to the committee, such may not be the case. The Department feels that each claim should be evaluated on its own merits. The report further states that—

We do not consider this proposal as setting a precedent for favorable action on similar requests that might be made. We do believe that the special relationships between the Taos Pueblo Indians and the particular land warrants favorable consideration of the proposal, as an exception to the general rule.

Furthermore, the Department has pointed out that this claim by the Taos Pueblo is the only instance in which "land claimed by a tribe has been con-

tinuously used and occupied by the claimant and that no other tribe has a claim pending solely for religious and traditional use."

The committee substitute deletes the trust provisions of H.R. 471, and states that the Pueblo may have "exclusive use" of the 48,000 acres in question. Of particular objection is the provision in the substitute which provides for the automatic termination of Indian exclusive right without notice, hearing, or requirements of due process should the Federal Government determine that the tribe has not complied to the fullest extent with the provisions of the legislation. I believe that this is a serious shortcoming of the bill and that it does not exhibit an enlightened attitude in our policies toward American Indians. We must be certain to fully insure the civil and religious rights of the Taos Pueblo.

The other major issue has been that of water rights. The House-passed bill provides that—

Nothing in this section shall impair any vested water rights.

The substitute guarantees in section 4(b) that the water rights of the Indians shall not be altered by this act; however, it proposes the creation of the special Rio Lucero watershed which has been objectionable to the Taos Pueblo. Appearing before the Indian Affairs Subcommittee, the tribe's representatives testified that for over 700 years the Taos Pueblo have used the Rio Pueblo and Rio Lucero watersheds and that the area has been preserved completely. The watershed areas have been labeled a "wild" area by the Forest Service.

Because the lives and central core of the Pueblo religion are dependent on the lands and water, it is reasonable to maintain that their conservation practices will continue to keep the watershed in excellent condition without the supervision of the Forest Service. As provided in the House bill, however, the Interior Department would have authority to continuously monitor the conservation needs of the area.

Having already settled the question of rightful claim of the Taos Pueblo to the lands, the remaining controversy appears to be over whether the Indians shall have the fullest degree of privacy and self-determination to practice their religion and maintain their tribal identity and customs. The Pueblo feel that this is their right, and it is an argument which they have waged relentlessly for over 64 years.

I stated in an earlier speech that the passage of H.R. 471 would symbolize a reasonable and equitable step in revising our policies to the Indians of this country. I continue to believe that the claim of the Taos Pueblo is just and that our settlement must be also.

This administration has given its enthusiastic support to the proposal passed by the House and has outlined a broad plan for revision of our entire Indian program. I look forward to the Senate's consideration of future reform legislation and urge its support now of H.R. 471 as passed by the House. It can be

the beginning of a new and realistic approach to Indian problems and needs.

#### LEAVE OF ABSENCE

Mr. McCLELLAN. Mr. President, I regret to announce that because of a death in my family I am compelled to be absent from the Senate for the remainder of today and for tomorrow.

#### SILENCE FROM CRITICS ON ENEMY ACTIVITY

Mr. DOLE. Mr. President, almost daily, some Members of Congress take issue with America's role in the war in South Vietnam. Many are quick to criticize any activity carried on by American forces there, but unfortunately, much of the criticism is made without all the facts. On the other hand, most critics have not mentioned activities of the enemy, even when they involved attacks on population centers, terrorism, and sabotage.

The tragic conflict in Indochina should be ended at the earliest possible time, and President Nixon has, thus far, been successful in his efforts to wind down the war he inherited. His task is made more difficult by the critics who fault this administration for "protective reaction" air strikes and even criticize administration efforts to rescue American prisoners of war.

It is well to point out that the enemy has been very active in the past 4 months. To illustrate better, I ask unanimous consent to have printed in the RECORD a general compilation of enemy activity from August 1970 through November 21, 1970.

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

Enemy activity—Weekly average	
Ground attacks on population centers:	
August 1970.....	8
September 1970.....	6
October 1970.....	5
November 1970.....	3
Incidents of terrorism and sabotage:	
August 1970.....	420
September 1970.....	411
October 1970.....	327
November 1970.....	263
Attacks by fire (20 or more rounds):	
August 1970.....	36
September 1970.....	21
October 1970.....	22
November 1970.....	9
Ground attacks on other than population centers:	
August 1970.....	38
September 1970.....	32
October 1970.....	24
November 1970.....	23

NOTE.—Figures for November 1970, are for first 3 weeks only.

#### FOOD STAMP APPROPRIATIONS

Mr. McGOVERN. Mr. President, now that Congress has completed action on the farm bill, conferees will soon be meeting on agriculture appropriations for this fiscal year. I am particularly concerned about the appropriation for food stamps which is part of the overall agriculture appropriation bill.

The administration's budget request for food stamps this year is \$1.25 billion. The House, following the administration's lead, appropriated \$1.25. I felt this figure far from adequate and led a successful fight, with the assistance of Senator BROOKE on the other side of the aisle, to have the Senate appropriate \$1.75 billion. The Senate had previously authorized \$2 billion for food stamps this fiscal year.

The conferees must determine which of the two figures—\$1.25 or \$1.75—is adequate to fund the food stamp program, or what figure in between would be adequate.

I have recently done a careful analysis of food stamp program costs for this year. I have concluded that the program clearly requires the \$1.75 billion appropriated by the Senate. The most conservative estimate of cost of the program this year is \$1.65 billion. The figure of \$1.65 billion is based on an estimated modest 3 percent monthly increase in participation for the remainder of the year. It does not permit for any unusual circumstances, such as continuing economic difficulties with rising unemployment which would cause participation to rise more quickly. A 1-percent rise in unemployment could add 1 million persons to the food stamp rolls at a monthly cost of about \$15 million. This would easily bring the cost of the program up to \$1.75 billion. Given the uncertainty of the economy, I believe this is clearly a case where we can and should provide possible protection for some of our citizens who may be in need of food assistance.

For these reasons, I believe the Senate conferees must stand firm for the full \$1.75 billion that the Senate appropriated. I strongly urge them to do so. I am convinced that anything less than \$1.65 billion will lead to the program being bankrupt before the end of the fiscal year. That is the least our conferees should bring back to the Senate.

I have attached a table on food stamp costs for this year which I hope will be helpful to the conferees and which may be of interest to other Senators interested in this matter. I ask unanimous consent that the table be printed in the RECORD.

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

Food stamp program cost—fiscal year 1971 (July 1970—June 1971)	
Monthly participation:	Bonus cost
July, 6.9 million.....	\$98,098,155
August 7.2 million.....	102,901,845
September 8.2 million.....	116,000,000
October, <sup>1</sup> 8.5 million.....	<sup>2</sup> 123,250,000
November, <sup>1</sup> 8.8 million.....	<sup>2</sup> 127,600,000
December, <sup>1</sup> 9.1 million.....	<sup>2</sup> 131,950,000
January, <sup>1</sup> 9.4 million.....	<sup>2</sup> 136,300,000
February, <sup>1</sup> 9.7 million.....	<sup>2</sup> 140,650,000
March, <sup>1</sup> 10 million.....	<sup>2</sup> 145,000,000
April, <sup>1</sup> 10.3 million.....	<sup>2</sup> 149,350,000
May, <sup>1</sup> 10.6 million.....	<sup>2</sup> 153,700,000
June, <sup>1</sup> 10.9 million.....	<sup>2</sup> 158,050,000
Total .....	1,582,850,000

Additional monthly increase of \$62,500 based on geographical expansion of the program. From October through June, total bonus cost of \$7,252,000. New total, \$1,590,102,000.

Additional administrative cost of \$60 million.<sup>3</sup> Final total, \$1,650,102,000.

<sup>1</sup> Estimated 3% monthly increase.

<sup>2</sup> Estimated per person bonus cost of \$14.50 per month.

<sup>3</sup> USDA estimate.

#### ALARMING TREND OF AGRICULTURAL PRICES

Mr. TALMADGE. Mr. President, yesterday the Department of Agriculture released the latest figures on agricultural prices. These figures demonstrate an alarming trend. They point out that the Nation's farmers are suffering from depression conditions.

While the prices of nearly everything our farmers must buy have gone up, prices for products the farmers sell have gone down. During the month ending November 15, the Nation's farmers experienced a downturn in prices for hogs, beef cattle, and corn.

As a result of dropping prices and skyrocketing expenses, our farmers are today experiencing the lowest farm parity ratio in 37 years. The Department of Agriculture release points out that today's farmers are receiving only 68 percent of parity for their products—68 percent of a fair price. This is the lowest figure since 1933, the depth of the great depression.

Today's Wall Street Journal has an interesting article about the squeeze on farmers. Mr. President, I ask unanimous consent that the article be printed at this point in the RECORD.

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

#### SQUEEZE ON FARMERS GROWS AS PARITY RATIO HITS NEW 37-YEAR LOW

WASHINGTON.—Inflation-recession pressures continued to pinch farmers in the month ended Nov. 15, with the farm parity ratio at a new 37-year low of 68.

The parity figure, calculated by the Agriculture Department, is a frequently cited indicator of how well farmers are doing in relation to the rest of the economy. It stood at 70 in October and 75 in mid-November 1969. Both the November and October 1970 levels represented the lowest parity reading since the 67 recorded in December 1933.

The "adjusted" parity ratio, which the department developed to reflect Federal subsidy payments to farmers, also took a two-point drop in the month ended Nov. 15, hitting a new low of 73. This was down from 81 in mid-November a year ago. A monthly reconstruction of the adjusted ratio back to the 1930s isn't available but 1970 seems certain to register the lowest yearly average since 1933, when it equaled only 66.

During the month ended Nov. 15, lower prices for hogs, beef-cattle and corn lowered the index of prices received by farmers to 270, a decline of 1.5% from a month earlier and down 4% from November 1969. Higher prices for eggs, milk and tomatoes partially offset the drop.

At the same time, the index of prices paid by farmers for commodities and services, including interest, taxes and wage rates, advanced to a new record of 395, one point above the previous record established in October. The latest level was 17 points above a year earlier.

The parity ratio is derived from a formula that relates prices received to prices paid and measures them both against a 1910-14 base, considered an especially good period in U.S.

agriculture. The latest parity figure theoretically means that farmers had 68% of their 1910-14 buying power.

Prices received by farmers for their principal crops compare as follows:

	Nov. 1970	Oct. 1970	Nov. 1969
Wheat, per bu.....	1.45	1.43	1.29
Rye, per bu.....	.992	.985	.990
Rice, rough, per cwt.....	5.19	5.20	5.00
Oats, per bu.....	.632	.613	.578
Corn, per bu.....	1.29	1.34	1.07
Barley, per bu.....	.946	.925	.881
Sorghum grain, per cwt.....	2.02	2.02	1.94
Hay, baled, per ton.....	24.40	23.90	23.50
Cotton, per lb.....	.2209	.2283	.2135
Cottonseed, per ton.....	56.50	56.00	42.30
Soybeans, per bu.....	2.86	2.77	2.30
Peanuts, per lb.....	.124	.132	.123
Flaxseed, per bu.....	2.32	2.31	2.61
Potatoes, per cwt.....	1.85	1.89	1.83
Hogs, per cwt.....	15.40	18.00	25.00
Beef cattle, per cwt.....	25.20	26.50	24.90
Calves, per cwt.....	33.00	34.10	31.30
Sheep, per cwt.....	7.16	7.18	7.84
Lambs, per cwt.....	25.20	26.00	27.30
Butterfat, per lb.....	.710	.708	.699
Milk, wholesale, per cwt.....	6.08	6.02	5.92
Chickens, live, per lb.....	.877	.077	.107
Turkeys, live, per lb.....	.220	.220	.238
Eggs, per doz.....	.364	.332	.492
Wool, per lb.....	.333	.339	.386

Mr. TALMADGE. Mr. President, the national news media is fond of pointing out the subsidies received by American agriculture. However, they devote little attention to the fact that farm prices have remained relatively steady over the years while prices of nearly everything else have multiplied. They fail to point out that the agricultural subsidies are primarily subsidies to the consumers, because if many American farmers did not have some Government subsidy, they would go completely broke and would be unable to continue to furnish the American consumers the best quality food in the world at bargain prices.

An increase of one-tenth of 1 percent in the unemployment rate, or an increase of one-tenth of 1 percent in the consumer price index immediately hits the headlines of the national news media. However, little attention is given to the fact that the Nations farmers have been hurt most cruelly by the runaway inflation of our economy. Few people realize that our farmers are already experiencing conditions comparable to those of the great depression.

#### THE TRADE ACT OF 1970

Mr. HATFIELD. Mr. President, I have spoken before in opposition to the restrictive import quota bill. I do have sympathy for the textile and shoe manufacturers whose businesses have suffered as a result of increased imports. I would hope effective proposals could be made to assist industries and workers where damage is shown. I do not believe, however, that erecting firm quotas in all areas is the best way to cope with this problem.

I call attention to a fine editorial in the November 23, 1970, Wall Street Journal, in which the bill is discussed. I ask unanimous consent that the editorial appear at this point in the RECORD.

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

[From the Wall Street Journal,  
Nov. 23, 1970]

#### THE WORKERS BE DAMNED

In the heyday of mercantilism in the 18th century, businessmen were at least frank about their aim. They sought to enrich themselves, and none of them claimed to be improving the lot of their workers. In fact, as one English observer put it at the time:

"Everyone but an idiot knows that the lower classes must be kept poor or they will never be industrious; I do not mean that the poor of England are to be kept like the poor of France but, the state of the country considered, they must (like all mankind) be in poverty or they will not work."

So the businessmen sought, and got, the help of governments in monopolizing domestic markets, keeping out competing foreign goods. The system didn't work out quite the way the merchants intended, but at least none of them tried to claim that it would be the salvation of workingmen.

Today's mercantilists, those who support the trade bill passed by the House last week, are not nearly so candid. Times have changed, and even idiots know they won't sway Congressional votes by arguing for poverty. Thus the trade bill, which would curb imports of textiles and shoes and open the door to similar restrictions on many other products, is portrayed as a savior of American jobs.

The propagandists have been pretty successful, too. Besides winning the battle in one house of Congress, they have gained the support of organized labor. It's a strange spectacle. London's laborers, two centuries ago, certainly did not endorse their own destination.

Modern protectionists like to stress that in the 19th and early 20th centuries America and its people prospered mightily behind a high tariff wall. That's true enough, but to then conclude that a similar policy now is the way of wisdom requires a misreading of history.

To begin with, the prosperity of the high-tariff period was anything but universal. While manufacturers benefited to some extent from their limited monopoly, farmers and other raw-materials producers, who sought to sell abroad, suffered for it. Protectionists always seem to think they can shield their own domestic market without other nations shielding theirs; it has never worked that way and it never will.

The manufacturers, moreover, weren't overly generous in passing along their monopoly benefits to their own workers. There would have been even more labor friction than there was if the nation had not been expanding so rapidly, both in size and population. Discontented workers in the cities pushed west to seek their fortunes, and immigrants poured in from Europe to take their places at the looms.

For the manufacturers themselves, the nation's size helped to offset the effects of international trade restriction. The U.S. was a vast and growing free trade area, and industries that cut themselves off from European markets easily offset the loss by finding new markets in Missouri and California.

Despite its seeming prosperity, the U.S. was a debtor in its relations with the rest of the world. The U.S. was not a world leader in finance, technology or much of anything else. Who can say what this nation might have achieved if, earlier in its development, it had benefited from freer competition with the rest of the world?

However that may be, anyone can see what has happened in the past four decades as the U.S. led the way toward a steady reduction of commercial barriers among nations. The nation has achieved an affluence unparalleled in history. And so have its people.

Freer international competition has numerous advantages. It promotes warmer

political relations; trade wars in the past only too often turned into the shooting kind. Freer competition obviously leads to lower prices for consumers—definitely including workers—making it possible for more people to share more abundantly in the world's goods.

Most important of all, free competition promotes the most efficient use of a nation's capital and the labor of its people. If some industries require a great deal of low-wage labor and only limited amounts of capital, those industries should chiefly operate in nations where wages are low and capital is limited. That's the case with parts of the textile industry.

To argue that all of the U.S. textile industry should nonetheless be sheltered from foreign competition is not really in the interests of its workers, either in the present or future. Uneconomic segments of the industry will be preserved, at least for a while, and workers' wages will remain low and their job security perilous. Yet the "protection" will discourage many of them from seeking better opportunities elsewhere.

Change is already under way in the industry, as some companies broaden lines and develop new products. Other companies and workers are moving into more promising pursuits. But a world swing back to trade protectionism, of the sort that the pending bill would surely bring, will reduce the opportunities that workers will find elsewhere as markets contract within national borders.

The Administration has already offered proposals to cushion change for workers in industries losing sales to imports, and these make more sense than import quotas. The economy's freedom to change, after all, is the fundamental reason why American workers now enjoy the highest living standard in the world.

Any change, however, can be disconcerting, and some companies in the textile and other industries would simply rather not bother. For themselves they see an illusion of monopoly benefits. And the workers? The workers be damned.

Mr. HATFIELD. Mr. President, the effects of the bill go beyond the narrow scope often championed by the bill's defenders.

In my earlier speech, I raised what I consider to be a real fear—that foreign governments will retaliate against American exports. At that time, I stressed that potential impact on agricultural exports. Today, I would like to call to the attention of my colleagues the potential impact of the bill on the highly skilled, highly sophisticated segments of our economy.

Tektronix is Oregon's largest single site employer. The president of Tektronix, Mr. Howard Vollum, expressed the sentiments of his company very well in a recent letter to me. I would surmise that Mr. Vollum's sentiments could be repeated by businessmen in other areas.

I ask unanimous consent that Mr. Vollum's letter appear at this point in the RECORD.

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

TEKTRONIX, INC.,

Beverton, Oreg., November 12, 1970.

HON. MARK O. HATFIELD,  
Old Senate Office Building,  
Washington, D.C.

DEAR MARK: Our annual sales outside the United States are approximately \$60,000,000, which amounts to 40% of our total business. Our products involve sophisticated electronic equipment which is one of the priority in-

dustries named by the Department of Commerce whose trade performance can be expected to contribute favorably to the U.S. balance of trade. We understand that Congress accepts a favorable balance of payments as a national goal.

Because of our participation in and long-term commitment to international trade, we are seriously concerned about the Trade Act of 1970.

We consider the Act is a major piece of legislation in changing the direction of our country's course in international trade. As such, we believe it should be evaluated on its own merits. It should not be affiliated with unrelated legislation which eliminates any possibility for us and our elected representatives to effectively react to such an important legislative proposal.

We oppose the Trade Act itself for we believe it is an expression of a U.S. trend to protectionism and away from the free trade concept. We believe it will stimulate retaliation. If this does in fact occur, we in the sophisticated electronics business feel particularly vulnerable since the U.S. does have a technological lead in this area, and countries abroad, logically, want to protect their markets for their own growing industries as they strive to catch up. (E.G., computer business in Japan). Not only can retaliation be in the area of trade and tariffs, but many countries, we believe, would retaliate in the areas of investment, fiscal policy and politics, thereby bypassing trade negotiations, treaties and GATT.

Increasing protectionism and tariffs abroad will force U.S. industry to overcome these obstacles by transferring more manufacturing to overseas locations which, in some cases, could be negatively reflected in U.S. labor statistics. Our company operates three manufacturing locations outside the United States and is affiliated in a fourth, but all of our manufacturing would take place in the United States were it not for tariffs and trade barriers. (On the other hand, the DISC proposal, which we favor, would encourage retention of manufacturing in the U.S. and stimulate increased exports).

In summary, we urge you to use your influence to separate the Trade Bill from other legislation and consider it alone and on its own merits. Also, we urge you to vote against its enactment.

Sincerely,

TEKTRONIX, INC.,  
HOWARD VOLLUM, *President*.

Mr. HATFIELD. Mr. President, the newspapers in Oregon that have carried editorials commenting on the bill all have opposed it. When I speak out against the bill, as I have in the past, it is because I know it would hurt Oregon, and also hurt the entire country in its results. I ask unanimous consent that a sampling of Oregon newspaper editorials appear at this point in the RECORD.

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

[From the Capital Journal, Nov. 25, 1970]  
FOREIGN TRADE BILL UNWISE

Ever since we learned a lesson during the depression of the 1930s, the United States has championed relatively free world trade.

Today, the U.S. is the world's leading trader, with exports this year of nearly \$43 billion and imports of about \$40 billion.

But the U.S. may change directions toward more restrictive trade, and cause similar moves throughout the world. This threat is posed by the foreign trade bill recently approved 215 to 165 by the U.S. House of Representatives.

This bill would impose new quotas on the importing of foreign textiles and shoes. Imports would be limited next year to the

1967-69 level, after which they could increase no more than five per cent in each of the next five years. Another provision of the bill would permit other industries to qualify for quota protection from imports by demonstrating damage from foreign competition under a complex formula. Such protection could be thwarted only by a presidential declaration that it was contrary to the national interest.

This bill started largely as a means of protecting the textile industry from Japanese competition. President Nixon voiced support of something along this line when he was rallying Southern support in 1968. Then New England and the shoe industry jumped aboard as a full partner, and other industries seeking similar protection lobbied the general formula through the House.

The sponsors talk about one effect of such legislation, the protection of U.S. textile and shoe manufacturers and hundreds of thousands of their employes from foreign competition. Another presumed result, one the opponents stress, is the fact that this will drive costs upward for American consumers.

Meanwhile, there's danger that such legislation will cause retaliation by other nations. Nations which export textiles and shoes to the U.S. naturally will resent such quotas. They can be expected to counter with restrictions upon U.S. exports to their countries. Japan and its textile industry will be hardest hit, but various European nations also have voiced concern about such trade restrictions. Some observers fear such U.S. action would touch off an international trade war of ominous proportions.

Oregon could suffer from this more than most other states. About one-third of the valley's grass seed is exported, and about one-sixth of all Oregon agricultural production goes abroad. Oregon exported about 160 million bushels of wheat alone this year, much of it to Japan. So an attack upon Japanese textile imports could result in local damage.

We have some sympathy for industries and workmen who are damaged by foreign competition. There are times when public funds should be used to help Americans adapt over a limited period to new economic conditions. But we think Americans have more to lose than to gain by restricting foreign trade with import quotas or high tariffs. Our consumers are better served by the competition, and in the long run all of us profit from more world trade, not less of it.

So we hope the Senate rejects that restrictive foreign trade bill, and that the U.S. continues to encourage the widest possible exchange of goods and services across international boundaries.

[From the Oregon Statesman, Salem,  
Oreg., Nov. 12, 1970]

#### IMPORT QUOTAS ENDANGER OREGON

Oregon, hard hit economically by the slump in the housing industry, will suffer an even more disastrous economic blow if the Trade Import Quota Bill is approved by Congress.

The legislation is aimed to protect U.S. textile and other industries against a flood of imports, mainly from Japan. U.S. negotiations asking Japan to accept a voluntary limitation on textile exports to this country have collapsed. If the import quota bill passes and Japan retaliates with quotas and tariffs on imports from the U.S., it won't be the textile-producing state which will be hurt. It will be Oregon.

Oregon exports 80 per cent of the wheat which this nation sends to Japan. Japan is the biggest foreign purchaser of Oregon logs and lumber. Most of our seed crop goes abroad. Already crippled economically by domestic economic policy, this state would be hardest hit by a protectionist foreign economic policy.

Sen. Mark Hatfield says:

"Agricultural exports, such as wheat, would be a prime target, both by Japan and in Europe. Almost 16 per cent of Oregon agricultural crop sales are export sales."

The United States has been a leader in developing free trade markets. To violate this policy with restrictions on textile and other imports would not only be harmful to Oregon in the short run, if Japan retaliates, but harmful to the nation as a whole in the long run. It is in the interests of the U.S., a major exporting nation, to keep the channels of free trade unlogged.

Other nations also stand ready to retaliate if the import quotas are approved. The Manchester Guardian reports:

"The European Economic Community is prepared 'to safeguard its trade interests' if the United States Congress passes the protectionist trade bill . . . The council also expressed its fear that the bill may lead to a trade war . . ."

There is a real danger the textile import quotas will be approved by Congress even though they have not been requested by the Nixon Administration. They have been added as a rider to the Social Security Bill in the Senate. Both Sen. Hatfield and Sen. Robert Packwood are pledged to dislodge and defeat the quota provision.

If they remain within the shelter of the popular Social Security rate increase legislation, however, they could slip through the Senate.

When the House reconvenes this next week, the Trade Bill, which has been approved by the Ways and Means Committee with the import quotas intact, is expected to be the first major item of business.

With the economic distress of unemployment in the textile-producing areas, there is certain to be tremendous pressure to approve them. Oregon's already-crippled economy is almost certain to be caught in the backlash if they are enacted.

[From the East Oregonian]

#### CHILLING THOUGHT

Sen. Mark Hatfield this week spoke of something which deeply concerns Oregon growers of wheat. He said, after a discussion with three members of the Japanese Diet (legislature), that should the U.S. Congress enact a tough quota bill the Japanese government might retaliate by limiting imports of U.S. agricultural products.

Oregon produces 80 per cent of the U.S. wheat exported to Japan. It is a market that has developed over a long period of time through the vigorous efforts of Oregon wheat growers and with their dollars. To say that loss of that market would be a severe blow to Oregon wheat growers is a gross understatement. A very high percentage of the wheat grown in this region goes into the export market. Without that market it would be necessary to drastically reduce production of wheat here.

This may not occur. The Japanese are playing their hand carefully in this game. Reduction of textile exports is a very serious matter for them. They are doing everything possible to get the Congress to reconsider. If they are not successful it does not necessarily follow that they will retaliate against U.S. agriculture. But the possibility that they might send a chill through this region.

[From the Bend (Oreg.) Bulletin, Aug. 4,  
1970]

#### ASK HIM THE QUESTION

Your Congressman will be around this fall, asking you to send him to Washington for another two years. That's when voters are expected to ask the Congressman what he's done for them lately.

If Congress continues on the path established by the House Ways and Means Committee (to which the Congressman from this district belongs) that question might be an embarrassing one. For the main thing the Congressman and his fellows seem to be intent on doing is to raise prices for goods consumers buy.

They do so two ways. One is to spend more money than the government expects to have to spend. That means the government must print some extra money. In its simplest term that's inflation, which erodes your income and raises the cost of things you buy.

The Ways and Means Committee has another joker up its sleeve. It voted recently to require import quotas on foreign oil. That keeps the price of gasoline up. It already has voted to require higher tariffs on such things as shoes and clothing.

The United States is a big importer of foreign-made shoes and clothing. The small dollar amounts which come from the big Paris fashion houses don't make much difference. But large quantities of low-priced goods come from Japan, from Europe, and to some extent from Central America. Putting a high tariff on them will raise their prices, and make American goods of equal quality competitive in price.

That's economic protectionism. It may help the worker in the protected industry; it usually helps his boss more. It means the worker will pay higher prices on many things, not just on the items he makes.

So, when your Congressman comes around this fall you can quite properly ask him what he's done for you lately. He should have a hard time answering you.

Mr. HATFIELD. Mr. President, I wish to call attention to the adverse impact that enactment of the bill could have on the port activities of Portland. My years as Governor of Oregon and since then as Senator have involved me intimately with the activities of our port.

I requested information on the port activity as an example of the seriousness of the problems that enactment of the bill could produce.

I ask unanimous consent that the letter from Mr. Keith L. Hansen, general manager of the Port of Portland, appear at this point in the RECORD.

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

PORTLAND PUBLIC DOCKS,  
Portland, Oreg., November 27, 1970.

HON. MARK O. HATFIELD,  
Senator of Oregon,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR HATFIELD: The Commission of Public Docks shares your deep concern over proposed legislation which would place serious restrictions on foreign trade through import quotas.

You are well aware of the substantial volume of foreign ocean commerce that passes through Portland. In 1969 our foreign exports were 3.7 million tons and foreign imports were 1.7 million. We have experienced growths in recent years from three to five percent in tonnage movements. Any factors which adversely affect these movements have a direct relationship upon the economy of our city and state.

Every ton of general cargo that moves through the harbor generates \$25 in direct revenue. Grain cargoes generate \$13 in revenues, ores generate \$11.

During 1969, through Portland was exported almost 2.4 million tons of wheat. More than a million tons of ores were received here. General cargo in and out totaled around two million tons.

Totally, these commodity classes generated more than \$82 million in revenues to the economy. This is a substantial impact and is indicative of the vital force of our port activity on the welfare of Portland and Oregon economy.

More than 15,000 persons depend directly and indirectly upon this port's activity for their livelihood. It is estimated that the direct and indirect payrolls involved total some \$150 million annually. Some 17,000 additional jobs are linked to the port because of the export of manufactured goods or the import of materials for manufacturing processes.

On December 12, Portland will receive the first scheduled vessel of the Japanese container consortium commencing sailings every 20 days to Portland. This is the culmination of a long campaign to obtain for Portland its rightful place in the rank of major seaports. Restrictive measures that would place this hard-won victory in jeopardy are to be deplored. Enactment of the bill would have other serious implications on the growth of future shipping through this harbor.

Heavy private and public investments in harbor facilities and in ancillary services will be endangered.

The Commission of Public Docks of the City of Portland joins your opposition to this bill.

THE COMMISSION OF PUBLIC DOCKS,  
KEITH L. HANSEN, General Manager.

#### THREAT OF TRADE BILL TO FARMERS

Mr. MONDALE. Mr. President, on a number of occasions, I have called attention to the great threat posed by the pending trade bill to the Nation's \$6.6 billion in agricultural exports.

My own State of Minnesota is a \$275.6 million exporter of agricultural products, and this agricultural community is deeply concerned over the impending threat of protectionism and economic isolationism which is reflecting in the trade bill now attached to social security.

I invite the attention of Senators to two excellent editorials published in the Farmer, edited by Mr. Robert G. Rupp, and appearing on August 1 and October 3 of this year. I ask unanimous consent that the two editorials be printed in the RECORD.

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

#### LET US GET GOING

If farmers weren't already aware they have lost most of their political clout, the current farm program situation should make that very clear. As this was written, the House was rushing through an extension to delay the wheat referendum until next fall. By the time this is read, (1) date of the referendum will have been set back to Oct. 15, (2) a farm bill may have been passed, making eventual voting unnecessary, (3) the 1965 farm program may have been extended for another year, indicating complete deadlock on a new plan.

The referendum could be made to work, but it would take willingness by farmers to vote for marketing quotas and over-production penalties, and determination by the administration to maintain or improve farm income. But the House has now gotten itself off the hook, temporarily, by voting in the extension. A farm act could even be passed in the two weeks between writing and reading this, but that won't likely happen that fast either, now. Well over a year of hearings hadn't gotten a bill ever out of committee, let alone expose it to the full Congress, where

farm representation is more diluted and the climate less friendly.

The long incubation period does point up two things, that not only are differences sharp between agricultural segments but that the urban vote must be wooed carefully for successful passage of any farm proposal. The recent scramble for more time adds accent to the precarious position in which agricultural legislation currently finds itself.

Despite these pitfalls, time has run out. Some kind of farm program should be brought out. Southern wheat growers start seeding this month. Even Upper Midwest winter wheat goes into the ground before October, if a vote on the referendum should eventually come to pass. (Voting the last time—on the 1963 referendum—was in May.) And all farmers, whatever their cropping programs, need time to interpret and digest any new farm act. Let's get one hammered out.

#### AG EXPORTS THREATENED

Soybeans are big business, second only to corn in dollar return to U.S. farmers. They're this nation's No. 1 agricultural export, with a total value of over \$1.4 billion this year. But future sales are being threatened.

Retaliatory action by some of our best agricultural customers—Japan, Europe and South America—will likely be taken against the U.S. if legislation currently pending is enacted to protect domestic cotton and industry interests (see Washington News, page 5). The problem centers on a bill by Rep. Wilbur Mills, D-Ark. Already approved by the House Ways and Means Committee, of which he is chairman, the Mills bill would put quotas on textiles, apparel and footwear, which are export products of some of our major farm commodities purchasers. If they are to buy from us, they must sell to us. If we restrict imports, they will retaliate.

About 40% of our soybean crop has been going overseas in recent years, with a record 50%-plus headed that way this marketing year, if clamps aren't put on. But a 5-to-8% reduction in soybean demand could drop prices by 25¢ to 50¢ a bushel, warns Chet Randolph, executive vice president of the American Soybean Association.

Wheat sales, too, would be hurt. Brazil has already hinted she will seek wheat from other sources if we enact restrictive trade legislation. So might Japan, which, as with soybeans, is our best buyer. "We ship nearly two million metric tons of wheat to Japan each year, much of it from the hard wheat areas of South Dakota," points out Dean Parsons, chairman of the South Dakota Wheat Commission. "If we attempt to protect a small, inefficient part of our economy at the risk of losing our vital agricultural markets, we are not using good judgment."

Ambassador Carl Gilbert, special U.S. representative for trade negotiations, told farm magazine editors the same thing in Washington earlier this summer: "If we hit the foreigner, he will surely be tempted to hit back where it hurts us most. Agriculture, with its vital and vulnerable export interests, will very probably have to pay a disproportionate share of the cost of any measure that might be taken to restrict trade."

Chet Randolph of ASA puts it even more direct: "Farmers need to react immediately to offset the protectionist pressure from certain industries and labor groups." The Mills bill is H.R. 16920.

#### AG TRADE GAMBLE

The U.S. has just halled Japan as its first \$1-billion-a-year purchaser of American agricultural products. It has also suggested, in a speech by Ag secretary Hardin last month, that Japan remove import duties from U.S. soybeans to make future sales even better.

In complete contradiction to that effort at freer trade, legislation now in Congress would slap quota controls on our own imports of textiles, shoes and oil.

Japan isn't the only nation from which we buy apparel and footwear, but she is one. If we restrict her opportunity to sell to us, she will retaliate. That could jeopardize the 25% increase in soybean sales predicted for next year. And maybe more. We sold Japan 95 million bushels of beans, six million tons of feed grains and two metric tons of wheat last year, plus cotton, hides, tobacco and tallow. It could also gamble with similar sales to other nations, which also need to sell if they are to buy.

There's another, even greater danger. Passage of the Trade Act of 1970 (see THE FARMER page 6, Aug. 1 for an earlier editorial) would open the door to "protection" of other U.S. industries. International trade wars could result, with consequences so grave several thousand economists from across the U.S. last month asked Congress not to pass the Trade Act.

Such legislation, the economists said in Washington on Sept. 18, would force foreign countries to reduce purchases and raise tariffs. It would cause prices to go up in this country and reduce the real income of Americans. "Import controls would be an unproductive and irresponsible answer to the problem of foreign competition," the economists said in their 4,000-signature petition. "There are serious adjustments at home and cause for irritation abroad. But the right answer does not lie in triggering a trade war. We urge, instead, a realistic foreign and domestic policy aimed at getting all countries to cooperate in furthering expansion rather than contraction of foreign trade, and at finding durable answers to the adjustment problems of U.S. industries and workers."

About one bushel in four of U.S.-produced crops now goes to overseas markets—16% of all our farm exports went to Japan alone last year. America's agricultural efficiency, know-how and high production capacity can make farmers the big winner in freer world trade. But farmers will be the big loser if legislation is enacted from which a trade war develops.

#### COMPETITIVE POSITION OF U.S. INDUSTRIES—A STATEMENT BY STUART PERKINS

Mr. WILLIAMS of New Jersey. Mr. President, on Monday of this week the U.S. Tariff Commission conducted public hearings concerning the competitive position of U.S. industries. Testifying at those sessions was Mr. Stuart Perkins, president of Volkswagen of America, located at Englewood Cliffs, N.J. His company is the exclusive importer of Volkswagen, Porsche, and Audi automobiles in the United States and is a wholly owned subsidiary of Volkswagenwerk, West Germany.

We are all aware of the public debate now taking place concerning the problem of foreign trade and its impact in this country. I think that Mr. Perkins' statement before the Tariff Commission provides an interesting and helpful contribution to this continuing dialog.

I ask unanimous consent that the remarks of Mr. Perkins be printed in the RECORD.

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

#### STATEMENT BY STUART PERKINS

Mr. Chairman, members of the Commission: I am Stuart Perkins, president of Volkswagen of America, Englewood Cliffs, New Jersey, the exclusive authorized importer of Volkswagen, Porsche and Audi automobiles in the United States. Volkswagen of America is a wholly-owned subsidiary of Volkswagenwerk, West Germany, and is responsible for the importation, sales and service of Volkswagen, Porsche and Audi automobiles in the United States.

Our best-known product, the Volkswagen, has become in 20 years the world's most exported automobile. It is sold in virtually every country in the Free World, so we understandably have strong feelings about the value of free international competition. As you would imagine, we are for the continued expansion of trade among nations.

This position is held equally strongly by our parent company, not only in its export markets, but also in Germany where imported cars from many nations are currently enjoying 25% of the new-car market—about double the percentage of imported-car sales in the United States.

The United States market has been a major factor in our company's growth. We have prospered in this free competitive atmosphere and in doing so have brought benefits to many Americans. There are about four million Americans who own our products. There are over 1,300 American business concerns, employing 43,000 Americans, who are part of our nationwide sales and service organization. These American-owned companies have invested more than \$350 million in land, buildings and equipment to operate their businesses. The annual payrolls of these companies total in excess of \$318 million.

But these statistics represent only a part of the positive contribution we make to the American economy. Not included are millions of dollars in taxes paid to state and local communities, as well as to the federal government in import duties and excise taxes. It does not include the millions spent by our organization each year for the services and products required to keep such a national organization functioning efficiently.

Nor are these expenditures limited to the American organization. Just last week our Research Center in Germany signed a contract with an American company for computers worth \$14 million.

Our parent company continues to buy such American material and components as aluminum, magnesium, steel, tires, glass, headlamps and spark plugs for use in production of vehicles. We will soon be getting 200,000 steering wheels a year from a Detroit company under the terms of a contract signed a few months ago.

One New Jersey company ships side and rear windows to Germany to be installed in 20,000 Volkswagens a month and returned to America. Our expanding business with this glass producer has required it to build a second plant, this one in Ohio, to supply windshield glass. Volkswagen's purchases earned that company an "E" flag presented by the U.S. Department of Commerce for its part in expanding American exports.

In addition, Volkswagen of America is spending \$22 million a year for replacement parts and accessories produced by American suppliers and sold by our American dealers. We build and install air conditioners here, providing employment for additional hundreds.

These figures do not include other direct expenditures for merchandising needs. Together with our dealer organization we spend about \$33 million a year in the United States for advertising, for catalogs and brochures, for auto show displays and similar activities. We publish several magazines and produce films in America, all providing employment

that would not exist except for our presence in this market.

Our products have made possible the phenomenal growth of the dune buggy and camper industry in this country. More than 50 American companies are producing dune buggies or dune buggy components based on the Volkswagen chassis. Such national firms as Sears Roebuck and J. C. Penney are selling VW-based dune buggy kits under their own labels, so popular have these recreational vehicles become. It is estimated that more than 80,000 dune buggies are in use in the United States, combining the Volkswagen chassis with bodies, seats, wheels and other components that are produced by American companies. There are several consumer magazines and trade magazines in this specialized field, so rapid has been its growth. Total American employment in this brand-new industry is estimated at over 2,000 persons with an annual volume of business of \$100 million.

Thousands of stevedores and truckers are aware of the benefits of international competition as they move Volkswagens from ships to dealerships all over this country.

These figures I have been listing are only those for Volkswagen. To see them in proper proportion, you must multiply them by two, since we represent only one half of the total imported-car activity in the United States.

Such statistics do not tell the whole story. The purchase of Volkswagens by Americans makes it possible for Germans to buy American exports.

In the 20 years since 1950, Germans have spent \$8.1 billion more for American goods than Americans have spent for German goods. In all but two of these 20 years, the United States has had a strongly favorable trade balance with Germany. Volkswagen sales in this country account for one-third of all the dollars West Germany earns by trade. Those dollars, plus billions more, return here in payment for products ranging from Levis to 747's. Lufthansa, the German airline, has spent \$750 million on American equipment since 1954, to cite only one example.

This year, through September, Germans spent \$2.4 billion for American goods compared with \$2.2 billion Americans spent for German goods, including Volkswagens. This U.S. trade advantage is even more impressive when you realize that Germany has less than half the total population we have in the U.S. The average German spends more than twice as much per year for American goods as the average American spends for German goods. Not a bad bargain, I would say. To the American, of course, Volkswagens are visible so he can see the results of U.S. import business. He cannot see the vast number of American products in the homes and shops of Germany which result from U.S. exports.

Impressive though they are, I don't believe these facts are the most powerful argument for free international competition. There are others, stronger and more persuasive.

Except for the presence of the imported automobile in the American market, there would be no small domestic car for sale today. Expect for imports, there would be no Pinto, no Gremlin, no Vega. Except for imports, the American car buyer would have no choice except to buy a larger and more expensive car.

Thus imports have helped all car buyers—not merely those who buy imported cars. The man who buys a Pinto has been helped by the presence of Volkswagen and Opel. But even more than that, the man who buys a Chevrolet, a Buick or, indeed, even a Cadillac, has benefited from the price and design competition of the imported car.

The competition has helped keep automobile prices from increasing to the same degree as other items. Indeed, the automobile buyer can buy a domestic car today for about the same price he was paying ten

years ago. The cheapest American Motors car in 1959 cost \$1,835, today it is \$1,899. The cheapest Ford in 1959 had a price tag of \$2,132, today it is \$1,919. The cheapest Chevrolet in 1959 had a retail price of \$2,160, today it is \$2,091.

How did this price stability happen in a period of generally rising prices? Much of the credit must be given to the strong price competition provided by imports. The domestic companies were forced to stay competitive and they did. And the American public gets the benefit.

The President has asked that "a broad survey of the competitiveness of particular industries" be conducted by this Commission. Volkswagen, as the largest automobile producer outside the United States and a company that faces strong American competition in virtually every country, can say emphatically that the American industry does compete. It is the toughest competition we face, not only here but in most countries of the world. The American-owned companies in Germany, for example, have been increasing their share of the market for the past ten years. Opel, the General Motors Company, had 20% of the German new-car market for the first half of this year. Volkswagen had 22%.

Americans are competitive, but as always, competition is needed to bring out these competitive skills. And here in the United States, prior to the import successes, the industry had ignored the low-price end of the new-car market. Three of the four American companies now realize that the low-price end of the market is the fastest growing segment and they are now in it, with new products highly competitive in design and price.

Prior to this year, however, the four American companies had been producing vehicles larger and more expensive than many in the car-buying public wanted. They were so alike in concept, in engineering and in appearance that they could hardly be identified by make. The consumer who wanted something different in appearance, in size and in price, was forced to turn to imports where the variety of designs, engines, sizes and styling was nearly as broad as the oceans these cars cross to get here. And that import competition forced the domestics to innovate. Some innovations domestics have adopted are torsion-bar suspension, bucket seats, four-on-the-floor, disc brakes, sun roofs, heated back windows and overhead camshafts, as well as the basic overall small-car concept itself.

In the statements before this Commission, there have been many references to the unfair competition of low-wage labor. We hear that sometimes in the automobile industry. But labor is only one of the costs of production. Robert Stevenson, head of Ford International, stated recently that the cost of labor is no longer important. Here is what he said:

"U.S. hourly wages are often double those of other countries, but this is no longer as important as it used to be, inasmuch as labor costs have a lesser bearing on the cost of a vehicle. There are no more than 9 or 10 hours of manual labor left in the assembly of an automobile. If you add up all the elements of a car, from tires to engine, glass, seats, etc. (without counting raw material), the total number of working hours embodied in a car is between 65 and 70. Hourly wages don't make the difference any more between manufacturers in different countries. The difference lies in techniques and in production volume."

The cost of a product includes labor, raw material, energy costs, land costs and distribution costs. Some countries, like the U.S., have low raw material costs, low energy costs, low land costs and, thanks to continental markets, low distribution costs. The United States has the highest hourly labor

costs in the world. In countries with much lower wages, the other costs in the product are usually much higher than ours. In certain nations, the only natural resource they have is low-cost labor.

The only way some countries can get enough volume to compete with American mass production is by exporting. Volkswagen, for example, could not produce as competitively if its volume was restricted to what it could sell in Germany. The sheer size of the American mass market gives our domestic industries a major advantage because it provides the volume base that lowers unit costs.

We, at Volkswagen, know from our own experience that low wages alone do not mean lower costs or lower prices. We produce cars in Brazil and in Mexico. In Brazil virtually 100% of the Volkswagen is made locally, in Mexico it is about 65%. In each case, the wage rate is lower than the wages paid in our German factories. But if we were to buy these cars from Mexico or Brazil and ship them here, the cost would be greater than for those cars built in Europe. The reason: higher unit costs resulting from less automation and less productivity.

We hear increasingly of quotas, voluntary and otherwise; of market-sharing arrangements so industries can be comfortable, content with a certain share of the pie. This is so opposite to the American concept of free competition that I am amazed to hear it from free enterprisers. That is the old, 19th century cartel system all over again. I thought we had long ago made that illegal and had demonstrated that it was not in the best interests of the consumer.

The U.S. auto industry has never asked for such a comfortable arrangement. American manufacturers are too international and too competitive for that. The Detroit companies are the major producers of most of the automobiles of the Free World. The entire American automotive industry which includes suppliers of automotive parts and accessories, enjoys a very healthy export business. According to the U.S. Chamber of Commerce, exports of American automotive products were \$4.1 billion in 1969, a 120% increase over 1965.

Although the American domestic auto industry's share of total world production has dropped from 75% to 35% since 1955, our industry is still, by far, the major producer of the world's automobiles because it produces in many countries.

In West Germany, where Volkswagen competes with them, the American companies own two of the top four auto producers and rank second and third in sales, making Volkswagen's life anything but comfortable.

In England, American companies own three of the top four auto producers and rank second, third and fourth in sales.

In France, they own one of the top four. In Australia, they own three of the top four and in Argentina, South Africa, Mexico and Canada, Americans own substantial parts of the industry.

So it is clear that Americans do compete, and most vigorously, in the world market place—Volkswagen knows that very well. But if a wall is built around this country, a quota wall or a tariff wall, American industry will no longer be forced to compete and it will soon lose its ability to compete. America cannot afford to lose its competitive edge—an edge that stays sharp only when it is used.

We Americans are the most successful trading nation in the world even though exports total only 4% of our Gross National Product. This percentage must go up if we are to continue to prosper. It will not go up if we withdraw. International trade now provides jobs for over 4 million Americans. We must not jeopardize these jobs. We must increase them.

But we must not protect our domestic in-

dustries so that they forget how to compete. In the coming years, we will increasingly need world trade to maintain our high standard of living. World trade is growing at a faster rate than U.S. domestic trade. If we don't remain competitive, the markets of the world will soon be taken over by those nations that do.

To be sure there are, and will be, producers and workers who are hurt by competition, domestic and imported. But that has always been the case as certain factories and certain companies fail to keep up with progress. New England textile workers were dislocated by the move of the industry south, but nobody tried to stop the move by law. The Government should put its effort into assisting those workers who are hurt by competition, not in penalizing the public by quotas or tariff walls which raise prices to all.

Volkswagen has prospered in the free competitive markets of the world. So have American companies and companies from many other nations. World trade is not merely dividing up a fixed amount of pie. It is a process that increases the size of the pie by providing consumers greater values at lower prices. We urge the Tariff Commission to do all it can to enable this enlarging process to continue in the years ahead.

On behalf of Volkswagen of America and Volkswagenwerk, I thank the Commission for this opportunity to state our company position on this most critical question, the Competitive Position of U.S. Industries.

#### TRANS-ALASKA PIPELINE

Mr. JACKSON. Mr. President, last month the Seattle Times published an article by Stanton H. Patty describing an interesting exchange of correspondence between the Senator from Alaska (Mr. GRAVEL) and members of the sixth grade at the Rushmore School in Dayton, Ohio. The subject of this exchange is the controversial trans-Alaska pipeline. I believe that Members of Congress will be interested in this correspondence, so I ask unanimous consent that the article be printed in the RECORD.

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

#### BUSY SENATOR TAKES TIME TO EASE FEARS OF CHILDREN IN OHIO

Many Alaskans are angry over what they consider to be "interference" by outsiders in the trans-Alaska pipeline controversy. They feel that this "interference" has helped delay the start of the Alyeska pipeline from the North Slope.

But, like it or not, the pipeline is a national issue. It is news.

The sad thing is that many pipeline opponents know little about Alaska, the deep affection Alaskans have for their state, their determination to protect it from ruin, the social and economic needs of Alaska's natives, the nation's crucial need for Alaska oil and natural gas.

Perhaps the emotion-laced controversy was put in focus recently by the correspondence of a United States senator from Alaska and sixth-graders at the Rushmore School in Dayton, Ohio.

The pupils voted unanimously against construction of the pipeline. Then they wrote their views individually to Senator Mike Gravel.

There was genuine concern in the sixth-graders' letters. But it was evident they had not heard Alaska's side of the story. Neither did they appear to be informed on the unprecedented environmental-protection measures already undertaken in Alaska by the petroleum industry or America's oil pinch brought on by troubles in the Middle East.

## Samples:

Camilla Miller—"I don't think this should be done. This would destroy Alaska's wilderness and ruin the landscape. . ."

Cathy English—"If the United States can afford the war it can afford to buy oil from other countries. . ."

Tammy Nicholson—"I don't think it should be built because of all the things you would ruin and all the animals you would kill. . ."

Eric Naul—"If it breaks, half of Alaska will be destroyed. . ."

Jane Lee—"Alaska's beautiful wilderness might be destroyed. And it could not be replaced at any cost. . ."

Teresa Fryman—"There are 31 children in our class and we all voted no. So did our teacher. . ."

A Senator receives a lot of mail. Mike Gravel could have tossed the youngsters' letters in the wastebasket. But he didn't. He took time to reply to that class in Ohio. This is what he wrote:

"The problems arising from the proposal to construct a large diameter pipeline across Alaska are serious, as you noted in your letter. The problems affect Alaska's wilderness and affect Alaska's people.

"I have never met a fellow-Alaskan who does not love our great land as much as I do. We Alaskans have been in the eye of the storm that has been brewing over the pipeline issue. A heated pipeline across hundreds of miles of permafrost demands an entire new standard of construction techniques. . . not necessarily unattainable.

"On the other hand, Americans in affluent areas of the United States have no idea of the dimensions of rural poverty and living hardships that Alaskans must pay to live in the land they love.

"This land is intimate to their survival, their livelihood and their happiness. It gives them food, water and freedom. It yields minerals, fish and furs—but not much, not enough for them (all) to have television, telephones and stores.

"Justice will be found somewhere between the feeling you get when you hear a hungry native child cry and the call of a wild wolf. Justice will be found somewhere between the benefits which will accrue to Alaskans from oil royalties and between the fear of spoiling the Alaskan environment.

"Let me assure you that we will not be so hasty as to destroy our environment; nor will we be shortsighted enough to deter an orderly development of our few resources.

"Thank you for writing. I am sure that someday you will be fortunate enough to visit Alaska. When you do, I am just as sure that it will still be the greatest land in America. And I hope that when you do, Alaskans will be enjoying the amenities that are taken so much for granted elsewhere."

Gravel's calm and balanced reply deserves a "Bravo" from all concerned.

And it might be interesting to see the results of another vote now in that sixth-grade class at the Rushmore School

#### A FARMWORKER DIES OF HEART FAILURE DUE TO MALNUTRITION

Mr. MONDALE. Mr. President, I did not know Jose Garcia personally. He was a citizen of Mexico who resided in the city of Mercedes in the Rio Grande Valley of Texas. He was a farmworker.

I do know, however, that the plight of the migrant and seasonal farmworker in this country is a well-documented national tragedy.

Additional documentation, for those still in doubt, is an official State of Texas certificate of death recorded in Hidalgo County, Tex., that shows that Mr. Garcia

died on September 20, 1970, of heart failure due to malnutrition. A letter to me from an attorney in Texas confirmed that there was insufficient food in the house for Mr. Garcia, his 55-year-old widow, and his children.

I do know also, Mr. President, that the moral conscience of the Nation must be continually awakened to the tragedy of the farmworker. If we continue to ignore this tragedy, if we do not act on our commitment to make the American dream work, there will be a great price to pay. We cannot continue to obfuscate the problem and not place the blame where it belongs. Farmworkers and others, are needlessly dying of malnutrition in the United States of America in 1970.

I ask unanimous consent that a copy of the certificate of death be printed in the RECORD.

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

#### STATE OF TEXAS—CERTIFICATE OF DEATH

1. Place of death:
  - a. County: Hidalgo.
  - b. City or town (if outside city limits, give precinct no.): Weslaco.
  - c. Length of stay in 1 b.: DOA.
  - d. Name of (if not hospital, give street address) hospital or institution: Knapp Memorial Methodist Hosp.
  - e. Is place of death inside city limits? Yes.
2. Usual residence (where deceased lived. If institution: residence before admission):
  - a. State: Texas.
  - b. County: Hidalgo.
  - c. City or town (if outside city limits, give precinct no.): Mercedes.
  - d. Street address (if rural, give location): Rt. 2, Box 175-P.
  - e. Is residence inside city limits? No.
  - f. Is residence on a farm? Yes.
3. Name of deceased (type or print):
  - (a) First: Joe.
  - (c) Last: Garcia.
4. Date of death: September 20, 1970.
5. Sex: Male.
6. Color or race: White.
7. Married.
8. Date of birth: Aug. 11, 1901.
9. Age (in years last birthday): 69.
- 10a. Usual occupation (give kind of work done during most of working life, even if retired): Laborer.
- 10b. Kind of business or industry: Agriculture.
11. Birthplace (State or foreign country): Mexico.
12. Citizen of what country? Mexico.
13. Father's name: Luis Garcia.
14. Mother's maiden name: Jesusa Guerrero.
15. Was deceased ever in U.S. Armed Forces? No.
16. Social Security No.: xxx-xx-xxxx.
17. Informant: Amalia Garcia.
18. Cause of death [enter only one cause per line for (a), (b), and (c).]
  - Part 1. Death was caused by:
    - Immediate cause: (a): Heart failure.
    - Conditions, if any, which gave rise to above cause (a), stating the underlying cause last: Due to (b): Malnutrition.
  19. Was an autopsy performed? No.
  21. I hereby certify that I attended the deceased from July, 1969 to Sept. 1970 and last saw the deceased alive on Sept. 20, 1970. Death occurred at 9:10 p.m. on the date stated above, and to the best of my knowledge, from the causes stated.
  - 22a. Signature: G. Caballero, M.D.
  - 22b. Address: Mercedes, Tex.
  - 22c. Date signed: Sept. 21, 1970.

23a. Burial, cremation, removal (specify): Burial.

23b. Date: Sept. 21, 1970.

23c. Name of Cemetery or crematory: Catholic Cemetery.

23d. Location: Mercedes, Texas.

24. Funeral director's signature: George A. Garcia 6322.

25a. Registrar's file no: 5772.

25b. Date rec'd by local registrar: 9-23-70.

25c. Registrar's signature:

MABEL E. FISTER, Registrar.

VULLA ZUNEZA,

By: Texas Department of Health,  
Bureau of Vital Statistics.

#### FRED FRAY

Mr. CANNON. Mr. President, an old friend of mine and longtime close friend to the Senate has passed away. I speak of Fred Fray, whom every Senator knew, who was noted for his long and devoted service as the Senate's Chief Doorkeeper. Fred died while we were in adjournment last month, and his absence from the Senate floor will be felt for some time by his friends on Capitol Hill.

He was a great contributor to the welfare and progress of the State of Nevada as well as a special fixture here in the Senate. Fred was involved in labor reform, business, and city government before he joined the staff of the senior Senator from Nevada, ALAN BIBLE, 13 years ago. Fred was also an active campaigner. He was preparing to return to Nevada to work for the Democratic candidates just before he suffered a heart attack.

It was with a sense of great loss that those of us who knew him and were closely associated with him, who liked him, who valued his friendship, felt when we received the news. Fred Fray was a very good official of the Senate. He served us with courtesy, grace, and dignity. I know that he will be missed by all Members of the Senate. I join my colleagues Senators MANSFIELD and BIBLE in extending the sympathy of the Senate to Fred's two sons, Richard, and Fred, Jr.

#### THE LITHUANIAN DEFECTOR

Mr. GURNEY. Mr. President, in his war memoirs, Winston Churchill recounted an anecdote from the period immediately following the fall of France in 1940 which bears retelling.

There was a grave concern in 1940 that the French Fleet based at Toulon in the Mediterranean would fall into the hands of the Nazis. The United Kingdom was not of course at war with the Vichy Government of General Pétain but everybody realized, I think, that Pétain and Laval were Nazi puppets. The British, then alone in the war with Germany, hoped to neutralize the French Fleet and keep it out of German hands. The issue came to a head when, without warning, several French capital ships set sail for Gibraltar.

The admiral commanding the British squadron at Gibraltar cabled the Admiralty for instructions: Should he allow the ships to pass through Gibraltar and possibly fall into German hands or should he intercept them? If they resisted, should he fire on them?

The cable was never answered by the Admiralty and the British commander allowed the ships to steam through Gibraltar unmolested.

When the inevitable storm of criticism broke out in Parliament, the British commander defended himself on the grounds that he had asked for instructions and they had not come.

The British commander was summarily removed from his command with the cryptic statement from the Admiralty that a British commander in the field who could not, on his own initiative, decide that that squadron of French ships presumptively on their way to the enemy should be intercepted did not deserve to retain a position of responsibility in the British Navy.

This incident comes to mind when we consider last week's events off Martha's Vineyard.

A Lithuanian sailor on a Soviet craft identified as Simas had told crew members of the American Coast Guard ship *Vigilant* of his desire to defect. He did just that: He jumped on board the *Vigilant* while it was moored at Martha's Vineyard. And here the story becomes confused: After several hours of discussion with the officers of the Soviet vessel our Coast Guard apparently allowed the defector to be pulled kicking and screaming back to the Soviet vessel.

The article in today's Times says the means of escape was crucial:

The admiral also said the sailor had reduced his chances of receiving sanctuary by leaping from the Soviet ship directly onto the Coast Guard cutter rather than into the water as he had originally indicated he would. The commandant said there were standing arrangements and there would have been little question of providing sanctuary if the man had been rescued from the water.

Under the circumstances, the admiral said, the commander of the first Coast Guard District felt that it was reasonable and proper that we not permit our ship to be used as a means of defection and that the man should be returned.

He said Rear Adm. W. B. Ellis, the District commander, had made the decision on his own authority without specific instructions or guidance from the State Department.

The role of the State Department in this incident is also unclear. The Times story resumes:

The State Department spokesman, Robert J. McCloskey, said that if the Department had been fully informed of the circumstances, "the incident would have developed differently."

"He said the department's Soviet desk received three calls from the Coast Guard on Monday—one saying it had a 'potential defection case,' a second saying that the defection had not materialized, and a third reporting that the case had been resolved by the return of the seaman to his vessel."

In answer to the first call, Mr. McCloskey said, an officer on the Soviet desk advised the Coast Guard that "we would not want to encourage defection and that a provocation might be involved." Mr. McCloskey noted that the United States had been embarrassed in the past by apparent defectors who later decided to return.

The spokesman conceded that the standing instructions for receiving would-be defectors were vague, particularly in cases at sea. As a general rule, he said, any United States official approached by a potential defector is instructed to check with higher authority.

Mr. President, while the Coast Guard and especially the commander of the Coast Guard vessel may well argue that there were unclear orders and vague policy guidelines, I have to say that what was done here leaves a great deal to be desired at the least and was totally unacceptable at most. One would not think that a commander of an American vessel would need to seek specific instructions in a case like this. One would expect him to act on the spot on his own initiative to grant asylum without consultation with the Soviet ship's officers, the local Coast Guard District, or the Department of State.

Moreover, it is inconceivable and unacceptable for a U.S. Coast Guard vessel, an auxiliary naval vessel if you will, to permit Communist sailors to roam and search his vessel at will. This was indeed a sad day in the history of the U.S. Coast Guard.

Mr. President, I applaud the decision of President Nixon to require a full report of this tragic incident. It is too late to help this unfortunate Lithuanian sailor, but hopefully out of this incident will come some general policy guidelines for future incidents of this sort.

#### OIL POLICIES AND THE PUBLIC INTEREST

Mr. HANSEN. Mr. President, the fashionable thing for Federal officials to do these days is to be involved in an energy study aimed at the issuance of an energy report that is designed to solve the Nation's energy crisis.

On the basis of the plethora of energy studies that are currently in progress in the executive offices, departments, and agencies, and in the various committees of the Congress, it can be safely stated that if governmental reports discovered and produced oil and gas, the shortage of energy fuels projected for the 1970's would quickly vanish. Unfortunately, the solution to the problem of meeting our energy fuels requirements is not that simple. Adequate supplies of energy fuels cannot be decreed by governmental edict; there is no spigot that can be turned on and off by the governmental regulator to meet our energy requirements.

This is not to suggest, however, that the numerous studies of the Nation's energy picture must necessarily be empty or meaningless undertakings. The truth of the matter is that if these studies result in recommendations leading to the adoption of governmental policies that are more conducive to the investment and risk-taking necessary to the finding of new supplies of energy fuels, then these studies will have well served a compelling public interest. The prospect that more enlightened policies would encourage the search for new fuel supplies is particularly credible in the case of oil and gas.

It cannot be gainsaid that to a major extent past and present policies of the Federal Government affecting petroleum have led to the already existing natural gas shortage and to the threatened shortage of oil. Federal authorities have imposed on the petroleum industry

a regulatory climate that ignores economic reality. Federal officials have chosen to disregard or disbelieve the factual representations offered for the public record by petroleum industry spokesmen on issues affecting the industry. Last year tax policies were adopted that sharply increased the tax burden of the petroleum industry although the industry was already paying more than its fair share in taxes. Because of the 3-to-10-year timespan that is essentially involved in finding a new oil or gas field and then developing that field to the production stage, the past is prologue with respect to petroleum supplies in the sense that past governmental policies directly affect the present and future availability of adequate supplies.

Mr. President, even the severest critics of the incentives designed to encourage the search for oil and gas acknowledge the importance of petroleum to our national security and to our economic progress. It is generally conceded that America's military strength must be based on preeminent industrial capacity. It is recognized that petroleum supplies almost 75 percent of our Nation's energy requirements and that high energy consumption is an integral factor in the United States having the highest per capita income of any nation in the world. These considerations involving the importance of a healthy domestic petroleum industry make the current conditions to be found in the industry a matter of serious concern to every citizen.

Recent studies issued by the Chase Manhattan Bank and by the First National City Bank clearly indicate the difficulties facing the petroleum industry in raising capital to finance the expansion necessary to meet the petroleum demand projected for the decade of the 1970's.

The Chase Manhattan Bank study entitled the "1969 Annual Financial Analysis of a Group of Petroleum Companies" is based on data of 27 petroleum companies. This study notes that the free world's accumulated petroleum needs in the 1970's are expected to exceed 200 billion barrels—more than twice as much as in the 1960's. This growth in demand will need to be more than matched by progressively higher capital and exploration expenditures. During the 1960's the industry spent nearly \$150 billion to discover, produce, and deliver petroleum products to markets. It is estimated that more than \$300 billion will be required for these purposes during the 1970's. The statistics contained in the Chase study do not provide much assurance that these vast capital sums will be available. For example, the study shows that despite a 7.9-percent increase in revenues by the group in 1969 and 1968, net income fell 1.6 percent. On domestic operations the rate of return declined from 12.2 percent in 1968 to 11.0 percent in 1969, and this rate of return was significantly below the average return of 11.7 percent reported for all manufacturing companies. The report also indicated a decided shift in the group's sources of capital funds. In 1959 cash earnings represented 91.3 percent of the source of funds; the comparable figure for 1969 was 76.4.

The First National City Bank's Energy Memo for July 1970 covers data from 37 oil companies. The results of the First National study compare closely with the Chase study. The First National data indicate that even with an increase in gross revenues from \$66.1 billion in 1968 to \$71.5 billion in 1969, net profits remained the same—\$6.2 billion. The study revealed that capital outlays, despite inflation and increased costs, remained almost the same in 1969 as in 1968—\$11.3 billion and \$11.2 billion respectively.

Mr. President, a recent major development in governmental policy that adversely affected the oil and gas industry was the enactment of the Tax Reform Act of 1969. Among other detrimental tax changes included in the legislation were a substantial reduction in percentage depletion as an incentive to search for oil and gas, the imposition of a minimum tax on certain items of so-called preference income, and the repeal of the investment credit. The combined impact of these tax changes has the effect of creating a major increase in the tax burden borne by the petroleum industry.

To ascertain the magnitude of this increased tax burden, a group of 38 petroleum companies under the auspices of the tax committees of the American Petroleum Institute and the Mid-Continent Oil & Gas Association submitted data to Price Waterhouse & Co. to measure the impact certain changes in the Tax Reform Act of 1969 would have had if the changes had been applicable to the calendar year 1968. The changes dealt with related to the reduction in percentage depletion, the tax treatment of sales of production payments, the minimum tax provisions applicable to certain preference income, and the repeal of the investment credit.

The group participating in the study produced nearly 2.2 billion barrels of crude oil and natural gas liquids within the United States in 1968, or 56 percent of the total U.S. production. The results of the analysis by Price Waterhouse & Co. indicate the following effects:

**Percentage Depletion**—If the 1969 Act had been in effect with respect to calendar year 1968, the depletion loss sustained by the 38 reporting companies from the reduction in the statutory rate and the change in the tax treatment of production payments would have been \$419.5 million. This loss of depletion would have produced a tax increase of \$201.4 million. The effective rate of percentage depletion would have been reduced from 26.16 percent to 20.73 percent for the 38 companies.

**Minimum Tax**—The application of the minimum tax provisions of the 1969 Act to 1968 data produced additional tax of \$92.1 million, of which \$84.5 million was attributable to the inclusion of percentage depletion as a preference item. Therefore, the minimum tax would have the effect of further reducing the effective depletion rate for the group by 2.22 percentage points to an effective rate of 18.51 percent.

**Investment Credit**—The average annual amount of the investment credit which was allowable in the years 1962-68 for the 38 companies was \$118 million.

Therefore, if the 1969 act had been applicable to calendar year 1968, the total tax effect of the foregoing enumerated three items would have represented an

additional annual tax cost to the 38 companies of \$411.5 million.

The imputed total effect on the petroleum industry based upon the 1968 data furnished by the 38 companies is as follows: The tax cost to the industry of the depletion and production payment provisions is \$341.6 million. The tax cost of the minimum tax is \$156.3 million. The tax cost of the repeal of the investment credit is about \$160 million. The total imputed industry effect for the depletion, production payment, minimum tax, and investment credit provisions is approximately \$658 million. These data showing the total industry tax cost on the basis of the 38-company data have been derived by grossing up from the 56 percent of production covered in the survey to 95 percent of U.S. production on the assumption that perhaps 5 percent of production is owned by governmental or other nontaxable entities.

Mr. President, I would emphasize again the fact that these tax impact figures are based on an application of certain provisions of the Tax Reform Act of 1969 to 1968 tax returns. The study was made for the purpose of obtaining promptly some measure of the effect of the 1969 act on the petroleum industry. Similar data applicable to taxable year 1969 is not now available but it can be said that to the extent that production in the latter year is higher or that prices for crude oil and natural gas are higher, the tax cost of the depletion and production payment changes will be greater in 1969. Likewise, if the pattern of industry growth and capital expenditures continues as it has in the past, the cost of the repeal of the investment credit, when fully effective, will be appreciably greater than the average for the years 1962-68 reflected in the survey.

Mr. President, as a part of my remarks I will include a copy of the Price Waterhouse survey which consists of, first, a transmittal letter addressed to the tax committees' memberships of the American Petroleum Institute and the Mid-Continent Oil and Gas Association; second, a table of summary data compiled by Price Waterhouse & Co.; third, notes to the table of summary data; and fourth, a list of the 38 companies participating in the survey.

Mr. President, the energy crisis of today was created in substantial part by the uninformed or hostile governmental policies of the past. As we seek now to formulate the policies that will affect the future, it behooves us to avoid repeating our past mistakes. America's energy capacity is the key to its productivity. Without an adequate supply of energy fuels our Nation's economic progress will be no more. On the basis of fact and experience two propositions are incontrovertible: First, a strong domestic oil and gas industry is essential to our security and advancement. Second, to achieve a strong domestic industry, it is imperative that governmental policies recognize and reflect economic realities.

Mr. President, I ask unanimous consent that the Price Waterhouse survey be printed in the Record.

There being no objection, the survey

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

PRICE WATERHOUSE & Co.,

Houston, Tex., May 27, 1970.

To members of API Corporate Tax Committee and Mid-Continent Oil & Gas Association, Executive Tax Committee:

In accordance with your instructions, we have prepared the accompanying statement of summary data from information furnished directly to us on a confidential basis by the 38 companies listed in Appendix A. The information furnished by each company, which was based upon the tax return year 1968, was prepared on the basis of instructions issued by you, and has been summarized in conformity with those instructions.

Since we have not made any audit tests or other verification of the information submitted to us, we are unable to express an opinion on the information presented.

Yours very truly,

PRICE WATERHOUSE & Co.

Summary data for 38 companies listed in appendix A<sup>1</sup>

NET U.S. PRODUCTION OF COMPANIES INCLUDED IN SURVEY		Tax return year 1968 (in thousands)
Oil and natural gas liquids (barrels) .....		2,173,148
Natural gas (MCF) .....		10,867,945
EFFECT OF CERTAIN ASPECTS OF THE TAX REFORM ACT OF 1969		
Gross income for depletion—U.S. production only:		
Actual per returns .....		\$7,891,216
Revised to eliminate the effect of current and prior years carved-out production payments .....		\$7,935,507
Increase in depletable income .....		\$44,291
Allowable depletion—U.S. production only:		
Actual per returns .....		\$2,064,307
At new rates and adjusted to eliminate the effect of current and prior years current carved-out production payments .....		\$1,644,779
Reduction in allowable depletion .....		\$419,528
Additional U.S. tax from reduction of Foreign Tax Credit attributable to foreign mineral income .....		\$785
Minimum tax for tax preferences:		
Items of tax preference:		
Allowable U.S. and applicable foreign depletion in excess of adjusted basis .....		\$1,497,621
Other .....		\$135,359
Total items of tax preference .....		\$1,632,980
Deductions for regular U.S. income tax (\$710,341,000) and effect of statutory exclusion of \$30,000 per company <sup>2</sup> .....		
Amount for minimum tax for tax preferences .....		\$711,601
Minimum tax for tax preferences .....		\$921,379
Minimum tax for tax preferences .....		\$92,142
Average allowable investment tax credit per year for years 1962 through 1968 .....		\$117,976

<sup>1</sup> To maximize coverage of the total petroleum industry, the instructions requested that each participant submit combined information for the group with which it is

*Companies included in summary data for  
38 companies*

American Petrofina, Incorporated.  
 Apco Oil Corporation.  
 Ashland Oil & Refining.  
 Atlantic Richfield Company (includes Sinclair Oil Corporation).  
 Cities Service Company.  
 Continental Oil Company.  
 El Paso Natural Gas Company.  
 Freeport Sulphur Company.  
 General American Oil Company of Texas.  
 General Crude Oil Company.  
 Getty Oil Company (excludes Skelly Oil Company which is reported separately).  
 Gulf Oil Corporation.  
 Hunt Oil Company, et al.  
 Kerr-McGee Corporation.  
 Kewanee Oil Company.  
 Marathon Oil Company.  
 Mobil Oil Corporation.  
 Monsanto Company.  
 Murphy Oil Corporation.  
 Pennzoil United, Inc.  
 Phillips Petroleum Company.  
 Quintana Petroleum Corporation.  
 Shell Oil Company.  
 Signal Oil and Gas Company.  
 Skelly Oil Company.  
 Southern Natural Gas Company.  
 Standard Oil Company of California.  
 Standard Oil Company (Indiana).  
 Standard Oil Company (New Jersey).  
 The Standard Oil Company (Ohio).  
 Sun Oil Company.  
 Sunray DX Oil Company.  
 The Superior Oil Company.  
 Tenneco, Inc.  
 Texaco, Inc.  
 Texas Eastern Transmission Corporation.  
 Texas Pacific Oil Company, Inc.  
 Union Oil Company of California.

### INTEGRATED EDUCATION—NORTH AND WEST SCHOOL SYSTEMS

Mr. MONDALE. Mr. President, efforts on the part of local school districts throughout the country to establish quality integrated schools have produced many notable success stories. All too often, however, publicity is given to those which are sometimes fueled with emotionalism and articulated through the use of code words like "busing" and "neighborhood schools," rather than to the progress toward quality integrated education that has been made in many areas.

President Nixon has proposed that the Federal Government spend \$1.5 billion over the next 2 years primarily to aid school districts which are compelled under title VI of the Civil Rights Act of 1964 or under court order to desegregate their school districts. I believe it is important to assist the desegregation process. I also believe, however, that if the

affiliated even though some or all the individual or corporate taxpayers in that group file separate federal income tax returns. Some participants that are not generally referred to as integrated oil companies reported information only for their oil and gas operations.

<sup>2</sup> Participants were instructed to report regular income tax (\$710,341,000 deducted from items of tax preference) based upon the 1968 U.S. tax for all foreign and domestic operations, recalculated under Tax Reform Act changes, including: Section 901(e), the use of a 48% rate for ordinary income and a 30% rate for capital gains, without reduction for Investment Tax Credit, without surcharge, and without any net operating loss deduction.

Federal Government is to spend \$1.5 billion it should do so as part of a declared national policy commitment to quality integrated education, whether that be achieved as a result of enforcement of the 14th amendment or voluntarily. I think this money should be used as an incentive to aid the establishment of integrated schools which provide quality education throughout the country—North, South, East, and West. Congress should revise the administration's emergency desegregation bill so that school districts will be helped to establish and maintain quality integrated schools within their districts and integrated educational parks which can draw students from a number of school districts within a metropolitan area. In this way, we can demonstrate to each community not only that quality integrated education works, but that it can be the best means of achieving equal educational opportunity for all our school children, be they white, black, Spanish speaking, Indian, advantaged, or disadvantaged.

Mr. President, one of the most thoughtful, thorough and comprehensive reports on the efforts of Northern and Western school systems to achieve quality integrated education was recently contained in the Minneapolis Tribune in a series of seven articles by Richard P. Kleeman. Mr. Kleeman visited 10 school systems in six States: Pasadena, Berkeley, and Riverside, Calif.; South Holland and Evanston, Ill.; Ferndale and Pontiac, Mich.; Union Township, N.J.; Denver, Colo.; and Gary, Ind. These 10 communities have not all yet succeeded in their efforts to achieve quality integrated education. But those that have, such as Evanston, Berkeley, and Riverside, have been successful because, as an editorial in the Minneapolis Tribune following Mr. Kleeman's series points out, "Leadership is the key to progress." I would only add to that observation, by quoting from two California citizens mentioned in Mr. Kleeman's articles:

Mrs. Louise Parker, a school bus driver in Berkeley:

The kids? They do fine on the bus. They play and have fun. It's just the adults that don't like it—I think it's the idea of something new. But what we really should worry about is whether our kids are getting a better education.

And Dr. Joseph Engholm, a member of the Pasadena School Board:

We just haven't learned to live together, and there's only one way we're going to learn—by starting our children out together in pre-school and kindergarten.

Mr. President, I ask unanimous consent that a series of seven articles entitled "Schools and Race: Dilemma Outside Dixie," published in the Minneapolis Tribune from October 25 through 31, 1970, and an editorial entitled "The Future for Integrated Education," published in the Minneapolis Tribune of November 3, 1970, be printed in the RECORD.

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

#### SOME SCHOOLS MOVE, OTHERS DIG IN

(By Richard P. Kleeman)

She waited until the last of the 30 youngsters, most of them white, had been safely deposited on their home corners.

Then, as she guided the big yellow school bus down the hilly streets of Berkeley, Calif., to pick up another load, Mrs. Louise Parker—black, miniskirted and well-spoken—talked over her shoulder:

"The kids? They do fine on the bus. They play and have fun. It's just the adults that don't like it—I think it's the idea of something new. But what we really should worry about is whether our kids are getting better education."

Four hundred miles to the south, Dr. Joseph Engholm, 68, Iowa-born dentist and a lifelong Republican—who narrowly survived a recall election intended to remove him from the Pasadena school board—told a visitor:

"When I ran for the board in 1965, I definitely felt there were other ways of integrating—that changing housing patterns was the way to do it, without additional busing."

"I was wrong.  
 "We just haven't learned to live together, and there's only one way we're going to learn—by starting our children out together in preschool and kindergarten."

In a tiny, overheated office at the Evanston, Ill., Human Relations Commission, Ben Williams, its 34-year-old, Afro-wearing secretary, spoke out:

"Integration means nothing to me—I see no model for it. Blacks want to talk about blackness, and integration implies a kind of grayness."

"We don't talk about integration now—we just talk about being educated. I don't care who my kid sits next to in school—I just want to know, is he getting the tools that will allow him to negotiate his way in this society?"

These are some of the voices a reporter hears as he crosses the country looking into the vexing problem of racial imbalance and isolation in schools outside the desegregating South. There is yet another kind of voice:

"I believe firmly that forced racial balance is immoral, that it won't work and that it is at heart a racist philosophy to assume that a black school must be bad because it's black."

Henry Marcheschi, the self-made industrialist who led the effort to unseat the pro-integration majority on the Pasadena school board, went on:

"The real need—and the only answer—is to address ourselves not to cultural deficiencies but to cultural differences, to find an education that's relevant to them and capitalize on them—and to get the minority more involved in educating their own children."

Thus a growing national dilemma becomes a bit more sharply defined: Once we have done away with the South's separate-by-law (de jure) black and white schools, how are we to deal with the separate-by-neighborhood (de facto) degregated schools of the North and West?

It's a question haunting Seattle and Harrisburg and Gary and, of course Minneapolis and St. Paul. It seems to be one that stumps New York and Chicago and Los Angeles and Washington, D.C.

"Why do you call it de facto segregation? What makes you think there is such a thing?" a one-time Chicago federal prosecutor asked.

#### SOME CLAIM ALL SEGREGATION IS DE JURE

True, a federal civil rights official in Washington—a holdover from the previous administration—calls de facto segregation "sheer myth—wherever it exists it can be traced to some official action at some time in the past."

But his official boss, Secretary Elliot Richardson of the Department of Health, Education and Welfare (HEW), does not hold to that view. Nor, more significantly, does President Nixon.

In his landmark March 24 statement on school desegregation, the President said:

"In the case of genuine de facto segregation (that is, where housing patterns produce substantially all-Negro or all-white schools and where this racial separation has not been caused by deliberate official action, school authorities are not constitutionally required to take any positive steps to correct the imbalance."

The President went on to say that school officials "may, if they so choose, take steps beyond the constitutional minimums to diminish racial separation."

But Sen. Walter Mondale, D-Minn., chairman of the Senate's Select Committee on Equal Educational Opportunity, bitterly summed up the 10,000 word presidential statement in five words: "Do as little as possible." Mondale later conducted hearings intended to discredit the administration position and to support the concept of "quality integrated education" for both North and South.

In visits to 10 small and medium-sized school systems in a half-dozen states, some were found to be deeply involved and using many creative devices to diminish racial separation. Others are refusing to move until forced to do so.

Some schools have desegregated of their own volition and/or at least as a result of internal pressures—but some have acted under compulsion from the federal government or the courts.

For, despite Mr. Nixon's attempt to dismiss them with a phrase ("Whatever a few lower courts might have held to the contrary..."), a sizable number of courts and federal examiners are not ready to accept the President's espousal of the neighborhood school, or his antagonism to "compulsory busing of pupils beyond normal geographic school zones."

#### JUDGES MAINTAIN PRESSURE FOR INTEGRATION

One of the earliest and most-cited of these rulings was handed down in 1968 by U.S. District Judge Julius J. Hoffman, whose conduct of the Chicago Seven trial aroused such high emotions among some.

Judge Hoffman rejected the claim of the South Holland suburban school district, southwest of Chicago, that its all-black schools resulted from de facto housing segregation, declaring:

"An 'ostensibly neutral' school-attendance zone policy which may be educationally justifiable in circumstances of some school districts is impermissible where it represents a policy by school authorities of building the effects of residential segregation into the school system."

Judge Hoffman's decision was upheld by the 7th U.S. Circuit Court of Appeals and has not been acted upon by the U.S. Supreme Court.

Federal Judge Damon Keith of Detroit, Mich., also turned a deaf ear to the claim of the Pontiac, Mich., school board that its segregation was de facto and therefore the board had no constitutional duty "to undo that which it has not caused."

By its location of new schools, its drawing of school attendance boundaries and its assignment of teachers, the Pontiac board—despite its longstanding declaration of support for racial integration—"assured the progression" of segregated residential patterns instead of "taking affirmative steps to counteract" them, Judge Keith held in February.

"The Pontiac board cannot use the neighborhood school concept as a disguise for the furtherance or perpetuation of racial discrimination when they participated in the segregated policy," the judge ruled in ordering Pontiac to end what he termed de jure segregation. His decision is before the 6th U.S. Circuit Court of Appeals.

In ordering the Pasadena school board to desegregate, just a few weeks before the Pontiac decision, U.S. District Judge Manuel Real skirted the labels "de jure" and "de facto."

#### "INTEGRATION PROVIDES EDUCATIONAL BENEFITS"

He held, in a case prosecuted for the federal government by Minneapolis attorney Charles Quaintance, that "racial integration provides positive educational benefits" in preparing children to live in a multiracial society.

In the Southern California city, he declared, devotion to a neighborhood-school policy resulted in increasing racial imbalance and "the same is true of the policy against crosstown busing."

Judge Real ordered all Pasadena schools to desegregate by September 1970 so that there would be none "with a majority of any minority students."

Some hint of how bitterly these decisions were received in the affected communities can be seen from the fact that South Holland tried unsuccessfully to have Judge Hoffman's ruling overturned, in part because of the judge's allegedly biased conduct of the trial.

A whispering campaign in Pontiac has kept alive stories of the long association of Judge Keith, who is black, with the National Association for the Advancement of Colored People (NAACP), although the judge himself openly called attention to this in opening the trial. In Pasadena, some of Judge Real's critics spread the word that his own children attend parochial schools.

Most recently, in a noncourt ruling that may wind up in federal court, an HEW examiner decided that Ferndale, Mich., must forfeit its federal school aid because 44 years ago the school board established a neighborhood school in all-black Royal Oak township.

Since 1926 the board has kept the school all-black and its faculty largely so. This constitutes de jure segregation in violation of the 1964 Civil Rights Act, according to examiner Horace Robbins.

Last month Robbins charged the Ferndale board with following the "separate but equal" doctrine outlawed by the Supreme Court in its landmark 1954 school desegregation decision. He found "a certain irony" in the fact that a neighborhood school was so steadfastly maintained that it became overcrowded while nearby schools had room to spare.

#### SUPREME COURT MUST SETTLE BASIC ISSUES

If these rulings—and others taking different positions—indicate anything, it is a need for ultimate resolution by the Supreme Court of basic questions like these: Does a child have a constitutional right to attend a neighborhood school? Must there be racial balance in every school—or can some be all-black or all-white if they reflect their neighborhoods? Is crosstown busing legitimate if designed solely to achieve racial balance?

There is hope that at least some of these questions will be resolved by the Supreme Court, which heard three days of arguments earlier this month on six major cases. Although they arose in the South, the cases raise national questions as basic as those ruled upon in the court's original decision of 1954.

Meanwhile, however, some school districts have not waited to desegregate, because the courts or their community consciences would not allow them to wait.

In the latest available figures, now two years old, HEW reported that, of 8.7 million minority students in U.S. elementary and secondary schools, 4.4 million were in 32 Northern and Western states. More than half of these—61 percent—went to schools that in 1968-69 were 50 percent or more minority, and one of every five non-Southern minority

youngsters was in a 99 percent (or more) black school.

From visits to view the success—or lack of it—of desegregation efforts outside the South, a few tentative conclusions emerge:

Desegregation—and the ultimate further step of full racial integration—work best when a community moves on its own volition and least well when imposed on a divided or foot-dragging community.

Wherever desegregation works, a few outstanding individuals, black and white, led the community initially, eventually extending their spirit to the schools and community at large.

Integration is costly, and not merely because of the busing that often accompanies it. Many creative and innovative approaches and devices are being used to successfully integrate schools. In other integrated schools, blacks, whites and browns merely pass through the same portals.

Smaller cities with smaller minority populations have an easier time desegregating. Some cities with vast concentrations of blacks, such as Washington, probably can never desegregate successfully, at least not without involving the white suburbs. There has, however, been some success with dividing medium-sized cities into attendance subzones which can be successfully desegregated.

Blacks have little difficulty in sensing when a school desegregation effort is half-hearted, and black voices are speaking out not only for full equality of education but also for full participation in the decisions that shape it.

#### DID INTEGRATION ZEAL COST A JOB?

(By Richard P. Kleeman)

EVANSTON, ILL.—Gregory Coffin isn't here any more, but you don't talk long about Evanston's school integration without hearing his name.

From 1966 until last spring, Coffin was the superintendent who carried out—although he didn't devise—Evanston's thoroughgoing school desegregation.

The computer-designed plan had been adopted by the school board, just before Coffin arrived, at the urgent recommendation of a biracial citizens' advisory committee.

For all its reputation as a university town and wealthy conservative community of church and institutional headquarters, this North Shore Chicago suburb has a surprisingly mixed population.

It includes a concentrated black community that forms about 12 percent of the school district population of 95,000—but it provides nearly one-quarter of its grade school pupils. (Under Illinois' scheme of overlapping school districts, the system Coffin headed governs only Evanston and Skokie schools from kindergarten through eighth grade.)

But Coffin was fired. First he was given a year's notice, by 4-to-3 school board vote, that his contract would not be renewed.

Then, after a bitterly contested school board election in which three Coffin opponents won in a record voter turnout, the superintendent—brother of Yale's outspoken antiwar chaplain, William Sloane Coffin, Jr.—departed last June.

The questions that nagged this visitor to this aristocratic-looking town of tree-lined streets are: Was Coffin's discharge due to his aggressive pursuit of integration—and has the program suffered since he left?

The first question elicits contradictory answers.

But, after talking with Joe Hill, the sure-footed black who is Coffin's interim replacement and doesn't want the job permanently ("I know when I'm well off"), and after viewing some creative programs Coffin left behind, the visitor must conclude that Evanston's integration effort has not slowed—at least, not yet.

It appears, furthermore, that a militant black community, with a seemingly welcome assist from white liberals, will not tolerate a slowdown without protest.

(Even under the budget cuts he has to make this year, Hill points out, Evanston offers many extras other schools don't have—and will spend a generous \$1,200 per pupil this year.)

From Boston, Mass., where he now heads a department at Northeastern University and is writing a book on race and education, Coffin contends that his firing was ordained by a "high-handed" school board turned increasingly conservative in two elections.

"In integration, we were going too fast for the controlling interests in town. They wanted to hold back the clock, but if you maintain the status quo in that kind of situation you go backward," Coffin said.

His personal "abrasiveness" initially was used to explain his discharge. A housewife among his followers conceded that "he just tore his community apart—there are still neighbors who don't speak."

But Coffin calls the abrasiveness charge "just campaign rhetoric," and the current school board chairman, attorney Franklin C. Gagen, said the catch-phrase masked "a fundamental lack of trust and mutual respect between the board and administration."

Gagen cited a 57-page report by the board majority, accusing Coffin of failure to keep the board informed, making last-minute recommendations, "untrustworthiness," financial mismanagement and failure to improve educational quality.

#### REPORTS DIFFER ON INTEGRATION PROGRESS

"His departure has not had one bit of adverse effect on our school district's commitment to the integration program," Gagen said. The board majority pledged "all-out war" against segregation in its report on Coffin.

But the dean of the Northwestern University School of Education, Dr. B. J. Chandler, termed the board majority apology for firing Coffin "a nit-picking, illogical, partly after-the-fact, propagandistic, self-righteous, self-serving diatribe."

Ben Williams, black secretary of Evanston's human relations commission, saw Coffin as "brought here to do a job—at a time when blacks were interested in integration."

"He had the good sense to see that it was not just moving bodies, but that it had to involve the curriculum, teachers, the administration—everything," Williams said.

Although, after initial racial friction, the choice of Coffin's successor now is in the hands of two consultants—one white, one black—one loyal Coffin supporter gives the board "a slim chance to get a guy who understands what integration is all about—not many educators do."

This Northwestern University professor, who asked to remain anonymous, said Coffin was fired for the wrong reasons: His real "crime" was jolting the Evanston school system out of a smug self-satisfaction.

Mrs. Betty Papanellis, one of the defeated pro-Coffin school board candidates, begins to see "little signs" of slow erosion of integration.

"It satisfies most Evanston conservatives," she said, "that there are black children in every school."

"But the real issue here is between people who want to move on and take certain risks without being assured of results—as against those who are afraid and timid and anxious about black-white relationships."

"We may lose a little," added Mrs. Papanellis, white and married to a Chicago high school teacher, "but we won't lose a lot because we plan to remain active. We may be slowed down—but we won't be put down."

Evanston's black community staged a two-

day boycott of schools and white businesses after the April school board election. From Ron Scot Lee, 27, an active black caucus member who directs the local antipoverty agency, came the prediction of another attempt to alter the school board at next year's elections.

"If that doesn't succeed," Lee said, "we'll become more militant as a community—and start asking for fundamental changes."

#### PLAN IS SIMPLE, BUT COMPLEX TO RUN

As Supt. Joe Hill tells it, Evanston's desegregation plan is simple to describe but complex to run.

In a school district of about nine square miles—with Lake Michigan its eastern boundary—blacks are concentrated in the central city by longstanding "gentleman's agreement" housing restrictions.

Around the edges of the black residential district, school attendance zones were redrawn to jut into the central area. Black youngsters, where possible, walk out to integrated schools.

With children from the periphery of the black district thus accommodated, those from the central black community are bused out to five of the least-crowded schools around the edges of Evanston and Skokie, a largely white community also in the school district.

"We bused a lot of kids," Coffin acknowledged: The result is a black enrollment of 15 to 35 percent at each of Evanston's 21 schools.

One formerly all-black school, left vacant by the busing plan, became an experimental laboratory school that last year was renamed after the late Rev. Dr. Martin Luther King Jr.

"I think we've had almost no broken windows since our name was changed," reports Corinne Schumacher, the attractive young white principal who heads this unusual school.

Parents all over Evanston apply to enter their children in Miss Schumacher's lab school and, except for blacks who walk in from the immediate neighborhood and for anyone who can't afford it, they pay \$50 a year for the extra transportation.

What they get is an enormously innovative, ungraded school, with blacks making up 30 percent of its 630-pupil enrollment, more than one-quarter of its 29 teachers and all five of its teacher-helpers.

"At the beginning we were a handmaiden of desegregation," Miss Schumacher tells the visitor, "but by now I hope we've come into our own as a lab school."

"We're supposed to be a change agent for the rest of the school system," she said.

First things to change at the laboratory school were all the traditional school organizational patterns: Grades and classes have been replaced by ungraded, multi-age grouping under "collegial" teacher-teams with all members equal.

The school is divided into six "regular teams," each including youngsters from three age groups plus four teachers—for mathematics, language arts, social science and science. The teams have names like Wildcats, Camaros, Road Runners and Cougars (hallway greeting between principal and teacher: "Hi Cougars!"—"Hi Principal!").

There's a special teacher-team for drama, art, music and physical education.

Because youngsters are regrouped frequently according to their interests and abilities, there are, according to Miss Schumacher, 16 different places where an 8-year-old might be at any given time.

Sometimes grouping depends on how well a teacher and pupil get along. "The first step to individualization of education is a love-match between child and teacher," Miss Schumacher said.

For the first time in her experience, which

covers 13 years of teaching plus four as a principal, Miss Schumacher finds parents asking to have their youngsters retained in the school an extra year. (Evanston youngsters attend elementary school through fifth grade and middle school for grades 6 through 8, but since the school is ungraded, there is no stigma of "repeating" a grade.)

At another school, College Hill in Skokie, Principal Edward Pate seems to be succeeding in getting a white community to accept a black principal and a school where 100 black children are bused in to join 220 whites.

Pate, too, has worked with his largely white staff to devise an ungraded, "continuous progress" curriculum aimed at tailoring each youngster's schooling to his individual needs.

One double-sized room at College Hill is called the "Center for Individualized Instruction." Under an experienced teacher, it is there to help teachers and youngsters—singly or by classes—by providing books, films, records or games to meet a particular school problem or interest.

Pate, 34, who graduated from an all-black college in his native North Carolina and has a University of Chicago master's degree, uses the lunchroom, the school bus and the after-school activity program to bring black and white pupils together casually.

Like Miss Schumacher, and others in Evanston's interracial school administration, he reported virtually no racial incidents at school. His major loss to thievery last year, he said, was a couple of chess boards.

#### UNIVERSITY AIDED TWO CITIES' INTEGRATION

(By Richard P. Kleeman)

BERKELEY, CALIF.—It's more than coincidental that at Berkeley and Riverside, two cities where public schools have been integrated successfully without outside pressure, there are University of California campuses.

The schools derive "both pleasures and pains" from the university's thoroughly politicized main campus, reports Supt. Richard L. Foster, 52, a Reading, Minn., native and Macalester College graduate, Foster has headed Berkeley's public schools since March 1969.

"Any university controversy hits our schools within 30 seconds," he said, but the occasional "pain" is more than offset by the "pleasure" of freely drawing on university faculty, students and facilities for support of the full-scale integration program Berkeley began two years ago.

"Actually, we're delighted the university is here—it's a great asset and its enlightening effect is one of the things that enabled us to move," Foster said.

Berkeley's "move"—involving curriculum change, teacher retraining and community preparation for an extensive cross-busing program—transformed a system that once had some 95-percent black schools into one where all schools roughly reflect the community racial mix; 48-percent white, 45-percent black and 7-percent Mexican- and Oriental-American.

Berkeley claims to be the nation's first city of more than 100,000 population with a "significant" minority population to desegregate voluntarily.

Riverside, 400 miles to the south, has integrated schools a year longer than Berkeley, but its population is 80-percent white, 13-percent Mexican-American and just 7-percent black.

In Riverside, a sun-baked, palm-studded inland city of 137,000, the university (U.C.-Riverside), March Air Force Base and the citrus industry provide the major sources of employment.

"The presence of the university has been a big help to us," says Jesse Wall, 37, an impressive, Mississippi-born, California-raised black. His school title of "director of tran-

sitional education" makes the key role he played in bringing peaceable integration to Riverside when he was a high school business subjects teacher and president of the local chapter of the National Association For The Advancement of Colored People (NAACP).

"The university professors became actively involved in our crisis and were able to provide research evidence that helped temper the feelings of some of the radical Anglos (whites)," Wall recalled.

In another major role for the university's Riverside branch, an associate professor of sociology, Dr. Jane Mercer, is directing what may be the nation's most extensive before-and-after research on effects of Riverside's integration. Of her work, more later.

If Berkeley and Riverside illustrate, the value of a nearby university for desegregation, they offer proof also of two other essentials:

Painstaking community preparation plus the presence at the right time of a few key leaders who refuse to be intimidated.

(Riverside, it must be said, also demonstrates how a single, even unfortunate incident can accelerate desegregation: there it was the 1965 burning of all-black Lowell School.

(Unquestionably a case of arson—although the firebug never was caught—the fire, preceded as it was by community discussion of possible integration plans, resulted first in emergency busing of some 200 black youngsters to other schools. A year later, two all-black schools were closed, and in 1967 the predominantly Mexican school was shut—and Riverside's one-way busing of minority youngsters throughout the city was in full swing—in a community that once had bused only white children to preserve segregation.)

In Berkeley, although desegregation discussions had gone on since 1958, with an increasingly liberal school board pressed by the local NAACP and other community groups, one man is credited with implementing the "Berkeley plan"—Dr. Neil V. Sullivan.

Hired in 1964 to bring about desegregation, Sullivan quit voluntarily—to become Massachusetts education commissioner—on the first day of full integration in 1968. (Massachusetts today has the nation's first state school racial imbalance law.)

Described by a black former associate as "a dynamic tablepounder who never lets anyone talk him out of an idea," Sullivan, according to this ex-associate, "made beautiful things happen"—and took no backward steps in moving the community toward integration.

"I'd have hated to have him on the other side," his one-time coworker observed.

Recently Sullivan told the U.S. Senate Committee on Equal Educational Opportunity, "The Berkeley plan was acceptable to all not only because it was fair to all but because all segments of the community participated in its development.

"Our goal," he said, "was not simply integrated education but quality integrated education. To this end all parties—students, teachers, administrators and citizen groups ranging from conservative elements to black militants—cooperatively designed both logistics and curriculum."

Unlike Riverside's one-way busing of blacks and Mexicans to once-white schools—"That is not Berkeley's way," a school system fact sheet says, somewhat snootily—Berkeley's grade school busing is a two-way proposition.

Four "attendance zones" have been set up across what is essentially a triple-decked community: The "Hills," the wealthy, largely white university and professional area; the "foothills," a middle-class integrated area, and the "flats," the all-minority district.

Each attendance zone includes one large intermediate school for grades 4 through 6, fed by several primaries, kindergarten through grade 3.

The net result of computerized school assignments for racial balance is that some 3,500 of the town's 8,600 grade schoolers are bused—generally primary-school blacks from the flats up to once-white hill schools, and intermediate-school hill youngsters down into black and mixed neighborhoods. (Berkeley's junior and senior high schools were integrated well before 1968).

"The only thing that's not quite equal in our program is that the youngest black children move while the youngest white youngsters remain in their neighborhoods," said Dr. Kathrynne Favors, black director of the schools' office of human relations.

But she, like Foster, reports "absolutely no complaints: many parents see the convenience of busing—just putting their kids on a corner. That's the way mine get to school."

Although busing costs Berkeley \$250,000 a year—some \$180,000 more than before integration—half is state-reimbursed.

"I don't get any more questions about whether we should bus or not," Foster told this reporter. "The only question I get now is 'Can we continue to improve?'—and that's a legitimate question."

To that end, the school board (described to me by a black as "one black, three Jewish people and one white lady") is testing a number of techniques. The board is convinced that middle-class white youngsters are in no way hampered by integration—but still finds poor blacks lagging behind wealthier schoolmates in school achievement.

"Now that we no longer deal with overt racism, we're trying to test for subtle racism," Foster said. "Are there teachers who expect less of blacks?"

Also under board study: a longer school year for some, after-school tutoring, identifying teachers, who "make it" with slow pupils and using them as models for others—all designed to implement a board goal of one full year's progress for every child every year.

How seriously the administration takes integration is evident from a memorandum to principals in which Dr. Favors claims some school staff members still act like "crushers of dreams and mutilators of minds."

The memorandum called on principals to remove such people from contact with students "unless you can find ample evidence that they can treat all children with respect."

Foster terms "blatantly untrue" the claim of integration foes elsewhere that Berkeley has suffered "white flight": since integration, the white school population has dropped about 2 percent and black risen about 1 percent, he said.

Down south in Riverside, credit for desegregation—which all hands say probably could not be achieved from scratch in today's more difficult racial climate—probably belongs equally to Wall, a black; to Arthur Littleworth, the thoughtful attorney who heads the school board, and to Ray Berry, prematurely white-haired educator who, first as assistant superintendent and then as top man has made integration work.

"The absolutely vital point—one where many school districts make a mistake—is not to try to sell integration," Berry said.

"That's not our business and it's no longer salable.

"What we have to talk about is the education of every child and doing whatever that calls for. The community, I believe, understands this. When you follow that philosophy, there are thousands of decisions that have to be made to adapt the educational program to it."

Wall—admitting he is "sometimes too militant"—finds his position in the black community not undesirable: "In the shakeup," he said, "I get to be my own man."

The single factor perhaps most responsible

for Riverside's acceptance of integration, according to Wall, was its lines of communication: "You can talk to anybody you want here—without hostility."

In 1963, Littleworth became the first community leader to agree to serve on a human relations council Wall was organizing and the black teacher and the obviously prosperous white Republican attorney began a continuing dialogue on the education of minority children.

Slowly the school board moved, first toward "compensatory" education for poverty-area schools, then toward partial desegregation and—only after the rioting in the Watts area of nearby Los Angeles and the Lowell school fire—on to full integration.

"I was frankly shaken at the total lack of faith of minority people in white government," Littleworth said. (The five-member school board, which perpetuates itself by filling vacancies by appointment between elections, still is all-white.)

"I thought that, in developing our plan, we could help restore that faith."

Littleworth faced plenty of opposition, including the charge that the board planned special treatment for minorities.

"Sure, it was that—but we have special treatment for special problems throughout the school system—for athletes, for shop majors, for the gifted and handicapped," he said, in an interview at his well-appointed law office.

"Our board just felt we were on the right track and we went ahead." The board was helped, Littleworth acknowledges, by the city's "manageable" numbers of blacks and Mexicans, by the age of the schools to be closed and the plans for replacing them and "partly by luck—our circumstances were right."

Although some in the community were skeptical and antagonistic, the dominant attitude was "give it a try and see what happens."

"All the fears people had just didn't materialize," the board chairman added.

"There are thousands of Riversides all over the nation where problems are similar," he went on. "First, though, you have to be willing to recognize that schools have a responsibility to do something about racial minority problems.

"If you're committed to that, there are few communities that couldn't do something, even though what Riverside did might not be the answer everywhere.

"Of course, there are 10,000 ways to sabotage a program like this if you don't want it to work—but we saw that we ought to go into it with good education in mind and we work at that all the time.

"I don't say you can't have good all-black or all-Mexican schools—but in our situation in 1965, we could not have had as good education in segregated as in integrated schools."

#### TWO WAYS TO INTEGRATION

(By Richard P. Kleeman)

"I hear you've been hanging around the school," the black sergeant said to me, after he and another black policeman had parked their patrol wagons so as to block my car.

This as Royal Oak Township, a black enclave in the Ferndale School District just outside Detroit, Mich. A white face there is so rare that my merely observing all-black Grant School from a parked car one early morning caused me to be challenged, first by the school's black principal and then by the two policemen.

Hundreds of miles to the east, in suburban-sprawl, light-industrial Union Township, N.J., Fred Stahuber, the frank, plain-talking school superintendent, explained why he insisted on having more than one black child in every desegregated classroom: "Black isolation is no good," he said. "I went through that myself—I was the only

German in my four-room school right after World War I, and I was beaten up every day—they called me a 'Heinie'."

These two widely separated, middle-class communities have something in common: In December 1968, the U.S. Department of Health, Education and Welfare (HEW), despairing of quick desegregation in big Northern cities, took on Ferndale and Union.

Those communities, plus a handful of others of comparable size, North and West, were told they were violating the 1964 Civil Rights Act and must desegregate or forfeit federal school aid.

Union—amid threats of violence, boycott and white exodus but with its school board unanimously backing Stahuber's recommendation to comply—desegregated.

Ferndale, its board contending that establishment of Grant School in 1926 to serve Royal Oak Township was beyond its control and consistent with neighborhood schools practices, resisted.

After lengthy hearings before a HEW examiner, who ruled against the school board last month, Ferndale's resistance still continues.

#### UNION TOWNSHIP, N.J.

The \$185,000 in federal funds that this community near Newark airport stood to lose was "not that much, really" in a \$10-million budget, Stahuber said, "but I believe in integrated education."

His board—eight whites and the one black accountant—went along. "The board didn't break," Stahuber recalled. "If it had, it would have been the ball game."

After numerous, often heated community discussions ("we wanted the whole town to be involved in the decision") Union's novel plan emerged from a meeting of some 40 community leaders.

Stahuber swears that although the novel plan—converting the all-black school into a central facility for all Union's sixth graders—was among nine under board study, it also was suggested from the floor at that meeting by a white PTA member.

"Nobody will ever believe it, but we didn't plant that man there," the superintendent said.

Under the plan, now in its second year, black youngsters from the low- and middle-income Vauxhall area—which HEW contends an earlier school board had deliberately zoned for segregated school—are bused to six outlying schools for kindergarten through grade 5. All sixth graders are bused (or, in the case of neighborhood blacks, walk) to the "Central Six."

Thus all the district elementary schools reflect the community ratio of blacks—11 percent. This proportion is maintained at two junior high schools by "feeding" them out of schools that youngsters attend for fifth grade.

The number of buses owned and bus-miles traveled were doubled, but not all of that can be traced to desegregation, Stahuber said. The new plan coincided with a decision to bus more pupils in general, and with first operation under a state law requiring public schools to bus parochial and private school students.

Stahuber believes a "Central Six" makes educational sense because it helps prepare sixth graders to leave their neighborhoods for junior high school. At the same time, the school can concentrate at one building special sixth grade staff and programs in counseling, athletics and extracurricular activities, he said.

If Union's "Central Six" is succeeding, Stahuber and many in the community credit it to Principal Martin Zwillman, a genial, undappable educator who somewhat resembles Don Rickles.

"It sounds strange," said Zwillman, who also headed the school when it was an all-black elementary, "but things have gone so well here that it's frightening."

Youngsters "love riding the school bus," he observed, "because they have a ball and see new parts of town—but it's a little sad at 2:30 to see the black kids standing at the curb waving good-bye to white kids going home to their neighborhoods."

#### CHILDREN GET ALONG WELL

Far from experiencing racial troubles, one teacher told me, "the children are intrigued with each other—perhaps a little too friendly for getting the work done."

A white mother, Mrs. Alfred Liotta, who lives across town and headed Zwillman's PTA last year, said she once had been "definitely opposed to busing kids all over town."

"I still feel the home school is best, but I suppose this will work out," she said, adding, "Some still may have some reservations, but as long as the decision is made, we might as well accept it."

"Racially, I have no objections whatever—many of my friends are Negroes."

A black mother, Mrs. Ralph Hightower, noted that "blacks are bearing the larger part of the (busing) burden." Some parents were willing to retain their all-black neighborhood school, she reported, "but when they look at the entire picture, people realize that what they should be interested in is their children's education, and the majority anticipate that in the long run this is the better thing for the children."

Both Stahuber and Zwillman got awards for the first year under integration—the superintendent's from the Black Student Coalition and Zwillman's from his more than 600 students.

Proudly Stahuber displays a letter from a white mother who wrote "as a parent who was quite upset at the prospect of my son traveling by bus to the other side of town."

But, under a "well-qualified faculty" headed by a "dynamic principal loved and respected by children and teachers alike," this mother wrote, "what could have been a disaster turned out to be a wonderful learning experience."

As I prepared to leave Union, Stahuber said, "I'm not going to sit here and tell you that 53,000 people of Union Township are just overjoyed that they've done a Christian-like deed."

"I'm still called a nigger lover by some. But I have to assume that down deep people accept this for more than just a board mandate—and feel that it's right and good."

#### FERNDALE, MICH.

Ironically, more than half of the \$265,000 federal aid that this school system just outside Detroit stands to lose by refusing to desegregate Grant School has been used at that all-black school—to make classes smaller and add teacher-helpers.

Ferndale's state aid of nearly \$3 million also is imperiled under Michigan laws, should the final federal decision go against the school board.

The board based its refusal to obey HEW's order on the claim that it was not responsible for the segregated nature of the Grant neighborhood and did not act in a racially discriminatory manner in maintaining Grant as a neighborhood school.

HEW hearing examiner Horace Robbins, however, found that Grant "is and was a de jure segregated school" and that board policy for 44 years "has been consistently one of segregating the Negro children residing in the Grant area."

An official reply stated: "The board recognizes that de facto segregation exists at Grant School. It further recognizes that real educational problems exist at Grant School."

This referred to the finding, some years ago, that three-fourths of Grant's 325 black youngsters were reading two years or more below grade level. The board launched an intensive "compensatory" program, directing extra federal funds into Grant.

Results so far have been "minimal," ac-

ording to a school spokesman, and other possibilities—even a "project prime" to work with parents of one-year-olds—are being considered.

Ferndale operates desegregated, 10 percent black junior and senior high schools, but its nine other elementaries are largely white neighborhood schools. Busing is nonexistent except for the handicapped.

#### SEVERAL WAYS TO INTEGRATE

Although the board has recognized that Grant could be desegregated in several ways, none of these plans has been adopted.

"I think there are those in the black community reasonably satisfied with Grant's location," Dr. Ward Peterson, school board chairman, said.

One black spokesman, Ernest Wilson, chairman of the Committee for Equal Opportunity in Education, seemed both to confirm and contradict this:

"Our prime concern is quality education at Grant—not whether the school is desegregated. But it seems the only way we're going to get quality education here is to desegregate."

"There must be something wrong with this school, because if it had quality education, whites would have no objection to their kids going there—and they do object."

Merely redrawing a boundary with another school a half-mile away would desegregate Grant, Wilson pointed out.

Ferndale's ultimate appeal within HEW—before going into court—is to Secretary Elliot Richardson, who takes the Nixon administration position that segregation caused by neighborhood racial patterns does not, under the Constitution, require correction.

HEW examiner Robbins specifically avoided ruling that the all-black neighborhood surrounding Grant automatically makes it a de jure segregated school. Such a decision Robbins intimated, is better left to the courts.

#### PONTIAC APPEALS COURT RULING

Some 15 miles north of Ferndale, there is resistance to desegregation in Pontiac, Mich., where it was ordered by a federal court in a case started by the local NAACP. The court order is not yet in force, because it is being appealed, but the school administration is ready with a far-reaching desegregation plan—although the school board dislikes it and never has officially adopted it.

In this city of 85,000, where three large General Motors plants plus affiliated industries normally dominate a now-strikebound job picture, the federal court found de jure school segregation. Despite announced good intentions, the board did not try to counteract residential segregation in locating new schools, Judge Damon Keith held.

Furthermore, in a theme running through many recent desegregation decisions, the judge said that "historically black teachers have been and continue to be assigned to black schools and white teachers assigned to white schools."

"Segregation of faculties alone is sufficient for a finding that discrimination as to race has occurred and that the board is guilty of de jure segregation," Judge Keith held.

Under the plan administrators designed for this school system of 25,000 students, 31 percent of them black, high school boundaries would be shifted to more nearly equalize the races at Central, 48 percent black, and Northern, 15 percent. Junior highs would be desegregated by creating single-grade schools.

Kindergartners would attend neighborhood schools, but each grade school would combine a kindergarten with two other grades—first and second, third and fourth, or fifth and sixth. Thus youngsters would be in a neighborhood school for kindergarten plus two of their six elementary years, and be bused out for four years.

Two-thirds of students in grades 1 through 9 would be bused, according to William J. Lacy, assistant superintendent, and the schools would need 70 more buses than the 35 now operated.

A divisive school board election last spring changed a board that stood 4-to-3 against the busing plan to a 5-to-2 majority, with both minority members black.

While Pontiac awaits final word from the courts, all has not been quiet. Rock-throwing racial clashes erupted three times early this month at downtown Central High. Four white youths and one black were shot—with one white seriously injured—and three youths, two blacks, and a Mexican-American, were arrested.

After being closed for three days, overcrowded Central High was reopened under a "closed campus" order forbidding students to leave the locked building during the day.

In racially divided Pontiac, according to late reports, tension remains high.

#### BUSING DISPUTE IS PARALYZING: INTEGRATION IS FALTERING IN DENVER (By Richard P. Kleeman)

"If there weren't some glimmer of hope, I'd be out there with a Molotov cocktail—and I don't have one."

This was no black revolutionary talking, but George L. Brown Jr., 45, 16-year Colorado state legislator, now director of the Urban Coalition in metropolitan Denver, Colo., and an announced candidate for mayor next year.

A Kansan who has lived in Denver for 20 years, Brown, a one-time newspaperman, characterized the situation in Denver's reluctantly desegregating schools as "chaos" and added:

"I've given up any ideas that we can reach our goals by appealing to folks' goodwill—we've just got to devise better ways to appeal to their selfish interests."

Last summer a white Denver attorney and civil rights activist told Sen. Walter Mondale's Committee on Equal Educational Opportunity:

"If we cannot find positive solutions in Denver—if we can't end racial segregation in housing and education—then I don't think we can do it anywhere."

Richard E. Young, who said that in Washington, repeated it to me in his Denver office:

"With proper leadership from our board of education, I'm convinced our schools could not only be integrated but education could be improved five-fold," Young said. "But we're getting just the opposite: the school board is not leading, educational quality is running downhill and we're becoming mediocre in everything we do."

"The board majority is so tied up on the busing issue that anything that gets done in our schools will be done by the federal district court—and I don't think the court should be running our schools."

For that conclusion, integrationist Young would win agreement from many an otherwise-disagreeing Denverite, and perhaps from anyone who has seen this city of 525,000—resembling Minneapolis in size and reputation for progressiveness—tear itself apart over court-ordered desegregation.

For plainly, despite long-range notes of hope sounded by Sen. Brown, who is black, and Young, Denver—where racial incidents have forced two schools to close temporarily and to keep police on hand when open—is not "making it."

"Ours is not the most enviable situation in the world," says Howard L. Johnson, 62, a 40-year employee of the Denver school system who was elevated to superintendent this fall just in time to preside over the first of three annual steps toward desegregation ordered by U.S. District Judge William E. Doyle.

Seemingly well-intentioned, but at this stage of his career hardly ready to push his school board beyond forced acceptance of the

court mandate, Johnson finds his community "definitely polarized" and evidencing "definite feelings of antagonism" toward Judge Doyle's order.

It is a complex order, principally affecting 17 heavily minority schools in a system of 96,000 youngsters—65 percent white, 20 percent Spanish-American and 15 percent black. By 1972, Judge Doyle ordered, no school should have less than 50 percent white ("Anglos").

When I visited Denver, there had been one racial flare-up and a brief closing of George Washington High School, a college-oriented senior high in a largely white, middle-class east-side area. The school had become overcrowded with the addition of some 250 black students, bused in, not too willingly, from Eastern, their neighborhood school.

Since then violence has erupted again—reportedly over the presence of undercover policemen seeking narcotics—and the school, closed for a week, was scheduled to reopen this week on split sessions intended to reduce congestion.

Although Johnson insisted that, once the court order became final in June, "we tried as concerted a drive as possible" to prepare the George Washington students, faculty and community for desegregation, others criticize the schools for not having done more, sooner.

The first incident at George Washington, the Denver Post said editorially, was far from representing a failure of forced integration.

"There was no integration there of any kind—there is only desegregation, bringing together in one place people of unlike backgrounds."

Other Post articles, on both editorial and news pages, pointed to the lengthy city-wide preparation for integration at Berkeley, Calif. In contrast, one writer noted, even after the court's intent became clear last March, Denver principals were left to initiate preparatory human relations programs on their own.

Attorney William Berge, the school board's conservative chairman, called busing-in of blacks to George Washington unprecedented—in that Denver had not previously bused high school students—and unfair—in that it disrupted students' school, club and athletic affiliations.

At least the changes should have affected only entering 10th graders, Berge said, adding, "but I don't believe you can only get an education if you attend a school where the percentage of your race is the same as it is in the community. If you want, you can get as good an education (without that)—if facilities are equal."

On the day I visited George Washington—early enough to see the arrival of a half-dozen uniformed policemen, kept available but out of sight—there was little evidence of informal mixing between the school's 2,700 Anglos and 300 blacks.

Principal Jack C. Beardshear mentioned the unwillingness of many blacks to be at his school, but said the first racial flareup "was one of those things that could have been averted."

"We had to implement desegregation on short notice and the result was frustration and alienation," he said. "We could have had a better setting for them to come into."

The first closing was used for intimate, small-group, student-faculty discussions. Plans were announced to add black teachers (the school had only two among 130 at first) and more "ethnic" literature in the library.

Said Beardshear, a 25-year veteran of Denver schools:

"Schools have always been the place where great social problems are worked out and this is just a change in society. Schools somehow have to change with it—we don't quite know how, but we must and we know

there's no sense in looking over our shoulder and telling how things used to be.

"I think we can build something positive out of all this. If we can't, I don't know where I'll go to work next."

Highly critical of the lack of preparation at the school, however, was the woman who brought Denver's desegregation crisis to a head 18 months ago—Mrs Rachel Noel, the stately, deep-voiced professor of black studies and sociology who is the school board's only black and only woman member.

Charging administrators with "doing nothing" after the judge's march order—because they thought an appeals court might suspend it—Mrs Noel asked: "Why couldn't they go ahead and act—rather than react?"

"Everyone knew what needed to be done at GW—there was nothing so new about it."

"They needed human relations training for teachers, black history resources in the library, counselors not just college-oriented, planning in every aspect of the curriculum—even down to the kind of food served in the lunchroom."

Mrs Noel does not plan to seek reelection next spring. "I don't think I could get re-elected," she says after one six-year term.

It was after her three desegregation resolutions were adopted last year by a 5-to-2 board vote that Denver underwent a searing election campaign that saw two who voted with her snowed under by two men claiming they favored voluntary—not forced—desegregation.

Immediately after that election had converted the board to 4-to-3 opposition to Mrs. Noel's proposals, the new majority rescinded them. It was this overt action—promptly challenged by eight parents represented by a corps of volunteer attorneys, including Denver's largest law firm—that Judge Doyle quickly branded as "de jure" segregation.

He first ordered the Noel resolutions reinstated and then, in March after a lengthy trial, found Denver's minority schools unequal and thus in violation of the 14th (equal protection) Amendment to the U.S. Constitution.

Last May, after hearing testimony from such experts as Johns Hopkins' Dr. James Coleman, Doyle concluded that "improvement in the quality of education in the minority schools can only be brought about by a program of desegregation and integration."

Although the judge expressed hope that mandatory busing would be "avoided to the extent possible," this is the ruling under which Denver currently chafes.

Depth of community feeling on the issue is clear. Mrs. Allegra Saunders, who voted with Mrs. Noel with some reservations, not only lost her school board seat on account of it but also was unseated, in a Democratic primary, from the state Senate. "They" spread the (false) rumor that she and her husband had sold their home to Negroes, she told me.

The school issue also may affect Tuesday's congressional election—Craig Barnes, 34, who unseated Rep Byron Rogers, a 20-year veteran, in Denver's Democratic primary, was one of the attorneys—termed "professional do-gooders" by school board President Berge—who helped prosecute the lawsuit.

His underdog Republican opponent, after initially saying he would avoid the issue, has taken to calling busing "the worst kind of racism"—and may have cut into Barnes' early lead.

In another, far smaller community, South Holland, just outside Chicago, Ill., court-ordered desegregation is in its third, grudging year in a community described by its school superintendent as "mad as hell."

Since 1968, South Holland schools report losing about 1,000—or about one-third—of their students. Although the exodus seems to have slowed, most of the departed are white and each represents a loss in state aid of \$350 to the schools' deficit-plagued budget.

"For an American who is devoted to his country or wants to believe in the intelligence and goodwill of its citizens, it is very painful to contemplate and difficult to understand the continued resistance to school desegregation."

In these terms wrote U.S. District Judge Julius J. Hoffman, 75, in finally ordering the South Holland elementary school district desegregated last year.

But, understandable or not, the school district—which once had all-black schools in the across-the-tracks black community of Phoenix—continues to resist even as desegregation goes on.

"The trouble with a case like this is that when blacks and whites fight each other, they forget about education and kids and get so angry they just don't care," Dr. Thomas Van Dam, superintendent since 1968, said.

His words were the ironic corollary of what I was told later in desegregated Riverside, Calif.—that only by stressing quality education, not race-mixing, could integration succeed.

Van Dam, a one-time Chicago principal, recounted the steps he is taking to implement desegregation, but did not spare criticism of Hoffman's order or his conduct of the trial. The superintendent also scorned the idea of "using our schools to solve a social problem—one that Congress doesn't have the guts to face itself."

Under the final court order, the schools were desegregated by busing youngsters (through fifth grade) to white schools outside of Phoenix and converting the two once-black schools there into a center for all sixth, seventh and eighth graders.

Van Dam claimed Hoffman adopted a U.S. Health, Education, and Welfare Department plan arrived at after "superficial study." The fact that the plan transports all black youngsters from the poorest Phoenix area to the same white school "shows real intelligence," Van Dam declared sarcastically.

Busing costs, he reported, are up from \$14,000 to \$61,000 a year. With two school funds showing deficits and depending on borrowing against future collections, "we're going to be bankrupt within a year if we don't get a raise in taxes," the superintendent said.

Such a raise has been rejected three times by local voters since 1968, however, and Van Dam currently is trying to latch onto federal funds newly made available to desegregating schools by the Nixon administration.

Although he has pared his administrative staff, Van Dam says he tries to keep his schools attractive by maintaining a superior program and experimenting with new curriculum ideas, including minority history. Still, the wide ability-spread in some classrooms, he maintains, "creates chaos."

He commends the community's black and white residents for avoiding violent confrontations—so far.

Although his 2,000 students are 38 percent black this year—up from 30 a year ago—Van Dam believes that now "we may have stopped the flight of white kids."

Because he still hopes the Supreme Court will rule on South Holland's case, Van Dam declined to permit visits to his schools.

The lone black school board member, Pershing Broome, a teacher in a neighboring high school, said he supports South Holland's appeal to the Supreme Court because "I want to see this settled by the highest authority."

#### BOARD HAD FAILED TO CARRY OUT ITS INTEGRATION PLANS

(By Richard P. Kleeman)

PASADENA, CALIF.—"I'd kinda liked to have done it just because it was the right thing to do."

Pasadena's school superintendent, Dr. Ralph W. Hornbeck, was talking about the

sweeping integration that has taken place this year in the schools of this fabled southern California city.

"My own feeling is that we could have done a smoother job without the court decision—and avoided the recall and all this dissension," Hornbeck, 43, said.

But Pasadena didn't have that luxury: The "Pasadena Plan"—which Hornbeck likes to call "superior education in an integrated setting"—but critics call "forced crosstown busing"—was initiated, after a long-pending lawsuit, under federal court order.

And the three-member school board majority that voted for the plan—and against appealing Judge Manuel Real's decision last January—have just survived a bitter recall election by narrow margins, none greater than 3½ percent.

Best known for the Rose Bowl, Cal Tech and the jet propulsion laboratory—and for being a luxury bedroom and shopping community on the fringe of Los Angeles, this city of 125,000 can hardly live up to its press notices.

"Most of what people know about Pasadena is a stereotype that no longer exists," said Hornbeck, a Los Angeles native and 18-year veteran of the Pasadena schools, which he has headed since 1968. (Because it includes some smaller communities, the school district population is close to 200,000.)

"People who think of us as a sunny vacation town are often surprised to find that 25 percent of Pasadenans live on a poverty income and that our schools are 34 percent black, with another 12 percent Mexican—and Oriental-American," Hornbeck told me.

#### DIVIDING LINE DOWN THE MIDDLE

How well this mixed population shares this city of palm trees, sleek shops and close-cropped lawns was told, with pardonable oversimplification, by the 17-year-old president of the Pasadena high school student body:

"There's a kind of dividing line down the middle—one side white and the other black," said Kam Kuwata, a leader in the student campaign to defeat the recall.

"It's a sad thing," Kuwata went on, "almost two separate communities, and to bridge that gap we just have to get people together. The Pasadena Plan is the only way Pasadena can survive as a community."

Lest it be thought that Kuwata exaggerated Pasadena's racial separatism, consider what Charles Quaintance, now a Minneapolis attorney, told Sen. Walter Mondale's Committee on Equal Educational Opportunity last September.

Quaintance, who as a U.S. Justice Department civil rights lawyer prosecuted the case against Pasadena, pointed out that before integration, 85 percent of the city's black youngsters attended eight grade schools, while 90 percent of the whites went to 21 others.

Five elementary schools never had had a black teacher, and last year there were, in fact, only four black instructors "east of the racial divide"—where there never had been a black principal, Quaintance reported.

One teacher's personnel file carried the notation "doesn't like Negroes" . . . when one black teacher-applicant appeared for a job interview, a receptionist told her, "maids apply downstairs."

Against this long-established atmosphere of separatism, three families—one black, two white—launched a lawsuit in 1967. It was intended to force the board to implement a modest plan calculated to lessen crowding at Pasadena high school, while preserving some racial balance at increasingly black Muir high.

#### PLAINTIFF PLEASUED WITH LAWSUIT

"Best thing we ever did," Mrs. James Spangler, one of the white plaintiffs said to me, of the lawsuit. They filed, she said, be-

cause she and her stockbroker husband, wearied of seeing neighbors flee their Altadena neighborhood as schools became increasingly black, told themselves, "Dammit, they're not going to move."

(A statistician at that time calculated that Pasadena whites could become a minority within three years.)

It was this lawsuit, subsequently moved from state to federal court, that the Justice Department, under Attorney General Ramsey Clark in the Democratic Lyndon Johnson administration, joined in late 1968. The federal suit, charging the school board with deliberate acts of segregation, was the first federal desegregation prosecution on the West Coast.

By the time the suit came to trial early this year, the school board had become pro-integration by 3-to-2 margin and Albert C. Lowe, Jr., a 44-year-old furniture dealer of Chinese ancestry, had become the board's first non-white member—and its president.

Nevertheless, the all-Republican board (which has since appointed a black member, also Republican) continued to contest the government suit:

"We all believed in working out our problems without a government mandate," Lowe explained. "It was the old story—local problems, local solutions—so we tried to negotiate a settlement for two years more to eliminate the existing patterns of segregation."

But, Lowe reported, they found Judge Real and "the government" (Quaintance) "adamant about the timetable."

The board wanted the time, Lowe said, to "sell the rationale" of the benefits of desegregation and to work with the community in evolving a solution, probably starting desegregation at the high school and moving gradually into the grade schools.

Judge Real ruled last January, holding that "racial integration provides positive educational benefits" and that the board had failed to carry out its announced integration plans.

#### BOARD DECIDED NOT TO APPEAL

He ordered that by September "there shall be no school in the district with a majority of any minority students"—and the board decided, 3-to-2, against appealing the decision.

The reasons, Lowe said, were "legal and pragmatic": having already spent \$65,000 in legal fees alone and an estimated total of \$200,000 in fighting the lawsuit, the board was advised that appealing could bring neither an immediate stay nor much prospect of reversal. Furthermore, other schools already were appealing similar issues to the Supreme Court.

The board's refusal to appeal, however, was one reason that some 23,000 Pasadenans signed recall petitions to turn out Lowe and the two who voted with him. After that election was narrowly decided two weeks ago in favor of retaining the board trio, Lowe's first post-election comment was:

"The first thing we have to do is put this community back together."

The board still might have avoided the divisive recall—that saw an unprecedented citizen effort on both sides, with most civic groups backing the school board—if it had gone beyond Judge Real's order, Lowe believes. The order largely affected nine majority-black schools and would have left most grade schools with a white minority.

"We decided this was educationally unsound and racially unstable," Lowe said, in obvious reference to the prospect of further "white flight."

"We recognized that this was a community challenge and there ought to be a total community effort to meet it."

#### RETAINS NEIGHBORHOOD CONCEPT

If the Pasadena plan does not preserve the cherished neighborhood school, it does retain the neighborhood concept, Supt. Hornbeck pointed out.

Grade schools are divided into kindergarten-third grade "primaries" and grade four-to-six "elementaries." Children stay close to home neighborhoods for half of their elementary years and travel to another school—along with their neighborhood friends—for the other half.

#### CHANGE PRODUCES EDUCATIONAL ADVANTAGES

Once at school, however, neighborhood cliques are split up into integrated classes. "We think that children staying together is more important than how far they go to school," Hornbeck told me.

There are educational advantages to the arrangement, which permits more specialization at each type of school, he said. There also are advantages in the new shift of ninth graders from junior to senior high schools, relieving overcrowded junior highs and making more courses available to high school freshmen, Hornbeck believes.

Although the plan has brought every Pasadena school within 5 percent of the community racial pattern—and no school has more than 40-percent minority enrollment—"it would be a good plan if it had nothing to do with ethnic balance," Hornbeck maintains.

But to critic Henry Marcheschi, a leader in the unsuccessful recall move in which the three incumbents were challenged on a complex ballot by a total of 14 candidates, the issue is "whether forced racial balance is indeed the answer to the best educational opportunity for our children."

"There's no doubt we can integrate our society," Marcheschi said, "but if we do it by force, we will do it only by totalitarianism."

The million-dollar busing costs—which Hornbeck readily admits result from transporting 15,000 instead of 3,000 students—"may be negligible compared to the social costs," Marcheschi claimed. Cub and Boy Scout, Brownie, Campfire Girl and church groups have reported difficulty in organizing afterschool programs because "kids average an hour a day on school buses," he said.

Hornbeck vigorously denies critics' claims that busing is financed through deficit spending ("Our budget is completely balanced") and denies also that white enrollment has dropped significantly this year.

#### SLIGHT DROP IN ATTENDANCE NOTED

Total attendance of 29,200 is about 1 percent below predictions, with the white percentage down and black up a couple of percentage points. Both shifts are scarcely more than normal, the superintendent said, estimating that "we may have lost about 200 Anglo (white) students" on account of integration.

#### SCHOOLS: CHILDREN TAKE BUSING IN STRIDE (By Richard P. Kleeman)

"Of course I came from a small town in Minnesota, so busing was nothing new to me."

This, from Mrs. Matt Wadleigh, the parent-volunteer who greeted me at Longfellow School, in a black section of Berkeley, Calif.

Pat Wadleigh is a 1946 University of Minnesota graduate and daughter of Ben Gimmedstad, retired publisher of the Dawson Sentinel.

"I suppose I wasn't eager to have my kids bused—I liked the idea that they could walk to school," she said.

"But now the advantages so outweigh the disadvantages that I'm delighted—and this school is specially exciting."

The Wadleigh twins, Lief and Mette, 10, are among about 450 white youngsters bused from Berkeley's upper-income Hills area to Longfellow, a "Flatlands" school of more than 1,000 youngsters, integrated, like all Berkeley schools, since 1968.

Longfellow is headed by the city's youngest principal, Richard Hunter, 31, a soft-spoken, Afro-wearing Nebraska-born black.

He believes in involving parents of all races, along with students and teachers, in the many activities that seem to keep his school in constant ferment.

While Mrs. Wadleigh coordinates Longfellow's volunteer tutoring plan, her bus-riding fifth graders, she reports, have acquired a new, broader outlook: "They learned that people are people regardless of background—they find some they like and some they don't—but it's based on personality, not color."

If Mrs. Wadleigh finds busing not so bad, the former Minnesotan who heads Berkeley's schools comes down hard on those who make it their reason for opposing desegregation:

"Busing is not the issue—it's a mode of transportation," Dr. Richard L. Foster said. "The issue has to do with the willingness of white, middle-class parents to permit, or encourage, their kids to go to school with black kids."

"We ought to stop talking about busing and lay it right where it is—racism. Busing just gives people a socially acceptable excuse for not facing themselves."

In Denver, Colo., a few days earlier, Mrs. Rachel Noel, the one black on the school board, told me, "I don't say 'busing' any more—I say 'transportation.'"

"After all, we don't have to be wedded to buses—some day we might be talking about monorails."

The California Legislature has passed a law similar to one that Alderman Mark Anderson proposes for Minneapolis—barring racial-balance busing of youngsters without their parents' consent.

But schoolmen with whom I talked were undismayed at this law, not yet in force because of a court challenge.

Buses are merely a convenience furnished free by the schools, I was told often, and parents who choose not to use them must find ways to get their youngsters to assigned schools.

But the school administration's right to assign a child to a particular school has not been successfully challenged, these educators always emphasized, and it probably won't be unless the Supreme Court says that a child has a constitutional right to attend his neighborhood school.

I rode school buses in Berkeley and Evanston, Ill., and watched them unload in several other communities. In neither place did I see youngsters, black or white, taking the ride—as long as a half hour—in any but a matter-of-fact fashion.

On Mrs. Louise Parker's Berkeley Bus, where riders were mostly white, I listened while two fifth graders, one black and one white, made a date to toss a football around later that afternoon.

It was on that bus, too, that John, a taciturn fifth grader, put me down as only a 10-year-old can. How did he like the bus? I asked, "Fine." Why did he like it? "Because I live too far from school to walk."

In Evanston, I saw the bus used as a tool of integration.

"We used to have a unique situation here," Edward C. Pate, the black principal of College Hill School, told me. "There was one Evanston bus—all black—and one Skokie bus—all white."

"I redrew the bus routes so now any child can ride either bus—both go through both communities. That lets friends ride together and uses the bus to help make integration work instead of to bring about segregation."

When I rode Mrs. Josephine Taylor's bus—where youngsters chose seats with obvious disregard of color—I saw the effect of the change. Still, white youngsters got off first in all-white Skokie, and by the time the bus crossed the "great divide," a sanitation canal, into Evanston, its riders were all black.

In Riverside, Calif., integrated schools are under detailed, before-and-after scrutiny in

a research study headed by Prof. Jane Mercer of the Riverside Branch of the University of California.

Among first reports from more than 500 parent interviews was an appraisal of attitudes toward busing after three years of it: "Over-all," the report says, "about one-fourth of the parents reported problems resulting from busing, both in 1967 and 1969. Seventy-five percent reported no additional problems. There was little difference between the responses of parents of younger and older children."

In 1967 and 1969, the report showed, busing appeared to generate special problems least for white parents and most for Mexican-Americans, with blacks somewhere in between.

If one school system makes the bus an integrating device, others that I visited use a great variety of other innovations, or plan to do so, to assist desegregation.

In Pontiac, Mich., where desegregation has been delayed by appeal of a court order, construction is under way on a \$6-million downtown "human resources center."

Nicknamed "Child City," this mammoth structure on a 14-acre urban-renewal site will be basically an "educational park." It will replace at least two and possibly four aging core-city schools, half predominantly white and half heavily black, and will provide learning space for about 1,400 youngsters.

The center also will house pre-school, collegate and adult-education facilities; special quarters for teaching the handicapped; citywide health, welfare and recreation services and a theater, restaurant and gymnasium.

Scheduled for at least partial opening next September, the center is unique because it is the first joint school-community facility to receive federal aid—\$1.2 million from the U.S. Department of Housing and Urban Development.

In Denver, Colo., the Metro Denver Urban Coalition, as a pilot project that will be expanded if it works, will establish "advocate committees" at 20 schools.

Formed of interested citizens who know a school and its surrounding community, the specially trained committee will give parents or children an "advocate" to turn to if they believe that they have been unfairly treated at school. Advocates will also be available to aid those who are merely unaware of procedures in Denver's school system, which is reluctantly desegregating.

At another Longfellow School, in the poorest area of Riverside, Calif., Principal David Tew, working with parents and teachers, has developed the LASER program—"Learning Achievement Through Saturated Educational Resources."

Supt. Ray Berry believes that Tew, 39, white, who heads a school that is 23 percent black and 30 percent Mexican, may have hit upon "the big step forward that takes us to a new plateau."

In three subjects considered of key importance—language arts, mathematics and, somewhat surprisingly, physical education—Tew's faculty has developed sets of step-by-step, "bite-size" learning goals.

In Tew's "spiral curriculum," these goals are of increasing difficulty. Teachers assess each pupil's individual needs, group together those with the same problems and thus can report each child's progress to his parents in a new and supposedly more understandable way.

In Gary, Ind., the nation's first experiment with turning an entire school over to a private educational contractor on a "no progress-no payment" basis is under way at all-black Banneker School.

Although this contract with Behavioral Research Laboratories (BRL) of New York, N.Y., and Palo Alto, Calif., was supposed to make Banneker so attractive that white par-

ents would send their children there, it failed to do so. The 700 Banneker pupils in the project are all black or "Latin," according to Supt. Gordon L. McAndrew.

Gary, a steel-milling town known for its black mayor, Richard Hatcher, is 60 percent black, 10 percent Latin and 30 percent white.

McAndrew, who has desegregated his faculty, has not attempted to do the same with students. "We would need massive two-way busing to do it effectively and neither the black nor the white community wants it," said McAndrew, 44, a North Carolina educator, who is highly regarded by other members of his profession.

The "performance contract" with BRL nearly caused a strike by Gary's 2,100 union teachers, who contended that it constituted a multiple violation of their contract. They called off their strike at the last minute.

Most of the educators I interviewed told me it is too early to judge long-range effects of desegregation on youngsters' schoolwork and attitudes.

Supt. Fred Stahuber, in Union, N.J., said that preliminary studies showed "much higher" attendance by blacks bused under the desegregation plan, plus some evidence that they were doing better on achievement tests. "At least," he said, "it's not going the other way."

"Principals tell me the attitude of black youngsters is beginning to change—they are more positively oriented toward schools and less aggressive," Stahuber said. So far, he noted, integration has had "no negative effect in any way, shape or form on white kids."

Critics of Pasadena, Calif., integration claim that Berkeley's integrated schools have suffered a drop in reading scores. But, Berkeley Supt. Foster said that scores continue to rise—although white youngsters progress faster than blacks. The school board has taken a number of actions (previously reported in this series) in an effort to counteract this, Foster said.

Just coming out of the computers are the results of perhaps the most extensive study of the effects of integration—Prof. Mercer's three-year research on 1,776 Riverside youngsters. The study examines about 120 different items reported by the students and their parents, classmates and teachers.

So far, Dr. Mercer will say only that one year is too soon to observe significant change after integration. However, she says that after three years, "They're not standing still—changes are taking place."

If my visits to a sampling of schools in a half-dozen states provide a mixed picture of what is going on in desegregation, the future is doubly uncertain, since it depends so heavily on what the Supreme Court will say about purportedly de facto racial isolation.

Certainly this survey has shown that Northern and Western schools can make desegregation work if they want it to. The survey also has shown, as a Denver attorney put it, that "when you have a majority of school board members who really want integration to fail, it's an easy thing to bring about."

Federal civil-rights enforcers—in both the departments of justice and health, education and welfare—cite the tremendously difficult and time-consuming work of proving that what may look like chance segregation actually results from some official act, perhaps long past, and therefore is subject to federal intervention.

The cost of maintaining segregation was mentioned by Nell Sullivan, the man who desegregated Berkeley schools and who now is Massachusetts education commissioner.

He told Minnesota Sen. Walter Mondale's Committee on Equal Educational Opportunity last summer that school boards like those in Los Angeles and Denver "expend

untold sums of money and effort in the courts to justify their refusal to provide equal educational opportunity.

"I have served as witness in both cases and assure you that thousands of children in these two cities would be receiving better education today if monies spent by these boards in fighting school desegregation had been directed instead to implementing it," Sullivan said.

Perhaps the most telling observation about integration was made by U.S. District Judge William E. Doyle in Denver.

"There is no assurance," he said last May, when he ordered Denver's desegregation, "that the program here prescribed will fully succeed."

"It's success will depend in large part on the effort which is expended—and on the spirit in which that endeavor is carried out."

#### THE FUTURE FOR INTEGRATED EDUCATION

In school integration as in most other controversial social issues, leadership is the key to progress, and lack of leadership leaves a vacuum for an onrush of reaction. This seems to be the single most important finding in the "Schools and Race" series last week by Richard P. Kleeman of The Tribune's Washington Bureau. Leadership helped achieve successful integration in Berkeley, Riverside and Evanston. Lack of leadership or outright resistance is adding to problems in Denver, Pontiac and Ferndale.

Most public officials today are either seeking to avoid the issue or trying to capitalize on public fears. At the national level, President Nixon campaigns for the neighborhood school in a veiled thrust against integration. Yet, Mr. Nixon's own school desegregation statement of last March cited research showing that integration improves the quality of education. At the local level, Minneapolis Alderman Mark Anderson seeks state legislation to outlaw mandatory busing for racial balance. Anderson talks of desegregated housing as a means of gaining a better racial mix in the schools. Yet, Anderson voted against the city's open-housing ordinance in 1967.

Even the most ardent integrationists have to admit that such a political climate makes school integration difficult to achieve under any circumstances. It is not surprising, then, that few northern cities, large or small, have been doing much to correct racial imbalance these days except under court orders. The few cities that have integrated their schools voluntarily are mostly university towns, and they did so earlier when the climate was more favorable.

The ultimate fate of northern-style school segregation, therefore, seems to lie with the U.S. Supreme Court, which is expected to rule on the issue next year. Whatever the court's ruling, however, we do not think educators and citizens in Minneapolis or elsewhere should give up the effort to achieve truly open schools. Kleeman's series and other studies indicate that a fully integrated school system works to the benefit of students of all races. While some parents fear school integration, all parents favor quality education, and true quality cannot be attained in a segregated educational system.

#### AMERICAN PRISONERS IN NORTH VIETNAM—A CHRISTMAS REMINDER

Mr. GURNEY. Mr. President, at the present time there are 461 American's POW's and 1,105 American MIA's in Vietnam. They are suffering untold torture and inhumanity daily. I deplore this humiliation of our men, the suffering of their families and the anguish to our country.

As we once again enter the holiday season of Christmas, I think it only proper that we take time from our daily routine to remember these individuals. It has been brought to my attention that the Orlando Sentinel recently published an article describing a project which a Mr. Malcolm Breeze of Orlando initiated. Mr. Breeze, himself an ex-POW of World War II, who started the State Chapter of American Ex-Prisoners of War, Inc., is attempting to bring attention to the tragic POW problem. He is asking newspapers across the Nation to carry the following familiar phrase with a timely addition:

There are — shopping days to Christmas. It has been more than — days since the first American prisoner in Southeast Asia has been shopping.

I ask unanimous consent that the article be printed in today's RECORD.

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

#### FORMER POW TRYING TO RALLY PUBLIC OPINION

"Here is the crux of the whole thing."

With these words, Malcolm Breeze produced a yellowed, faded postcard. It was 25 years old and had been sent from Krems, Austria, to Cincinnati, Ohio.

The postcard informed Breeze's family that he had safely parachuted from his burning plane and was in enemy hands.

"A prisoner of war," Breeze said, "worries more about his family back home more than you can possibly imagine."

Breeze's imprisonment during World War Two was very different from that of prisoners of war today in North Vietnam. Few messages are being sent by these men. Little news is available about them.

#### EX-POW GROUP

Breeze was one of 10 Floridians who last March started the state chapter of American Ex-Prisoners of War, Inc. The retired Air Force master sergeant, who lives at 1511 Iowa Place, Orlando, is secretary-treasurer of the organization.

One of the goals of the association—which has about 6,000 members nationally, Breeze believes—is to help obtain more humane treatment for American POWs in North Vietnam.

"The Vietnamese don't believe we care about these prisoners," Breeze said. "We have to get people interested in this problem, to devote a little of their time to it."

"Public opinion," he says, "has been found repeatedly to be the only thing that will have any effect on the North Vietnamese."

Breeze said his treatment as a prisoner of the Germans during World War II in Krems, Austria, was much better than that of Americans now being held in North Vietnam.

#### XMAS REMINDER

One of Breeze's attempts to bring public attention to this POW problem is through that familiar message, printed in newspapers across the United States, which reads: "There are — shopping days to Christmas."

Breeze is trying to convince newspapers to add this statement to the Christmas shopping day reminder:

"It has been more than — days since the first American prisoner in Southeast Asia has been shopping."

Breeze explained some Americans have been held prisoners for over six years.

"Letter writing to Hanoi can be very effective," Breeze says. "The North Vietnamese are sensitive about their image."

"Our organization is trying to help, by making people aware of what is happening."

## UNFOUNDED CHARGES

Mr. HANSEN. Mr. President, I have become increasingly disturbed by the unfounded charges some of our Democratic colleagues have been making about the actions and policies of the administration. One expects our political opponents to take the administration to task when there is just cause, but recently there has been a series of charges leveled against the President which are patently untrue. Those who make such charges are either ignorant of the facts or have chosen to ignore those facts.

Last week one Senator raised a great hue and cry over the fact that the United States had not used any of its helicopters stationed in Vietnam to aid the relief effort in East Pakistan. He suggested that the administration's commitment to aid the disaster relief effort was "suspect" for its failure to use these particular helicopters.

Those of us who have bothered to check into the facts of this situation have learned that there was nothing suspect in the administration's actions. The option of using helicopters from Vietnam was carefully considered and rejected for the very good reason that 2 days of valuable time could be saved by using helicopters shipped from the United States.

Further, it was learned that the Pakistan Government did not want more helicopters at the present time because they could not be effectively used and more deliveries would only complicate a difficult situation. This fact was confirmed by our own mission in East Pakistan.

I should emphasize that these facts were not deep and dark secrets. The Government officials who are working on the relief effort understandably are not anxious to be made to look foolish by the Congress. Any Member of Congress or any member of his staff could have established the true facts of the situation with a simple phone call.

I do not know whether that phone call was made and then ignored or whether it was never made at all. In either case, the result was the same. That segment of the administration which is working hard to provide relief to East Pakistan was unfairly maligned. Once again, the Defense Department was made to look like a bunch of bumbling idiots. I think they deserve an apology.

#### OVER 1,300 CITIZENS FROM 10 STATES CALL FOR A BIG THICKET NATIONAL PARK OF 200,000 ACRES

Mr. YARBOROUGH. Mr. President, within the last 72 hours, I have received 15 petitions calling for the establishment of a Big Thicket National Park of some 200,000 acres. These petitions which represent the combined voice of over 1,300 citizens from 10 States will be added to the thousands of other letters, petitions, and telegrams of like support that I have received in the last few months concerning the establishment of a Big Thicket National Park. With this kind of broad-based geographical support, I am sure that it will only be a short time before we finally turn back the army of

bulldozers and buzzsaws that devour over 50 acres of this precious wilderness daily.

Mr. President, I ask unanimous consent that these 15 petitions together with the names of the signers be printed in the RECORD.

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

#### PETITION

We the undersigned believe and wish that 200,000 acres of the wilderness and virgin forest area described commonly as the Big Thicket be set aside and reserved and preserved as a national park and that these acres be adjoining each other and that as a wilderness area these 200,000 acres be designated as the Big Thicket and that the Big Thicket as a national park be preserved and protected by the laws which govern the protection of other national parks as set aside by acts of the Congress of the United States of America.

#### PARTIAL LIST OF SIGNATURES

FROM KOUNTZE, TEX.  
Archer Fullingim and 45 others.

FROM PENN STATE UNIVERSITY  
Constance Rose and 30 others.

FROM DENTON, TEX.  
Pat Anderson and 19 others.

FROM CALIFORNIA  
Shirley Solomon and three others.

FROM STILLWATER, OKLA.  
James Russell and 59 others.

FROM AUSTIN PEAY STATE UNIVERSITY, TENNESSEE  
James Burt and 63 others.

FROM RICE UNIVERSITY  
Martha G. Tyler and 26 others.

FROM THE BAHOU BOUGE SIERRA CLUB  
Howard E. Bond and 106 others.

FROM EAST LANSING, MICH.  
James M. Harner and 43 others.

FROM PRINCETON, N.J.  
Mrs. James F. Graves and 56 others.

FROM OAK RIDGE, TENN.  
Jim Botts and 20 others.

FROM MEMPHIS, TENN.  
Vincent Sheppard and 549 others.

FROM CARSON CITY, NEV.  
Irving L. Pressman and 16 others.

FROM COMMERCE, TEX.  
John Chambers and 178 others.

#### MISUSE OF FOOD STAMPS BY STRIKING WORKERS

Mr. FANNIN. Mr. President, a very costly strike was settled recently when the United Auto Workers Union accepted a new contract with General Motors. It was an unfortunate episode at a time when we already face tremendous economic problems.

The big loser in a major strike is the public—the consuming and taxpaying public. There is inconvenience and ultimately higher prices.

Since the public is the ultimate loser, it is doubly unfair that the public should be expected to help subsidize striking workers.

Union members who go on strike do so by their own volition. They should

be prepared to face the hardships and make the sacrifices.

There is absolutely no justification for giving food stamps to striking workmen.

The Senator from South Carolina (Mr. THURMOND) has introduced a bill that would prohibit the misuse of food stamps to support workers involved in a labor dispute.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial supporting the legislation proposed by the distinguished senior senator from South Carolina.

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

[From the Columbia (S.C.) Record, Nov. 25, 1970]

#### THURMOND'S RIGHT ON FOOD STAMPS

Senator Strom Thurmond is surely right in his bill which would amend the 1964 Food Stamp Act to make those voluntarily engaged in labor disputes ineligible to participate in Federal food stamp programs. The general public has a right not to be required to carry the financial burden of a private dispute between management and organized labor.

Denying food stamps to a man involuntarily out of work, or to working men whose total family salaries fall below prescribed levels, is quite a different thing. These diligent men and women are trying to be productive members of American society by the pouring sweat of their brows. To compare these courageous and unfortunate people with strikers is odious. To ask the American people to pick up the tab for the laborers of the United Automobile Workers who chose to stop working is an unbearable and unspeakable burden.

When General Motors' employees deliberately chose to walk off their jobs in the worst strike of the decade, for the wrong reasons at the most perilous time in our recent economic history, the damage to all Americans was catastrophic enough.

The two months' strike slashed the gross national product by \$1 billion, added to the inflationary spiral of the economy and will add extra dollars to the cost of many items, not just automobiles.

When both Presidents Kennedy and Johnson followed the dictates of the Keynesian economists in allowing a "little inflation" as a good thing for the economy, they banked on voluntary wage restraints when the "little inflation" began to grow like Topsy. This fundamental error in human behavior has always been the major flaw in the lovely theory. The General Motors workers are not content with a mere hourly wage of around \$4. They want more, more, more now; they'll want more, more, more in the future.

An uncomfortable truth of modern American society is that big, organized labor—under the direction of iron-fisted bosses—possesses incalculable political and economic power. Too much. The political clout of labor in Congress probably is more than sufficient to kill Senator Thurmond's sensible legislation.

That power does not detract, one iota, from the correctness of Thurmond's position. "This action by the strikers amounted to a terrible economic crime perpetrated on the American taxpayers who, through his taxes, was actually forced to contribute his hard-earned dollars to the purchase of food stamps for those individuals who refused to work."

The Thurmond amendment would be a small corrective, indeed, but an essential protection of the public and those worthy recipients of food stamps.

## PORTUGUESE INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, throughout history Portugal has produced valiant people whose destinies were caught up in the pursuit of challenge, of freedom, and of happiness. Early explorers who reached beyond the scope of continental Europe were Portuguese. It was Henry the navigator who drew together the resources of the kingdom to send skilled geographers and navigators on a series of expeditions that eventually led Portugal to the wealth of India and the New World.

Under Spanish rule for the early years of the 17th century, Portuguese patriots rebelled in 1634 to reassert the free spirit and independence of the Portuguese people. John, Duke of Braganza, led a successful nationalist revolution on December 1, 1640, against the Spanish rule. It is this holiday in commemoration of the defeat of Spanish troops and consequent independence of their former homeland that Portuguese and Portuguese Americans celebrate on December 1. It is to this day and to these people that I pay tribute.

It was only natural that the sons of the explorers and heirs to the pioneer initiative would find their way to the shores of the New World. The waves of Portuguese immigrants who passed through Boston Harbor to seek new homes had many reasons for coming to America. Some were political refugees. Some sought religious freedom. Others sought a land where poverty and hunger would no longer be a reality, and still others came because they thought their future would be brighter in this land.

They entered the factories and the mills and smelters of a nation exploding into the industrial world. They mined its coal, stoked its fires, and constructed its factories and buildings. They became the sources of its strength.

Portuguese settlers were especially attracted to the whaling industry of New England, and the fishing industries of California and Rhode Island. By 1920, the Portuguese stock in the United States totaled 106,000 of whom two-thirds lived in New England cities: in Boston, Cambridge, Providence, Fall River, Lowell, and New Bedford. Today there are over 95,000 people of Portuguese extraction in Massachusetts alone.

Now, however, with the passage of time, our laws have come to place large obstacles in the path of those who seek to come to America to add their talents to our Nation's wealth.

Only recently, have we begun to reverse this trend and bring our laws into consonance with our heritage. The Immigration Act of 1965, which I sponsored, was a victory for justice and equality. It banished the discriminatory national origins quota system, and replaced it with a new system based on fairness for the people of all nations. New priorities were established to help families to be reunited with one another. As a result, over the last 5 years alone, nearly 6,600 Portuguese citizens have joined relations living in Massachusetts.

They have joined with the Portuguese Americans who came before them to add their special talent and vigor to this Nation. They set adrift their artistic gifts and traditions in the mainstream of American life. The outstanding musician and band leader John Philip Sousa, former conductor of the U.S. Marine Band, was an American of Portuguese descent. George Hard de Silva, a man of Portuguese background, became one of America's greatest songwriters, motion-picture makers and music producers. Such superlative achievements have helped to enrich the wonderful versatility of our own American heritage.

In the light of their exciting history and valuable contributions to the United States, I take pride and pleasure in paying tribute to all Americans of Portuguese descent on this anniversary occasion.

## CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## CONSUMER PROTECTION ORGANIZATION ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the amendments submitted by the Committee on Commerce be agreed to en bloc and that the bill as amended be regarded as original text for the purpose of amendment.

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

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. RIBICOFF. Mr. President, I know that the Senator from Michigan has some amendments. 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. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr.

HOLLINGS). Without objection, it is so ordered.

Mr. HART. Mr. President, I appreciate the opportunity again to make some suggestions with respect to modifications of the bill.

As I indicated at the close of business last night, I would hope that we could consider a series of suggestions which, in my view, would further improve the bill. I have had a discussion with the floor manager of the bill, the distinguished Senator from Connecticut (Mr. RIBICOFF), under whose leadership we have come this far. It is our feeling that we ought to proceed, first, to a consideration of two amendments, Nos. 1088 and 1089. I therefore call up Amendment No. 1088 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 6, after the period, it is proposed to insert the following:

"(12) Contain safeguards to insure that the agency designated or created by the State will effectively represent the consumer."

Mr. HART. Mr. President, there has been a recurrent struggle over the use of Federal funds by State and local agencies to achieve a Federal objective. On the one hand, there is a Federal reluctance to permit the expenditure of Federal funds without reasonable certainty that the Federal objective will be attained. On the other hand, there is a major red-tape bottleneck in attempting to obtain funds so that a State or local unit of Government can participate in the Federal program. In some areas there is a very real fear that divesting a maximum amount of Federal control to State and local governments in a federally financed project will result in killing off the project. The current dispute over the administration of the OEO legal assistance program is a case in point. In many areas OEO legal services attorneys have taken actions in defense of the poor which have pinched some nerves of powerful local interests who in turn have sought to undermine the effectiveness of the program by decentralization of control.

The creation of consumer protection agencies at the local level may reasonably be expected to generate the same amount of pressure for stilling the independence of the local agency.

At this juncture in the evolution of the bill, I would not propose restructuring the provisions making local grants possible. Instead, I propose an amendment which would add an additional requirement to a State proposal to designate or create a State consumer protection agency. Under this amendment, the director—before making a grant to a State agency—must be assured that the State agency is able to represent the consumer effectively. This amendment would insure that the State agency expending Federal funds would be what it is purported to be—a consumer agency free of direct or indirect adverse controls and the more subtle type of controls Federal agencies experience with industry advisory boards.

Mr. President, for those reasons I hope that the Senate agrees to the amendment.

Mr. RIBICOFF. Mr. President, while the pending amendment is satisfactory to me, the ranking minority member of the committee, the Senator from New York (Mr. JAVITS) is on his way to the Senate Chamber, and I would prefer to defer my acceptance of the amendment until I have had a chance to consult with the Senator from New York.

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

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

#### PRIVILEGE OF THE FLOOR

Mr. HART. Mr. President, I ask unanimous consent that Mrs. Dorothy Parker of the Senate Judiciary Committee staff be permitted on the floor during the consideration of the pending bill.

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

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Wager of the subcommittee staff be permitted on the floor of the Senate during the consideration of the pending bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIBICOFF. 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. RIBICOFF. Mr. President, having looked over amendment No. 1088, on behalf of the committee we have no objection to accepting it.

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

Mr. RIBICOFF. I am pleased to yield.

Mr. JAVITS. Mr. President, I join the Senator in that. I think in writing the bill we had this in mind. We made a generic provision. The amendment of the Senator from Michigan would make the generic provision, which we assumed would include this, specific. I see no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

#### AMENDMENT NO. 1089

Mr. HART. Mr. President, I call up my amendment No. 1089.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 44, line 12, insert the following language after the period:

"Nothing in this Act shall be construed by any court or agency as affecting the discretion of any court or agency to permit any person or group or class of persons to ini-

tiate, intervene, or otherwise participate in any court or agency proceedings."

Mr. HART. Mr. President, I have no doubt that the committee and the sponsors would not intend by the passage of the bill that is pending to foreclose the opportunity for a court or for an agency to exercise its discretion with respect to the admission to the proceeding of a consumer or a consumer agency. But the savings clause, section 404(c) is intended to preserve the rights of consumers and consumer groups to participate in Federal agency and court proceedings. Yet, the clause is predicated on the "rights" of consumers to participate which may be construed as preserving consumer participation only where that is permitted as a matter of legal right. In a large class of cases consumers do not participate as a matter of right, but only because the court or agency in its discretion permits consumer or consumer group intervention. As the public has become more aware of the effects of agency and court actions and powers upon consumers, there has been a welcome and growing responsiveness by these bodies to permit participation in the discretion of the agency or court.

This amendment will make clear that the creation of this agency and the provisions of this bill are not intended to cut off participation by court or agency discretion, nor are they to be interpreted as a ground for halting this healthy trend toward wider individual participation. Certainly, no one in this body would favor foreclosing participation by consumers to the relatively narrow class of cases where participation is recognized as a matter of legal right. To make the intent of Congress clear on this point, I offer this clarifying amendment.

Mr. RIBICOFF. Mr. President, we do believe that we have already covered in the bill the situation to which the amendment of the Senator from Michigan is addressed. We believe it is redundant, but we have no objection, and are willing to accept the amendment.

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

Mr. RIBICOFF. I yield.

Mr. JAVITS. Mr. President, I believe the amendment is redundant. If it is added to the text of the bill, it will, however, give the Senate conferees a choice of language, and in conference, we can have a better look at the language of the bill as compared with the language of the Senator's amendment.

Bearing in mind his point on the use of the word "rights" in line 10, page 44, whatever we do, I hope it will come out as one item, rather than two items as it is now.

I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1089) of the Senator from Michigan.

The amendment was agreed to.

#### AMENDMENT NO. 1087

Mr. HART. I call up my amendment No. 1087, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, line 10, insert the following after the period:

"The Consumer Protection Agency shall prepare an annual request for appropriations each fiscal year after 1973. The request shall be presented simultaneously to the Office of Management and Budget and the appropriate committees of Congress on or before February of each year by the Board of Directors."

On page 28, line 20, following the period insert the following:

"The Consumer Protection Agency, in consultation with the representatives of recipients of grants under this section, shall prepare an annual request for appropriations each fiscal year after 1973. The request shall be presented simultaneously to the Office of Management and Budget and the appropriate committees of Congress on or before February 1 of each year by the Board of Directors."

The PRESIDING OFFICER. The amendment of the Senator from Michigan has two sections. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. HART. I ask unanimous consent that the amendments be considered en bloc.

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

Mr. HART. Mr. President, I ask that the amendment be modified by striking, in the two places where they appear, the five words "by the Board of Directors."

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. HART. Mr. President, this amendment again is an effort to increase the measure of independence which will apply to the agency we are in the process of creating. The amendment is intended to make clear that the agency makes its own requests for appropriations without filtering the requests through the Office of Budget and Management. Control of the pursestrings on this agency should be in the hands of Congress to a very full degree, and the independence of this agency to inform Congress of its budget needs should not filter through an executive branch office.

The first section of this amendment makes it clear, with respect to requests for support of the agency at the Federal level, that this shall be the case, and the second section makes clear the agency's direct power to request appropriations for State, local, and private nonprofit activities.

The Office of Budget and Management would still have a measurable voice in coordinating the agency's budget with those of other agencies, but I suggest that Congress receive a copy of the agency's budget before the executive branch has subjected the budget proposal to paring. In this manner, the independence of the agency can be reconciled with whatever need there may be for budgetary symmetry, and Congress retains its constitutional control of the pursestrings.

Mr. RIBICOFF. Mr. President, on behalf of the committee, I have to oppose this amendment. The distinguished Senator from Michigan seeks to make an exception for this agency which no other agency of the Government has. Certainly

the President is entitled, through the Office of Management and Budget, to have all budget requests reviewed and studied, especially at times such as these, when there has to be budgetary restraint.

I see no reason why this agency should not have to go through the same procedures as all other agencies of the Government. It should be kept in mind that budget requests go before the Appropriations Committee. The Appropriations Committee will have a chance to study the needs, and I am sure that as in the past, if there is a feeling in Congress that the Office of Management and Budget has cut more than necessary, the committee would not hesitate to increase a request that comes up from downtown.

So, on behalf of the committee, I announce that we oppose amendment 1087.

Mr. JAVITS. Mr. President, with the manager of the bill, the Senator from Connecticut (Mr. RIBICOFF) I oppose this amendment, for the reason—and I think we might just as well have it out right now, as we begin to consider those Hart amendments which we feel we must oppose on this side—that this bill is one of very delicate balance. It is a matter of first impression. Let us not depreciate, Mr. President, the importance of this measure. A great struggle has been fought between the administration and the majority here in Congress as to whether or not to have an agency at all. The administration is very strongly against it; and, on the whole, I think the disposition of Senators is to be against a new agency.

Members of the minority have gone for the new agency concept, really, on the same basis that we have supported the new environmental agency: because it is a new issue of a very major character, which we feel is a product of the times—a really basic, legitimate, indigenous product of the times, which the people have a right to demand because they feel that way.

There has been difficulties as great with consumers' rights and treating consumers fairly, as there has been with dealing with the ecology. Both matters are very similar. So we are responding to what I deeply feel, and I think other members of the minority feel, is a real public feeling. The Senator from Connecticut and I have no secrets from each other; he knows how dubious I was about this concept, and how I had to be persuaded and other members of the minority, including the Senator from Illinois (Mr. PERCY) had to be persuaded.

We were persuaded, which is a great tribute to the Senator from Connecticut, but we were only persuaded because of the fact that there was a very fine balance struck, with an agency which we feel the public really wanted and had a right to, and with the fact that it should not be a vexatious monster troubling everyone, including every other Government department.

I think we have struck a very delicate balance in the respective aspects of the bill. For example, Senator HART's amendment raises one of those aspects, as the Senator from Connecticut (Mr. RIBICOFF) has said.

With its money requests, the agency is subject to the budgetary implications of the department of the White House which deals with that matter and with the Appropriations Committee.

On the other hand, the director and deputy director have set terms of 4 years each, coterminous with that of the President, each of them subject to the advice and consent of the Senate. This gives them a certain durability and independence of the same type that we introduced, for example, with the general counsel for the NLRB, for exactly the same reason.

We have given certain rights to this agency, with respect to the proceedings of other Government agencies, which are quite unusual. It does not stand in those agencies as an applicant or a petitioner. It stands as of right, as an agency of government, with the express duty, as if it were a district attorney, to speak for the consumers' interest.

In my judgment, the balance would be seriously disturbed by adopting this amendment, which, it has been noted, would be unique, sui generis, not the case in any other agency.

I think we can easily throw this whole thing out of kilter the minute we start along that road and alienate the basic support we now have and a certain confidence in the fact that the bill is fairly balanced—that it is a new and untried concept which worries some people in this country, but is appealing to others in this country. I hope the Senate will not allow this balance to be disturbed by this amendment, which would open that door and begin that process.

Mr. RIBICOFF. Mr. President, I would confirm what the Senator from New York has stated.

In all candor, there was a very long, protracted struggle to bring out a consumer agency bill, an agency of independence and authority, that could work in behalf of all the consumers in this country.

I want to pay tribute to the members of our committee on both sides of the aisle—their sincerity and their dedication—as a result of their efforts we come out with a consumer bill that is meaningful and will protect all the legitimate interests of both the producers and the consumers in this Nation. After a great deal of hard work, we were able to come up with this bill, which has had broad bipartisan support of most of the members of the committee in almost all its aspects.

Then, of course, this bill was referred to the Committee on Commerce. There, again, it was very carefully examined; and I want to pay tribute to Senator MAGNUSON and Senator CORRON for their dedication. The Commerce Committee further tightened and strengthened the bill.

Even as late as last night, there was a question as to whether the administration would accept it. There was a question whether the concept of an independent agency would be adopted or whether we would have a struggle on the floor of the Senate. After consultation with all the Members involved on both sides of the aisle, it was agreed that

we would continue with the concept of the bill and the independent agency, and not retreat to the administration proposal.

As a consequence, and out of a sense of fairness of the way the legislative process is achieved, I feel honor bound to stay with this bill, which all of us have worked so hard to achieve.

I do not think that any other Member of this body has been more dedicated or has worked as hard on matters of the consumers as has the distinguished Senator from Michigan. However, I do believe that the committee has a good bill, a bill that was hammered out over a period of many, many months, and, consequently, I, too, oppose the amendment now offered by the Senator from Michigan and will feel constrained to object to other amendments that he will offer on the floor.

Mr. HART. Mr. President, I have listened with interest to the statement just made by the manager of the bill. I had hoped that we could make the explicit provision that is contained in the pending amendment.

I would like to see us break precedent. Indeed, I wish we did this with the Comptroller General, himself. I would like to see Congress shed itself of the restraint of the other branch in the activity of its own Comptroller General. I would like to see this consumer agency explicitly authorized to move without the filtering process of the Bureau of the Budget affecting it.

But, given the opposition voiced by the able manager of the bill and the distinguished ranking minority member, the Senator from New York, I know perfectly well what will happen if this comes to a vote. I think it might be a disservice for the Senate to reject the amendment formally; because the Senator from Connecticut has reminded us that the Committee on Commerce, in its consideration of this suggestion, concluded that it ought not be aided explicitly, but felt that, since the agency is given the authority to bring to the attention of Congress problems that affect the consumer, the agency, in accordance with that authority, could take issue with the budget actions when those budget actions substantially affect the interests of the consumer.

I think that with this legislative history the point has been made with sufficient clarity, and I would hope that this agency, if it comes into being and finds that the interests of the American consumer are being killed off in the back room of an office, the door over which says "the Budget Bureau," it will come in here and tell us. We would expect nothing less than that.

So I withdraw the amendment.

Mr. RIBICOFF. Mr. President, in the Senate we have many watchdogs who are concerned with the problems of the consumer, and none of them is shy in making known to other Senators or the American people his views when he believes the consumers are being in any way treated unfairly.

I am confident that, once this agency comes into existence, if there is any attempt to shortchange it by the executive

branch, we will have opportunities, in the authorization and appropriation process, to make sure that this agency has the funds it needs to carry on its duties to protect the consumers of this country.

I thank the Senator from Michigan for his understanding of my position.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MOSS. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

On page 43, following line 20, insert the following new subsection:

"(e) Nothing in this Act shall be construed to modify the application of section 552 of title 5 of the United States Code; and nothing in this section shall be construed as a specific exemption from disclosure under paragraph (3) of subsection (b) of section 552 of title 5 of the United States Code."

Mr. MOSS. Mr. President, this amendment clarifies the application of the so-called Freedom of Information Act to the Consumer Protection Agency. The Freedom of Information Act applies to every other Federal department and regulatory agency and, therefore, should apply to the Consumer Protection Agency. There is possible confusion between the relationship of the information disclosure provisions in the bill and the operation of the Freedom of Information Act. This amendment will eliminate that confusion. The amendment also states that the information disclosure procedures set forth in the bill do not expand the present restrictions on disclosure in the Freedom of Information Act.

This section follows immediately after the trade secrets section of the bill, which is necessary to protect manufacturers and producers of products from disclosing trade secrets. Nevertheless, that shall not be construed, if this amendment is agreed to, to the detriment of the disclosure required of all Federal Government agencies.

Mr. RIBICOFF. Mr. President, the Senator from Utah has made a good point. There is no intention to prevent disclosure of matters provided for in the Freedom of Information Act.

I have discussed this with the ranking minority member and, on behalf of the committee, I agree to accept the amendment.

Mr. JAVITS. Mr. President, I should like to ask the sponsor of the bill this question: Is it intended by this amendment to diminish substantively the impact of the provisions of section 403, in which this amendment becomes a part?

Mr. MOSS. No. It is not so intended. It is merely because it was felt perhaps the wording of the previous section might cause confusion as to whether the Freedom of Information Act was suspended. So far as the agency is concerned, we make it clear that it is not so suspended, and that is the only purpose of the amendment.

Mr. JAVITS. Do the proponents see any inconsistency between the duties of the Government departments under the section of the United States Code that

the Senator refers to and section 403 of this act?

Mr. MOSS. I really think there is no inconsistency. My amendment is one of clarification and not an attempt either to expand or to contract what the present law is.

Mr. JAVITS. I thank the Senator from Utah. With that explanation, which we may have to test out in conference if we find anything wrong with it, I have no objection.

Mr. ERVIN. Mr. President, will the Senator yield so that I may propound a question to the Senator from Utah?

Mr. RIBICOFF. I yield.

Mr. ERVIN. May I ask the distinguished Senator from Utah, if I correctly understand that his amendment now pending, would make it certain this act shall not affect the provisions of the Freedom of Information Act?

Mr. MOSS. That is correct. The general statutes would apply in all of the departments, and this amendment is to make certain that it applies to this new agency, if it is created, the same as it would to the other established departments and agencies.

Mr. ERVIN. In other words, the amendment of the Senator from Utah would make certain that the matters which are to be divulged to the public under the Freedom of Information Act shall continue to be subject to disclosure, and the matters prohibited from being disclosed by the Freedom of Information Act would remain subject to their restriction against disclosure?

Mr. MOSS. That is precisely the intent.

Mr. ERVIN. I thank the Senator from Utah. I had prepared a somewhat similar amendment covering exactly the same ground. I believe that the amendment of the Senator from Utah accomplishes the same objective I had in mind.

Mr. MOSS. I thank the Senator from North Carolina. Knowing of his interest and great work in defending the freedom of information principle, I am pleased to know that his mind runs along the same lines as mine in this regard and has considered a similar amendment. I am glad to have his approval and support.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. ERVIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 18, line 13, strike out the word "removed" and insert in lieu thereof the following: "included in any such listing".

Mr. ERVIN. Mr. President, before coming specifically to this amendment, I should like to make some statements relating to the bill generally.

I am one of the few Members of the Senate who are disturbed by the bill. It seems to me that, as a nation, the American people suffer under a great delusion; namely, when anything wrong occurs,

Congress should pass a bill. It makes no difference how many laws we already have on the statute books of the Nation or upon the statute books in the 50 States regulating the same matter, or how efficacious those existing laws of the Nation and the States may be, Congress should proceed to pass a new law.

Mr. President, I must confess that legislative proposals of a particular nature come into vogue just like miniskirts do or maxicoats do. Today we have in vogue a rather insatiable demand for legislation to protect consumers. We proceed on the theory that consumers are rather helpless people, although they not only constitute a majority of the people of the United States, but constitute all of the people of the United States. Still the theory is advocated that consumers need the protection of the Federal Government because many people, even though they be consumers themselves, who offer goods or services to the American people spend their major energies devising new ways to cheat the consumers, upon whose goodwill their prosperity depends.

Mr. President, I appreciate the fine work which has been done on this bill by the distinguished Senator from Connecticut (Mr. RIBICOFF), by the distinguished Senator from New York (Mr. JAVITS), by the distinguished Senator from Washington (Mr. MAGNUSON) and by other Members of the Senate. They have done the best possible job in bringing forth a bill of this nature. But, I am wondering whether the bill will not do more harm to the economy than it will do good.

Mr. President, I have a number of other observations I wish to make in regard to the bill, but the distinguished Senator from New York (Mr. JAVITS) intimated to me in a private conversation that it might be the managers of the bill would not be averse to accepting this particular amendment.

This particular amendment relates to the dissemination of information by the new consumer agency. As set forth on pages 16, 17, and 18 of the bill, the provisions embrace within their coverage section 204, elaborating upon the power of the agency to receive consumer complaints and to engage in dissemination of information based upon such consumer complaints.

Lines 12 and 13 of subsection (e) of section 204 in its present form reads as follows:

Names of complainants shall be removed if they so request.

As the Senator from North Carolina construes that provision, it would provide that the agency will not disclose the names of particular complainants if those particular complainants request that their names not be disclosed.

My amendment would change this provision to read as follows:

Names of complainants shall be included in any such list if they so request.

In other words, my amendment would make the provision mean exactly the opposite of what it now means. It would, in effect, provide that the names of complainants who make specific complaints

will not be disclosed by the agency unless those complainants so requested.

Mr. RIBICOFF. Mr. President, I believe that the amendment of the Senator from North Carolina improves the bill and accentuates the positive instead of the negative.

Mr. President, as far as I am concerned, I am more than willing to accept the amendment of the Senator from North Carolina.

Mr. ERVIN. Mr. President, I thank my able friend, the Senator from Connecticut. I trust that the Senate will agree to the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

#### AMENDMENT NO. 1085

Mr. HART. Mr. President, I call up amendment No. 1085 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

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

The amendment ordered to be printed in the RECORD, reads as follows:

On page 9, line 12, delete the word "executive," insert a comma after the word "agencies" and add the word "Congress."

On page 11, line 13, after the word "request" insert a comma and add the words "file complaints."

On page 11, line 15, strike the word "executive" and insert the words "or any Federal court" after the word "agency."

On page 11, line 18, strike the words "the provisions of this section" and insert the words "the rules or regulations governing practice and procedure before the Federal agency, the Congress, or court."

On page 11, line 20, strike the word "not."

On page 12, lines 9-25; page 13, lines 1-25; page 14, lines 1-25; page 15, lines 1-25; and page 16, lines 1-4, strike the language included within the above pages and lines and insert the following:

"(c) The agency shall have standing as a party in equity in any proceeding under subsections (a) and (b), including the right to intervene and all rights to appeal as may be provided by law."

On page 16, line 5, delete "(e)" and insert "(d)".

Mr. HART. Mr. President, I modify the amendment as printed to provide that on the last line, line 14, of page 2 of the amendment rather than having it read: "On page 16, line 5, delete '(e)' and insert '(d)'," it will read: "On page 16, line 5, delete '(h)' and insert '(d)'."

The ACTING PRESIDENT pro tempore. The amendment is modified as requested by the Senator from Michigan.

Mr. HART. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. HART. Mr. President, the purpose of the amendment is to clarify the agency's power so that it can most effectively represent the consumer before the courts, Federal agencies, and Congress.

The first part of the amendment removes the limitation of appearing before Federal executive agencies and would describe the function of the agency as empowered to appear before any Federal agency. Let us not kid ourselves. The bill as reported restricts the agency to move in matters that are before an executive agency.

I suggest that we strike the limitation that it be an executive agency only and provide that it can move to all agencies.

In addition, the agency should be free to speak to Congress without filtering its viewpoint on consumer matters through executive branch agencies with their advisory committees.

I suggest that there is no reason why Congress should not receive relevant consumer information from a consumer protection agency which is independent.

Section 203 of the bill is a jungle of jurisdictional restrictions upon the authority of the agency. The further we plow through this matter the more we become lost and confused. It is a veritable jungle of jurisdictional restrictions upon the authority of the agency. The restrictions upon when the agency may act, on what issues, and under what circumstances virtually assure that the agency will be wrapped in redtape and will devote considerable effort to nitpicking over the redtape.

The basic thrust of my amendment to section 203 is to give the agency standing as a party in equity and to file complaints before Federal agencies and courts under four conditions:

First, the matter is within the responsibility of the agency or court;

Second, the matter substantially affects the interest of consumers;

Third, the agency's participation is in accordance with the agency or court rules and regulations governing practice and procedures; and

Fourth, the agency seeks equitable relief.

All the jurisdictional limitations and restrictions from subsection (c) on page 12 to subsection (h) on page 16 would be deleted. A new subsection (c) giving the agency standing and rights of appeal as a party in equity is inserted.

The amendment deletes long, complex, and confusing jurisdictional limitations and in straightforward language gives the agency power to effectively represent consumers by vesting it with the ultimate authority to sue for equitable relief.

I think we are all aware of the sensitivity and precisely what the reach and sweep of the powers of this agency shall be.

If we agree to the amendment, there would be little doubt that we can in honesty say that we have armed this agency with broad power and given it a basis upon which it may act, direct, and order that the voice of the consumer's concern in this country be heard in every Federal agency, not just executive agency, and before the courts where

the court rules of procedure would otherwise permit.

I think it would be a sound addition. Indeed, I think that this, or some modification of this, is essential if we are in fact to advertise this as an agency armed sufficiently to improve the plight of the consumer in the marketplace today.

Mr. President, I hope very much that the Senate will agree to this expansion of authority and clarification of jurisdiction.

#### ORDER OF BUSINESS

Mr. RIBICOFF. 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. MAGNUSON. 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.

#### ORDER OF BUSINESS

Mr. RIBICOFF. Mr. President, before the Senator proceeds, will he yield to me so that I may propound a unanimous-consent request?

Mr. MAGNUSON. I yield.

#### COMMITTEE MEETINGS DURING SENATE SESSION

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

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

#### CONSUMER PROTECTION ORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, and for other purposes.

Mr. MAGNUSON. Mr. President, I understand the pending business is the Hart amendment. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MAGNUSON. Mr. President, I send to the desk a substitute.

The ACTING PRESIDENT pro tempore. The substitute amendment will be stated.

The assistant legislative clerk proceeded to read the proposed substitute amendment.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The Parliamentarian advises the Chair that this is not drafted as a proper substitute.

Mr. MAGNUSON. I submit it as a perfecting amendment.

The ACTING PRESIDENT pro tempore. If properly drafted it could be offered as a perfecting amendment, and the amendment will be received, and the Senator's request for suspension of the reading is ordered.

The perfecting amendment is as follows:

On page 11, lines 13 through 18, delete subsection (a) and add the following in lieu thereof:

"(a) (1) The Director may request or petition for the initiation of any proceeding within the responsibility and authority of any Federal executive agency concerning any substantive or procedural matter which substantially affects the interests of consumers.

"(2) If any Federal executive agency declines to initiate any requested or petitioned for proceeding described in paragraph (1) of this section it shall timely make public in a current and concise statement its reasons therefor.

"(3) If any Federal executive agency declines to initiate any general policymaking or rulemaking proceeding requested or petitioned for, the Director may, after reviewing the reasons therefor, submit the issue to the President who shall by order published in the Federal Register decide whether the proceeding shall be commenced.

"(4) Proceedings requested or petitioned for having been initiated, the Director shall participate in accordance with the provisions of this section."

Mr. HART. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The parliamentary inquiry will be stated.

Mr. HART. Would the amendment now offered as a perfecting amendment be voted on first?

The ACTING PRESIDENT pro tempore. Yes, it would.

Mr. JAVITS. Mr. President, another parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. If voted on and carried, then it perfects the text of the bill, but it does not prevent the amendment of the Senator from Michigan from being voted up or down. Is that correct?

The ACTING PRESIDENT pro tempore. It is a perfecting amendment to the amendment of the Senator from Michigan. If voted on and agreed to, the amendment of the Senator from Michigan would be perfected.

Mr. JAVITS. Then the amendment of the Senator from Michigan as perfected would come up for a second vote. Is that correct?

The ACTING PRESIDENT pro tempore. Yes.

Mr. JAVITS. That is what I wanted to make clear. I thank the Chair.

Mr. MAGNUSON. Mr. President, we originally had an amendment, which I technically considered to be a substitute for the amendment of the Senator from Michigan. It relates substantially to this matter. If the Director of this new agency should request the initiation of any proceeding within the responsibility and authority of any Federal executive agency, like the FTC or some other agency, concerning any substantive or procedural matter which substantially affects the interests of consumers, and if any Federal executive agency declines to ini-

tiate any requested or petitioned-for proceeding described in paragraph (1), and if any Federal executive agency declines to initiate any general policymaking or rulemaking procedure requested, the original amendment suggested might have to go to court.

But we have thought that, because of the time element involved, we have so amended the original proposal to provide that, the procedure requested or petitioned for having been initiated, the Director shall proceed in accordance with the provisions of this section, but, in reviewing the reasons therefor, instead of going to court, he shall submit the issue to the President, who shall, by order published in the Federal Register, decide whether such proceeding shall be commenced.

It does not delve into the merits of the proceedings. It leaves some authority in the agency to say the proceedings shall go ahead if there is a conflict or difference between the Director and any executive agency. That is what the amendment does.

Mr. RIBICOFF. Mr. President, I strongly oppose the amendment offered by the Senator from Michigan (Mr. HART), and, after consultation with my colleague the Senator from New York (Mr. JAVITS), I support the perfecting amendment offered by the Senator from Washington (Mr. MAGNUSON).

The amendment of the Senator from Michigan would make this agency the super law enforcement agency of the Nation. That was not intended. We did not give the agency the right to sue, because it is not to be a law enforcement agency and we did not want to make it superior to every other agency of the Government so that it would assume primary jurisdiction over the responsibilities of other agencies of the Government.

I think the Senator from Michigan has made a valuable contribution in what he has proposed, because it is important that the agency have some right to review the failure of another agency to act on matters of general policy.

It was the suggestion of the Senator from New York, who, as usual, is full of very practical ideas, that in the event of a conflict between the Consumer Protection Agency and another agency of the Government, the matter be referred to the President for decision.

It could be said that this puts the President on the spot, but the President should be on the spot in any circumstances in which there is a conflict between two agencies of the Government. I believe this puts these matters into public view and places the burden on the shoulders of the President, where it belongs.

The Hart proposal is complex. It would cause great conflicts throughout the Government. I could not approve the Hart proposal because it was intended right along that this agency should not have priority over all other agencies of the Government.

Mr. JAVITS. Mr. President, I feel exactly as does my colleague. I made this suggestion to the Senator from Washington (Mr. MAGNUSON). I am glad he accepted it. It gives *pari passu* jurisdiction

equally to the Consumer Protection Agency and to any other agency relative to matters which are unresolved.

There is one thing I want to be sure of. On it hinges the whole balance of the bill, including the balance which was introduced by the Commerce Committee's concurrence—on which matter I consulted the ranking Republican member (Mr. CORRON) before agreeing. We wish to be very clear that, having given this agency *pari passu* jurisdiction, it does not evade the conduct we have insisted on in the bill, and that the director of this agency cannot initiate or compel directors of other agencies to act or interfere with proceedings in the jurisdiction of the other agencies; but if the President so orders, since he is the boss, what he says goes.

I would not want the Senate to think this amendment is without force. We have raised the level of the Consumer Protection Agency by locking it into this kind of *pari passu* stance.

In order to avoid conflict, it is necessary to tie up one loose end. It will not mean a change in language. Will the Senator from Washington agree with me?

Section 203(e), which appears on page 15, provides that upon petition by a substantial number of citizens, the Consumer Protection Agency may be moved into action.

I want to be sure we understand that the practice of referring to the President, if the two agencies are deadlocked, should be dealt with in respect of section 203(a), where the volition is on the part of the Director of the Consumer Protection Agency to refer, and not to 203(e), where he may be moved into action by petition of citizens.

Mr. HART. Mr. President—

Mr. JAVITS. I still have the floor. I asked a question of the Senator from Connecticut and the Senator from Washington.

Mr. HART. I beg the Senator's pardon.

Mr. JAVITS. I want to be sure we have a complete understanding.

Mr. RIBICOFF. Mr. President, I think we understand one another. As far as I am concerned, I am in agreement with the Senator from New York. I think the Senator from Washington goes along with this understanding.

Mr. MAGNUSON. Yes.

Mr. JAVITS. The Senator does. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. HART and Mr. MAGNUSON addressed the Chair.

Mr. HART. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has the floor.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. HART. I yield.

Mr. MAGNUSON. There is a technical legislative problem here. The Parliamentarian suggests that the matter that was sent to the desk is not legislatively a substitute, nor is it a perfecting amendment, but that it can be brought up immediately after the vote on the Hart

amendment as a separate amendment. Therefore, I ask unanimous consent—

Mr. JAVITS. Mr. President, before the Senator does that, why do we not suggest to the Senator from Michigan—I think he wishes to accommodate us all—that he momentarily withdraw his amendment, and let the Senator's amendment be acted on? Then at least he has a stop loss, and he may go forward if he wishes.

Mr. HART. Mr. President, I shall be glad to withdraw amendment No. 1085 momentarily, to permit the Senator from Washington to offer his amendment.

The ACTING PRESIDENT pro tempore. Without objection, the amendment of the Senator from Michigan is temporarily laid aside, to permit the Senator from Washington to submit his amendment as a new amendment, not a perfecting or a substitute amendment. Without objection, the amendment becomes the pending business.

Mr. MAGNUSON. I thank the Chair. Mr. RIBICOFF. Mr. President, on behalf of the committee, I accept the amendment offered by the Senator from Washington (Mr. MAGNUSON).

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

The ACTING PRESIDENT pro tempore. The Chair had recognized the Senator from Michigan, and he has the floor.

Mr. HART. The Senator from Michigan is glad to permit the Senator from New York to support the amendment; I am sure that is what he wishes to do.

Mr. JAVITS. The Senator is correct. Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan has the floor.

Mr. HART. Did the Senator from Washington wish to make a comment at this point?

Mr. MAGNUSON. No, I have no more to say about it.

Mr. HART. Mr. President, the suggestion has been made that, when a substantial consumer interest is identified by this agency as requiring another Federal agency, such as, to pick one out of the blue, the Federal Power Commission, the Federal Aviation Agency, or you name it, to act, and that agency says "No," we ought to let it go to the President and let the President resolve the dispute, requiring the President to explain why he supports the agency in question or the Consumer Protection Agency.

As the discussion has indicated, my feeling is that it would be much more desirable and more in the interests of the American consumer to permit its representatives who say that a substantial consumer interest requires the action to go to court, and let the courts decide whether the Federal Power Commission or the Interstate Commerce Commission is correct in rejecting the proposition that a substantial consumer interest is present. I think that is much preferable to the suggestion that is now before us that the President make the decision.

The Senator from Connecticut says that this has the advantage—or disadvantage if you will—of putting the President on the spot. I suggest that the

fellow who would really be on the spot if we agree to this amendment is whoever is supposed to run the Consumer Protection Agency, because that fellow is appointed by the President, and we are asking him, then, to put the President on the spot.

I suggest if there were anything that would take the steam out of an aggressive Consumer Protection Agency Director, it would be to tell him, "If you really want to rock the boat, go ahead, but why do you not pick the easy ones, and leave the tough ones for discussion and review, but do not push it?"

This is my oversimplified and perhaps somewhat harsh evaluation of the proposal. Here is the director of the Consumer Protection Agency, appointed by the President, and, unless we change it, whose term runs concurrently with the President's, being told, "If the Federal Power Commission disagrees with you, the only thing that you can do, if you think there is a substantial consumer interest involved, is put the White House on the spot."

There is a breed of Americans who would be willing to do that. It would be great if we could provide that the Consumer Protection Agency Director shall always come from that breed. But there is another breed of American who senses his first obligation to be not so much to the consumers of America, but to the President who appointed him, and with whose term he is in stride.

I say do not put that kind of heat on the Consumer Protection director. Let the court, to whom he is not beholden, make the decision. When there is a head-to-head conflict between the interests of some Federal agency, whose prime concern is the healthy economy of whatever particular economic segment it regulates, and the officer whom we are creating and will advertise as the voice of the American consumer, let him go to court.

This does not make him a super law enforcement agent. It does give him an opportunity to play the role we claim we are assigning him—the role of voicing a major consumer interest. I would hope very much that we will not agree to the amendment, in which case I would then offer the amendment which I temporarily withdrew, which will give the agency an opportunity to have a court resolve the dispute between the agency regulating some economic interest and the agency that we shall say represents the consumers of the country.

Mr. RIBICOFF. Mr. President, in reply to the distinguished Senator from Michigan, I point out that if we had a super-cautious director of the Consumer Protection Agency, he would be just as reluctant to put the administration on the spot by going to court, as he would be to refer the matter to the President of the United States, because in either case, it would be in the public domain and a matter of public controversy.

Mr. HART. Mr. President, will the Senator yield at that point?

Mr. RIBICOFF. I am pleased to yield to the Senator from Michigan.

Mr. HART. Who would be making the decision, the court or the President?

Mr. RIBICOFF. Frankly, I would rather put the President on the spot than the courts, because if we started a court proceeding in a dispute between two agencies as to whether one should or should not act, and we spin it out over 2 or 3 years, then we would be spending all that time without a decision, when we should have a decision. And believe me, the press of this country and the consumers will not sit by and allow the President to take his time for 1, 2, or 3 years to make a decision. The controversies that would arise in the whole consumer field would be public controversies.

This Nation has become consumer-minded. With men like Mr. Nader and others who have brought to the public attention the great problems that affect the consumer in each and every field; and with the interest in the consumer we have in this body, with many Senators who are vitally interested in the problems of the consumer—and there are no two greater than the Senator from Michigan (Mr. HART) and the chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON)—the problems of the consumer are front page news day in and day out.

I am anticipating that whoever receives the job of Director will be a person who will be constantly on the spot, put there by 210 million Americans, and I have no fear that the consumers' interests would be swept under the rug because the President would not be confronted. He will be confronted, because the public will make him decide these cases.

I think that the proposal of the Senator from Washington is much preferable, and I do believe it will get faster and more definitive results, than the proposal of the Senator from Michigan (Mr. HART).

Mr. JAVITS. Mr. President, I would not wish to restate any argument made which has been very validly made by Senator RIBICOFF and Senator MAGNUSON in opposition to the position taken by the Senator from Michigan, but I would like to add this point.

Assuming that the authority is given for which Senator HART contends, is it not really throwing all these cases out of court unless a body of statute law is written which is going to give the court the criteria upon which to judge? How is a court going to judge between the Department of the Interior and the Director of the Consumer Protection Agency on a matter which may affect some problem of consumer use—let us say of recreation facilities—unless we give it criteria? The only criteria they have now in the bill is that it is in the best interests of consumers. I cannot conceive of a court considering that a criterion in which it can come to judgment between two Government departments.

In addition, the final point is the spectacle of two Government departments of the United States litigating in the courts of the United States, which is only another branch of Government no different from our branch or the branch of the President.

Try as we may, we have seen that in the NLRB, in the Civil Rights Division of the Attorney General's Office, when appropriating money which the Executive will not spend, he cannot be stripped of his power over Government agencies in the Executive authority, any more than our power can be allowed to be stripped away.

This is properly, as Senator RIBICOFF has said, a White House function, and we have locked it in by requiring decision on the highest level, by order which is made public, and it seems to me that we have done everything anyone can call on us to do.

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

Mr. JAVITS. I yield.

Mr. MAGNUSON. I thought in the beginning that perhaps the court procedure might be the best way to do it. But I know how long it can take in court to make these decisions. I think that public opinion on a given matter would create an atmosphere for a President to make a decision much quicker than by putting it in courts.

Second, if the court decided that the proceedings should continue, it would have to get into the merits.

Mr. JAVITS. Of course, it would.

Mr. MAGNUSON. It would have to determine a little of the merits. Therefore, the judge would be prejudging the whole matter, and this would be an awkward situation.

I think we are making great progress. I appreciate what the Senator from Michigan has had to say. We have been together, all Senators I see in the Chamber, particularly in the Committee on Commerce and Senator RIBICOFF's committee, moving forward on these consumer matters. We are making a great step forward here, I think. People are aware of the fact that there is going to be some interest and that they are going to have some voice. Sometimes, a voice in court is stilled too long because of the long procedures.

I suppose that the Senator from New York, the Senator from Connecticut, the Senator from Michigan, the Senator from North Carolina, and I know that if one really wants to do so, it can be held up a long, long time.

Mr. JAVITS. It certainly can.

Mr. MAGNUSON. But the President does not have much time to wait, whoever he may be. He has to reflect—at least, I hope he will reflect—public opinion in these matters; and I think this is a good basis for it.

Mr. JAVITS. I thank the Senator.

I hope very much the Senate will adopt this amendment.

Mr. HART. Mr. President, my concern is not so much that a court would move slowly in resolving a conflict between the agencies and that a President could resolve it quickly. My concern is that it will be a rare breed of Director of the Consumer Protection Agency who will move to compel his President, his appointing authority, to be put on the kind of spot that this would put him on. It is what will not be done if this amend-

ment is adopted that concerns the Senator from Michigan.

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

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question now recurs on the amendment of the Senator from Michigan, which has already been read.

Mr. HART. Mr. President, the Senator from Michigan knows perfectly well what would happen to the amendment that was pending earlier. For all practical purposes, it has been resolved by the disposition just made of the amendment offered by the Senator from Washington. So I shall withdraw that amendment.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn.

#### AMENDMENT NO. 1086

Mr. HART. Mr. President, I send to the desk amendment No. 1086 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 20, line 9, insert the following sentence after the period: "Notwithstanding title 31, United States Code, section 18(b), any investigation, survey, or research undertaken pursuant to this section may be done without consultation or approval of the Office of Management and Budget or any other executive branch agency."

Mr. HART. Mr. President, here, again, is an amendment offered in the belief that it will add to the independence of the Consumer Protection Agency. For effective operation, there will be occasions when the Consumer Protection Agency must assemble information from the marketplace. This amendment would remove the restriction that would attach to the Consumer Protection Agency in the soliciting of this information.

The limitation that I seek to remove by the amendment is the approval of the Office of Management and Budget, formerly known as the Bureau of the Budget. Under existing law, to conduct an economic survey, the surveys and the questionnaires, the factfinding tools, have to be approved prior to distribution by the Office of Management and Budget.

The experience is that—we just talked about delay—incalculable delay, as a very minimum, can be imposed on an effort such as this in the Budget Bureau because the Budget Bureau has the practice of referring questionnaires to industry committees for their reaction, for their suggestion—sometimes, one thinks, for their concurrence.

One good example—it was developed by the able Senator from Montana (Mr. METCALF) in a series of hearings—is that there has been a delay of some 7 years resulting from the Industry Advisory Committee and Bureau of the Budget discussion of the effort to get an inventory of industrial water waste sources. This effort was begun in 1963, and the effort finally collapsed because the Budget Bureau, along with the industry advisory group, simply was unwilling to

permit the inquiries to be cleared for submission to the probable industrial water polluters.

It surrendered finally, and a small sample, with replies on a voluntary basis, with assurance that any information developed would not be used in terms of identifying the source, was the resolution of that 7-year effort to inventory industrial waste.

It would be totally inconsistent with the concept of independence for this consumer agency to have its research function and its survey efforts subject to this kind of industry review and Budget Bureau control. I offer the amendment to make clear the congressional intent that the agency shall not be subject to such inconsistent control. This, Mr. President, may appear as a rather peripheral and relatively unimportant proposal. In terms of the long-term effectiveness of the Consumer Protection Agency, I suggest that it is a rather essential, strengthening amendment. I would hope very much that the Senate will agree, in order that we can say, if the agency is created, that when it seeks to identify substantial consumer interests it is not going to have to get the lead of a committee group established by that segment of the economy which, in the opinion of the Consumer Protection Agency, may be creating a substantial consumer disservice.

(At this point Mr. HUGHES took the chair as Presiding Officer.)

Mr. METCALF. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield.

Mr. METCALF. I was pleased, while acting as Presiding Officer, to hear the Senator from Michigan refer to some of the material which had been brought out in the hearings on advisory commissions. Some of the advisory commissions have completely stifled the information process by which Congress operates. Others, as the distinguished Senator from Michigan has pointed out, have delayed that process for years and years and, finally, only made them on a voluntary basis instead of a mandatory basis.

These matters cannot be left up to the Bureau of the Budget or some other agency. Matters of consumer interest must be acted upon promptly and immediately. Many arguments made on behalf of the previous amendment were that there would be delay in the courts and there would be an opportunity for long, drawn-out hearings. These things cannot happen, because it would completely destroy the whole effect of a consumer bill.

I thank the Senator from Michigan.

Mr. HART. I appreciate very much the support voiced by the distinguished Senator from Montana.

Mr. President, I hope that the Senate will agree to the amendment.

Mr. RIBICOFF. Mr. President, I regret that I have to oppose the amendment by the distinguished Senator from Michigan (Mr. HART). What he seeks is a different policy for this agency concerning surveys than that prevailing in other departments and agencies of the Government.

The Federal Reports Act, 5 U.S.C. 139, specifically provides the method to be used in questionnaires and the gathering of information. This bill is consistent with that law. The Senator asks a good question: "Should the Director of the Office of Management and Budget be allowed to sit on all these questionnaires and refuse to give permission or to approve the type and form of questionnaire or survey?"

However, this is a new measure. I have great hope that the agency will have some bite, that it will be successful, and that it will have the support of the American people, whoever may be the President at any given time.

With the committees of Congress "watchdogging" this agency performing their oversight function, I have confidence that the Director of Office of Management and Budget will not refuse legitimate requests of the agency as it seeks to gather information for carrying on the functions we are giving it today. Consequently, Mr. President, I will have to oppose the amendment.

Mr. JAVITS. Mr. President, I must oppose the amendment, as does the manager of the bill. He has just stated our reasons. I have one additional point to make.

As I said before, we had, on the one hand, to give the people the services of the vital Consumer Protection Agency and, on the other hand, to see that we were not overwhelmed by the fears of American business in dealing with such an agency and, in this case, compounded by the fears of other Government departments.

It seems to me that we have done our utmost to bring about an evenhanded response in both situations. I see, again, that this is in line with the philosophy of the Senator from Michigan (Mr. HART). He wants a type of super Government agency for consumers which will, in a sense, have a level over and above all other Government agencies within the executive department. It is our judgment—certainly my judgment and that of the Senator from Connecticut (Mr. RIBICOFF), which he has expressed as the manager of the bill—that the adoption of the pending amendment would be the surest way to kill that accommodation of forces which has resulted in our breaking through now with what looks like a monumental historic achievement—that is, the establishment of a Consumer Protection Agency with powers and authority and personnel adequate to do an effective job for the consumer.

I do not think we should load this bill down with aspects which will contribute to the very concerns which can mount an opposition—which the bill cannot stand.

I hope very much, therefore, that we will turn down this particular amendment.

Mr. HART. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, we are prepared to vote.

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

The PRESIDING OFFICER (Mr. HUGHES). 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.

#### ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until the hour of 1:45 p.m., at which time a brief quorum call be had and then the vote on the pending amendment.

Mr. HART. Mr. President, I would hope to be able to make a 1-minute explanation of the amendment when we resume. I wish that the majority leader would anticipate that. If we come back into session at 1:45 p.m., we could vote at 2 p.m.

Mr. MANSFIELD. Mr. President, I withhold that request, but at the conclusion of the remarks of the distinguished Senator from Arkansas, I will renew the request with the additional proviso that there be a 2-minute limitation, the time to be equally divided between the manager of the bill and the sponsor of the amendment after a brief quorum call.

#### THE ENFORCEMENT OF SCHOOL DESEGREGATION AND ELIMINATION OF DISCRIMINATION

Mr. McCLELLAN. Mr. President, yesterday the senior Senator from Connecticut (Mr. RIBICOFF) introduced a bill, S. 4545, entitled "The Urban Educational Improvement Act of 1970."

Among its purposes and findings are:

(d) The general welfare of this Nation requires the elimination of racial separation in public schools wherever and how it occurs; and

(e) This Nation must therefore commit its moral strength and financial resources to the achievement of this goal.

Without committing myself to support of this measure and without announcing my agreement in full with all of its implications and objectives, I do wish to commend again the distinguished senior Senator from Connecticut for his continuing efforts to eliminate the discriminatory practices of our Government in the enforcement of school desegregation, particularly with respect to different sections of our country.

The senior Senator from Connecticut, in discussing the merits of the bill which he introduced yesterday, stated:

If we are to end the racial turmoil tearing this Nation apart, we must be willing to attack segregation in the North with a will equal to that we demand of the South.

The will of the Government to attack segregation in the North has been woefully lacking in the past. Ninety-nine percent of its visible or effective efforts have been directed to the South. Therefore, I know the senior Senator from Connecticut is in good faith and his motivations are most honorable and commendable in recognizing the hypocrisy that has so long prevailed in this

field. He is now aggressively fighting for fairness, justice, and equality between all races, all States, and all sections of the Nation on this issue that has caused the racial turmoil to which he refers as "tearing this Nation apart."

I do believe, however, that the logical place for our Government to begin implementing such a new policy in the North is in the central cities. It should first undertake the task of eliminating the blatant discrimination against blacks and Spanish Americans in these cities before a wider, suburban effort can reasonably be undertaken. If the central cities, the core, is rotten, integration efforts in the suburbs must be doomed to failure. In previous remarks I have detailed problems existing in Chicago, Detroit, and Boston. Last week in hearings before the Select Committee on Equal Educational Opportunity, held at the request of the senior Senator from New York, we learned of intolerable discrimination against Puerto Ricans and, to a lesser extent, against blacks in the city of New York. According to testimony at the hearings the public school population of New York City is 39 percent white, 27 percent Puerto Rican, and 34 percent black. New York has 55,000 teachers of which only 350 are Puerto Rican; New York has 1,000 guidance counselors of which only 10 are Puerto Rican; New York has 1,700 assistant principals and only 10 are Puerto Rican. There are no Puerto Rican permanent principals in the New York school system. I wish for the Members of this body to contrast these statistics with the requirements being made of the South by the Federal courts, which are:

The District shall assign staff... so that the ratio of Negro to white teachers in each school and the ratio of other staff in each are substantially the same as if such ratio is to the teachers and other staff, respectively, in the entire school system... No staff vacancy may be filled through recruitment of a person of a race, color, or national origin different from that of the individual dismissed or demoted until each displaced staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so. Singleton v. Jackson Municipal Separate School District, 419 F2d 1211 (5th Cir. 1969).

Mr. President, I submit that that rule cannot be applied, it is not being applied, and it will not be applied to States like New York; but it is applied in the South where officials by the hundreds are sent in to bring about enforcement. Duplicitous, hypocrisy, and impracticality are all bundled into one. Obviously there is no possibility of fulfilling the first of these requirements in the New York City schools as there are not enough Puerto Rican teachers so that one could be assigned to each school. Certainly it is impossible with regard to staff as there are only 10 Puerto Rican guidance counselors, 10 assistant principals, and zero permanent principals.

Mr. President, how could it be enforced in New York? It is impossible, it is not practical, and obviously it will take years to develop the qualifications of people to fulfill such a requirement. However, it is apparent that no such effort is being made.

The blame for much of this situation has been placed upon the board of examiners of New York City. The board of examiners is not singled out, however, as the entire New York City educational-political system is accused of "cronyism, political patronage, corruption, and the spoils system." It would be an awful thing to me if someone talking about the South used that terminology, but it is being used now in connection with New York by New York citizens. This accusation was made of "individual members of the New York City Board of Education, the administration at 110 Livingston Street—and a number of education-establishment organizations. The author of this accusation was Luis Mercado, a nonpermanent principal at P.S. 75 Manhattan. According to Mr. Mercado, the equal employment and opportunity section of the 1964 Civil Rights Act has not been enforced in New York City. He further charges the New York City Board of Education and the board of examiners of blatantly discriminating against Puerto Ricans.

I emphasize that these are things I am taking from testimony by witnesses who came by request before a congressional committee. This is not my statement.

Mr. President, the committee also learned last week that Boston does not confine its discrimination and prejudice to black people. It is equally oppressive to Puerto Ricans. According to Armando Martinez, there is a 90 percent dropout rate among Puerto Rican children in the Boston schools. Enforcement of the truancy laws in Boston against Spanish-speaking children is virtually impossible as the Boston school system has no truant officers who can speak Spanish. Out of 5,800 teachers in the Boston schools there are two Puerto Ricans. Out of an estimated 3,200 pre-school Puerto Rican children only 62 have been able to attend pre-school programs. With a Puerto Rican student population of about 7,800 in the city of Boston, only four graduated from Boston schools in a 4-year period. However, things are looking up in the Cradle of Liberty. In this year alone Boston graduated seven Puerto Rican students—four from parochial schools and three from public schools. Mr. Martinez, an articulate and intelligent witness, was in a mentally retarded class in Pawtucket, R.I., until the age of 13. He is now in the process of obtaining his doctorate from Harvard. Obviously Northern classification systems leave something to be desired.

Mr. President, it is for the reasons outlined above that I think that, without commenting on the wisdom of the proposals contained in the bill, it is premature. The Senator from Connecticut is to be applauded for his continuing efforts to end a racial isolation which he believes to be morally wrong and detrimental to our Nation. I entirely agree with him that if segregation is wrong in the South it is equally wrong in the North.

I pause for a moment to suggest that Senators search the RECORD for the past 10 years. Ninety-nine utterances of every

100 about civil rights and discrimination have been made against the South and not against any other section of the country. Much of it has come from representatives from areas where discrimination exists as I have described here and as described by the witnesses from those areas who have testified before this select committee.

I applaud the efforts of the Senator from Connecticut toward nationwide enforcement. I do believe that this bill would have much more force and effect if it were to require Northern cities to eliminate discrimination to the extent it has been eliminated in the South before attacking the larger question. Elimination of discrimination is a necessary precondition to ending racial isolation. It is the ending of discrimination in the North which must be the initial object of any such legislation as that introduced by the Senator from Connecticut. Then the large cities in the North will be in a position to remove the manmade artificial barriers to integration behind which they have for so long hidden while condemning the South. I believe it is essential that we do as Senator RIBICOFF believes we must, that we treat the problem of racial and ethnic isolation on a national basis and end the sectional discrimination which has divided our country.

#### RECESS

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m.

There being no objection, at 1:31 p.m., the Senate took a recess until 1:45 p.m.

At the expiration of the recess the Senate reassembled when called to order by the presiding officer (Mr. HUGHES).

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1181) to provide for potato and tomato promotion programs, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill and asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FALLON, Mr. KLUCZYNSKI, Mr. WRIGHT, Mr. EDMONDSON, Mr. CRAMER, Mr. HARSHA, and Mr. CLEVELAND were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H.R. 16443) to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to

perform architectural, engineering, and related services for the Federal Government, in which it requested the concurrence of the Senate.

#### HOUSE BILL REFERRED

The bill (H.R. 16443) to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government was read twice by its title and referred to the Committee on Government Operations.

#### CONSUMER PROTECTION ORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following a quorum call, there be a period of 2 minutes, to be equally divided, on the Hart amendment, the time to be controlled by the able Senator from Michigan (Mr. HART) and the able Senator from Connecticut (Mr. RIBICOFF), after which the vote on the amendment offered by the Senator from Michigan will occur.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Connecticut has 1 minute, and the Senator from Michigan has 1 minute.

Mr. HART. Mr. President, each of us reserved this minute in order that we would have a full Chamber to explain very briefly the proposal.

In short, I suggest, through this amendment, that we not tie the hands, in a very practical sense, of the new Consumer Protection Agency by requiring that before it can undertake review or research or direct inquiries to the marketplace, it get the approval of the Bureau of the Budget. Unhappily, the Bureau of the Budget, through whom, unless we adopt this amendment, must be referred for clearance any inquiry, any direct approach through the mail, to segments of the industry, turns to the industry and says, "What do you think about it?" Not surprisingly, there have been many, many delays in the effort to get the inquiry through. I hope we will not do this to this new Agency.

Mr. RIBICOFF. Mr. President, what we have done in this bill is to continue with the uniform policy that now prevails throughout the Government in the gathering of information and research and surveys by requiring that the form be cleared with the Office of Management and Budget. I see no reason why there should be an absolute exception for this agency at this time.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. ERVIN. Do I correctly understand that the bill in its present form retains the general requirement respecting the submission of questionnaires and the approval of those questionnaires by the Bureau of the Budget?

Mr. RIBICOFF. The Senator's understanding is correct. That is what is in the bill at the present time, and that is what the Senator from Michigan seeks to delete.

Mr. ERVIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment. 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 Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Iowa (Mr. MILLER) is detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND),

and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 24, nays 51, as follows:

[No. 403 Leg.]

YEAS—24

Burdick	Jackson	Muskie
Cranston	Kennedy	Nelson
Fulbright	Magnuson	Pastore
Goodell	Mansfield	Proxmire
Harris	McGee	Stevenson
Hart	Metcalf	Williams, N.J.
Hollings	Mondale	Yarborough
Hughes	Moss	Young, Ohio

NAYS—51

Aiken	Ellender	Murphy
Allen	Ervin	Packwood
Allott	Fannin	Pearson
Anderson	Fong	Percy
Baker	Griffin	Prouty
Bible	Gurney	Randolph
Boggs	Hansen	Ribicoff
Brooke	Hatfield	Saxbe
Byrd, Va.	Holland	Schweiker
Byrd, W. Va.	Hruska	Scott
Cannon	Javits	Smith
Case	Jordan, N.C.	Sparkman
Cook	Jordan, Idaho	Spong
Cooper	Long	Symington
Cotton	Mathias	Talmadge
Curtis	McClellan	Williams, Del.
Dole	McIntyre	Young, N. Dak.

NOT VOTING—25

Bayh	Gore	Pell
Bellmon	Gravel	Russell
Bennett	Hartke	Stennis
Church	Inouye	Stevens
Dodd	McCarthy	Thurmond
Dominick	McGovern	Tower
Eagleton	Miller	Tydings
Eastland	Montoya	
Goldwater	Mundt	

So Mr. HART's amendment (No. 1086) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1084

Mr. HART. Mr. President, I call up amendment No. 1084 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

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

The amendment, ordered to be printed in the RECORD, reads as follows:

On page 8, strike section 201, lines 1-25; on page 9, strike lines 1-8, and substitute the following:

SEC. 201. (a) There is established as an independent agency an agency to be known as the Consumer Protection Agency.

(b) The Agency shall be headed by a nine-member Board of Directors, three of whom shall be appointed by the President in such manner as to stagger their terms for two, four, and six years, respectively; three of whom shall be appointed by the Speaker of the House of Representatives in such manner as to stagger their terms for two, four, and six years, respectively; and three of

whom shall be appointed by the majority leader of the Senate in such manner as to stagger their terms for two, four, and six years, respectively. Subsequent appointments shall be for six-year terms and shall be made by the office making the original appointment. Vacancies shall be filled by the office making the original appointment for the remainder of the term vacated. The Board of Directors may elect a Chairman and such other officers of the Board as they may deem appropriate and adopt rules, regulations, and bylaws for the orderly carrying on of business and for carrying out the purposes of this Act.

(c) Members of the Board shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(d) The Board of Directors, by majority vote, shall appoint a Director and Deputy Director who shall head the Agency and serve at the will of the Board and under such rules and regulations as the Board may prescribe. The Director shall nominate, by and with the consent of the Board, a Consumer Counsel for the Agency, who shall be chief legal officer of the Agency, and shall perform such duties as the Director may prescribe and shall be Acting Director during the absence or disability, or in the event of vacancies in the offices, of the Director and Deputy Director.

(e) The Director, by and with the consent of the Board of Directors, is authorized to appoint within the Agency not to exceed five Assistant Directors.

Mr. HART. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, would the Senator consider a time limitation on his amendment?

Mr. HART. Indeed, yes. I have remarks that will not extend beyond 10 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of one-half hour on the pending amendment, the time to be equally divided between the manager of the bill and the sponsor of the amendment.

Mr. JAVITS. Mr. President, reserving the right to object, can there be a limitation of 10 minutes on any amendment to the amendment?

Mr. MANSFIELD. Mr. President, I modify my request to that extent.

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

Mr. HART. Mr. President, I yield myself 5 minutes.

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

Mr. HART. Mr. President, it has been said yesterday and earlier today that the effort we are undertaking is in a sense historic. First, of course, we are considering establishing under the provisions of

S. 4459 the first Government agency charged with looking out for consumers' interests with that precise assignment.

But more importantly, we are establishing a very unique agency. Its mandate is perhaps more broad—and more general—than any agency or department now existing. While it does have some specific assignments, such as to handle consumer complaints and to conduct economic surveys, the major—and toughest—assignment is to be an advocate for the consumer.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. CASE). The Senate will be in order and throughout the discussion the Chamber will be quiet. Otherwise, those persons not having business in the Chamber or not authorized to be in the Chamber will be asked to leave.

Mr. HART. Mr. President, to do this we are asking this agency to keep tabs on the operations of all other Government agencies and when actions by any seem to be affecting the consumer interests to make the consumers' voice heard.

It would be the consumers' man in Washington which many of us have long thought needed and desirable.

It is the uniqueness of this function which I think calls for a unique approach in establishing the agency.

As reported by the committees, S. 4459 now follows a rather traditional path and establishes the agency as an executive agency.

There is comfort in tradition, but I question today if the traditional approach is the one that will best do the job for the consumer.

Remember, we are charging the CPA with—on occasion—doing battle with executive agencies and departments. Under the structure as established in the bill before us, we then are asking brother to fight brother, with father, the President, overseeing the dispute.

It seems to me that what we often may get is a less than enthusiastic contest under the restrictions built into the structure of this bill.

Therefore, I propose that we break with tradition in the form of this Agency—just as we are breaking with tradition in considering establishing it.

Recognizing that any government agency must be responsible to one branch of government—the administration or Congress—I propose that we make the CPA more an arm of Congress and less an arm of the President.

I would do this both by changing the organizational chart and providing that the CPA reports directly to the Congress. The advantage, I feel, is to put the control—since there must be some—of this agency in the hands of the directly elected representatives of consumers and in the full view of the public.

My amendment (No. 1084) would have the CPA administered by a nine-man Board of Directors. Three of them would be named by the President and three each by the majority leader in each House of Congress.

This board, in turn, would name the two top operating officers of the CPA who

would fill the other major positions with the approval of the board.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

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

The PRESIDING OFFICER. The Senator is recognized.

Mr. HART. Mr. President, briefly stated my amendment would delete the present section 201 and insert a new section to accomplish this. Section 201 (a): The amended version would make the Agency an "independent Agency," rather than an "independent Agency in the executive branch of Government." Section 201(b). The amended version creates a Board of Directors comprised of nine members. The Board would be appointed by the President, the Speaker of the House, and the majority leader of the Senate. Each would appoint three Board members, one to serve 2 years, one to serve 4 years, and one to serve 6 years. Replacements of a retiring Board member for 6-year terms would be done by the person holding the office which made the original appointment. The amendment would vest power in the Board to make policy for the agency.

Section 201(c). The proposed amendment would provide for per diem compensation and daily rate compensation for Board members while actually serving on agency business.

Section 201(d) gives the Board authority to appoint a Director and a Deputy Director to serve at the will of the Board. The Director is given authority to appoint a General Counsel, subject to Board approval, and provides for succession in the event of a temporary absence in the post of Director and Deputy Director.

Section 201(e) gives the Director authority to appoint up to five Assistant Directors with the consent of the Board.

Mr. President, the bill as reported by committee represents—of course—many compromises. This is the name of the game in passing legislation. Faced with the question of no bill or this bill—supporters of stronger legislation traditionally take what they can get in hopes of coming back in later years and strengthening the measure.

While I think it will be some time—perhaps 5 to 10 years—before we can make meaningful improvements in this legislation once it has cleared the Congress, I do agree that the day will come in future Congresses where, if they have the desire, improvements can be made.

But most would agree with me, I am confident, that altering the organizational chart of such an agency is not likely to be one of those possible changes.

That is why I ask my colleagues to consider seriously at this moment which is the more desirable: A Presidential agency or a congressional agency when we are attempting to provide the best and most effective service for consumers.

I believe strongly in the approach of my amendment and hope it will be adopted by this body.

Mr. RIBICOFF. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Sen-

ator from Connecticut is recognized for 5 minutes.

Mr. RIBICOFF. Mr. President, the proposal of the Senator from Michigan is unprecedented, as far as I know, in any agency of the Federal Government. Not only would the Senator's proposal take away the President's power of nomination, but also the Senate's power of confirmation. I believe this power of confirmation in this type agency is important for an agency of this kind.

The agency is established and organized in much the same manner as the Federal Power Commission, the Home Loan Bank Board, the Federal Trade Commission, and the Equal Opportunity Commission. The Director and the Deputy Director are appointed for a fixed term of 4 years. Since they will be performing quasi-judicial responsibilities, they may be removed only for inefficiency, neglect, or malfeasance. Accordingly, they will have as much independence as the members of other independent agencies. Nicholas Johnson, of the Federal Communications Commission; Philip Elman, of the Federal Trade Commission, and others have shown that presidentially appointed members of the regulatory agencies can take an independent viewpoint.

In the case of an agency that has a mandate as broad as this Agency, I am unwilling to say that we should assume beforehand the Agency will fail in its mission. I do not think this Agency will fail. I think the Director who is confirmed by the Senate will be sufficiently tough-minded and independent to carry out the Agency's responsibilities and protect the consumer.

As I said earlier, we have reached the stage in this country where Federal consumer activities are constantly under the microscope. Not only are there so many of us in this body concerned with problems of the consumer, but we have developed in this country a body of independent men free from government, acting privately, who place the problems of the consumer under close scrutiny. Men like Ralph Nader and others have come to the forefront in their battles to protect the rights of the consumer. I cannot imagine this body would sit by and allow the Director to shirk his responsibilities.

When we look at the experience of the President's special advisers on consumer affairs, Mrs. Virginia Knauer and Miss Betty Furness, we see that both of those eminent ladies did not hesitate to take on various agencies of the Government, even though the heads of those agencies were men appointed by the President. The head of the CPA will do no less.

I believe that to adopt the Hart amendment, we would be introducing something entirely new in our Government—a hydraheaded ministry—three men appointed by the President, three by the majority leader, and three by the Speaker of the House.

I am not so sure that the majority leader or the Speaker of the House would want this obligation. The Agency is still part of the executive branch, and the

President should have the right to appoint, with the confirmation in the Senate.

I hope the Senate will reject the Hart amendment.

Mr. JAVITS. Mr. President, will the Senator yield me 3 minutes?

Mr. RIBICOFF. I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I am also opposed to this amendment because it takes the concept of the autonomous corporation and makes it into a "corporate state." That is really what we would be doing here if we adopted the idea of the Senator from Michigan (Mr. HART).

The protection of consumers is not a business; it is a governmental function. People like myself have pleaded for an autonomous corporation involving overseas private investment—which the Senate authorized—or in reference to poverty activities, when we are trying to put poor people into the business stream. When a business function like Comsat, the Communications Satellite Corporation, and others, are involved, then a Government-owned corporation makes sense. But when a strict Government function is being performed, why, we may as well talk about autonomy so it is not under the control of the President and have the Department of Labor incorporated. That is practically what is being sought by this amendment.

Second, if we made it an autonomous corporation, we would be creating a type of super ombudsman. Perhaps one day we will want to move that far, but certainly we should not do it in a consumer protection bill.

Because the concept is not adapted to the agency we are seeking to create, and because of the arguments advanced by the manager of the bill, I think the Senate should reject the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. RIBICOFF. Mr. President, I yield back my remaining time.

Mr. HART. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan (Mr. HART). 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 Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 10, nays 69, as follows:

[No. 404 Leg.]

YEAS—10

Hart	Mondale	Proxmire
Hughes	Moss	Yarborough
McGee	Muskie	
Metcalfe	Nelson	

NAYS—69

Aliken	Fulbright	McIntyre
Allen	Goodell	Miller
Allott	Gore	Murphy
Anderson	Griffin	Packwood
Baker	Gurney	Pastore
Bible	Hansen	Pearson
Boggs	Harris	Percy
Brooke	Hatfield	Prouty
Burdick	Holland	Randolph
Byrd, Va.	Hollings	Ribicoff
Byrd, W. Va.	Hruska	Saxbe
Cannon	Inouye	Schweiker
Case	Jackson	Scott
Cook	Javits	Smith
Cooper	Jordan, N.C.	Sparkman
Cotton	Jordan, Idaho	Spong
Cranston	Kennedy	Stevenson
Curtis	Long	Styming
Dole	Magnuson	Talmadge
Ellender	Mansfield	Williams, N.J.
Ervin	Mathias	Williams, Del.
Fannin	McClellan	Young, N. Dak.
Fong	McGovern	Young, Ohio

NOT VOTING—21

Bayh	Eastland	Fell
Bellmon	Goldwater	Russell
Bennett	Gravel	Stennis
Church	Hartke	Stevens
Dodd	McCarthy	Thurmond
Dominick	Montoya	Tower
Eagleton	Mundt	Tydings

So Mr. HART's amendment (No. 1084) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ERVIN. Mr. President, I ask unanimous consent that the reading of the amendment be omitted, because I can explain it very simply.

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

Mr. ERVIN's amendment is as follows:

On page 28, line 14, beginning with the first comma strike out through the word "organization" in line 15 and insert in lieu thereof the following: "and local public agencies".

On page 30, lines 4 and 5, strike out "and nonprofit private organizations".

On page 33, line 4, strike out "and private nonprofit organizations".

On page 33, line 10, strike out "and nonprofit private organizations".

On page 33, lines 21 and 22, strike out "or nonprofit agencies or organizations".

On page 35, lines 11 and 12, strike out "or nonprofit private organizations".

On page 36, line 22, strike out "and private nonprofit organizations".

On page 37, line 2, beginning with the word "and" strike out through the word "year" on line 3.

On page 38, line 6, strike out "or organization".

On page 38, lines 9 and 10, strike out "or organization".

Mr. ERVIN. This bill would provide for the making of grants to State consumer agencies, to local agencies, and to private nonprofit organizations. My amendment would merely strike from the bill the provisions which authorize the making of grants to private, nonprofit organizations.

I respectfully submit that it is inconsistent with the fundamental purposes of our Government for the Federal Government to make grants of money to private organizations, even though they be nonprofit organizations, to carry on what, in effect, is legislative and legal warfare against the policies of the States.

The best nutshell description of our system of government was given by Chief Justice Salmon P. Chase in the famous case of Texas against White. He said that the Constitution in all of its provisions looks to an indestructible Union composed of indestructible States.

I respectfully submit that it is not only unwise but also unconstitutional for the Federal Government to make funds available to private organizations, whether they be profitmaking or non-profitmaking bodies to carry on what may properly be designated as legislative and legal warfare against the policies of a State government.

This bill provides in section 304, on page 30, as follows:

The Director is authorized to make grants to pay the Federal share of the cost of consumer protection programs, which may include the following—

(1) the establishment or strengthening of a Consumer Protection Agency which, in the case of the establishment of such an agency, shall be located in such department or agency of the State as the chief executive or the legislature of the State determines.

I respectfully submit that, unless the Federal Government wants to take charge of the policies of the various States in an area of our economic and political life which affects all the people

of this Nation, it should confine itself to assisting States and not engaging in legislative or legal warfare against them.

In this bill is a provision I do not seek to strike, which authorizes the director of the Consumer Protection Agency to make grants of Federal funds to local governmental bodies. The States themselves can take care of that situation as they see fit, in respect of grants to local political subdivisions of the States. This is so because these political subdivisions are agencies of the States and have no powers except those which the States confer upon them.

This is a very broad bill. This bill provides for these grants to these nonprofit private organizations, and in that respect it should be designated, among other things, as a bill to promote the economic welfare of ambulance-chasing lawyers. It provides expressly that these nonprofit private organizations can apply for grants under section 307 of the bill, which appears on page 35. It provides that they shall "set forth a program under which the funds provided under this title will be expended for the purposes described in section 304 of this title."

Section 304 provides that the director may make grants for the representation of consumer interests before administrative and regulatory agencies, courts, and legislative groups, except where the Agency is already representing such interests. In other words, under that provision of this bill, read in the light of the section which relates to grants to nonprofit private organizations, the Federal Government can actually make grants to private nonprofit organizations to lobby before State legislatures. I respectfully submit that it is not a proper function or a wise function of the Federal Government to subsidize private organizations, whether conducted for profit or nonprofit, to lobby before State legislatures.

I further submit that under the section I have just read to the Senate, the Federal Government could make grants to private nonprofit organizations to appear before regulatory agencies of the States and tell those regulatory agencies of the States how they should discharge their functions in protecting the consumers. I respectfully submit that that is not a proper or a wise function to confer upon the Consumer Protection Agency. I do not think it is any business of the Federal Government to undertake, either directly or indirectly, through private individuals subsidized by the Federal Government, to tell the State regulatory bodies how they should discharge their functions.

Furthermore, under the section I have just read, section (5) of section 304, on pages 31 and 32, the Federal Government would be empowered to make grants to private nonprofit organizations to carry on litigation in any case in which they deem that such litigation might protect the interests of consumers. Under this power, private organizations and private lawyers could be financed by the Federal Government and could go into court to prosecute actions in the

State courts, even against the agencies of the State government itself and against the attorney general of the State. I submit that that is not a proper function. This is a very broad bill.

Another thing in this connection is found in the section which relates to grants to private nonprofit organizations. They can submit a plan, and the director can make grants to them for cooperation and coordination with State and local legal services programs and other consumer-oriented programs carried out under the Economic Opportunity Act of 1964.

Mr. President, we are now expending millions of dollars of taxpayers' money to compensate lawyers who are operating under the aegis of the Economic Opportunity Act of 1964, and this is a duplication of that effort. I believe in protection of consumers' rights in a proper fashion.

Some time ago, the Internal Revenue Service made a proposal to remove the tax exemption from contributions to what we call public interest law firms. I protested that proposed regulation and communicated my disapproval of it to the Internal Revenue Service. At that time, I issued a press release stating my position in respect to that matter. I ask unanimous consent that the text of this press release be printed at this point in the RECORD.

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

ERVIN CALLS IRS PROPOSAL TAX ON FIRST AMENDMENT

WASHINGTON, D.C., Oct. 29, 1970.—Senator Sam J. Ervin, Jr. (D-N.C.) today attacked the Internal Revenue Service proposal to tax charitable organizations which engage in litigation on behalf of the public interest as amounting to "a tax on the First Amendment."

In a letter to IRS Commissioner Thrower, Ervin, who is Chairman of the Constitutional Rights Subcommittee, said that "the right of access to the courts is a fundamental constitutional right of every American citizen. This is axiomatic, for without the ability to enforce rights guaranteed by the Constitution, by statute, or by common law, those rights are meaningless. That the IRS proposes to penalize court enforcement of rights amounts to a condemnation of the legal process itself," Ervin contended.

"By withdrawing tax exemption from otherwise exempt organizations because they seek redress in the courts, the Service is striking at the heart of one of the most effective, traditional, and basic of American freedoms. In effect, the IRS is imposing a tax on the exercise of the First Amendment right."

Ervin also objected to a suggestion that the IRS would decide for itself which public interests were sufficiently "worthy" to receive a tax exemption.

"This is an assertion by the IRS of the power to impose its views of what is in the public interest, a power to decide which of competing views of public policy is entitled to expression. The First Amendment bars government from impeding the presentation of views with which it does not agree. For the IRS to withhold exemptions from organizations it disagrees with would be an unconstitutional censorship of free expression," he said.

Ervin took issue with the fact that the IRS had made its announcement by means of a press release and had suspended tax

exemptions without notice or hearing. "Due process and proper administrative procedure require that all affected parties be given an opportunity to be heard before any action is taken which will directly affect their right to retain tax exemptions. It also requires that when and if such action is taken, the agency include a full exposition of the legal and factual basis for the action," he wrote.

(Excerpts from Ervin's letter to Commissioner Thrower follow:)

DEAR COMMISSIONER THROWER: I am writing to you with respect to an announcement on October 9 that the Internal Revenue Service was suspending the tax exemption of certain charitable organizations involved in litigation pending completion of a study of tax exemptions for so-called public interest law firms. This issue, and the procedures employed by the Service so far in respect to it raise a number of serious questions involving individual rights and administrative due process.

A fundamental constitutional right of each citizen is the right of access to the courts. This is axiomatic, for without the ability to enforce rights granted by the Constitution, statute, or common law, those rights are meaningless as a practical matter. In *NAACP v. Button*, 371 U.S. 415, the Supreme Court held that litigation which assists any person to obtain legal redress for infringement of his constitutionally guaranteed or other rights is a mode of expression protected by the First and Fourteenth Amendments.

The proposed denial of tax exemption to organizations which pursue their activities through litigation would, if adopted, be direct governmental intrusion in and limitation upon legal advocacy. The fact that the Service proposes to "penalize" court enforcement of rights amounts to a condemnation of the legal process itself. By withdrawing tax exemption from otherwise exempt organizations because they seek redress in the courts, the Service is striking at the heart of one of the most effective, traditional, and basic of American freedoms. In effect, the IRS is imposing a tax on the exercise of a First Amendment right.

The October 9 announcement suggests that the IRS is concerned about the vagueness of the definition of "public interest," and especially the fact that charitable organizations applying for exemptions define for themselves the "public interest" they will serve. It suggests that the IRS is considering reviewing the goals of the organizations, and making its own determinations of whether the rights sought to be served are sufficiently worthy or beneficial so as to warrant an exemption.

This is an assertion by the IRS of the power to impose its views of what is in the public interest, a power to decide which of competing views of public policy is entitled to expression. The government should do all within its power to encourage the fullest expression of all viewpoints on issues of public concern both as a legitimate outlet for the expression of varying political viewpoints and to enable courts, in our adversary system, to reach their decision on the basis of the fullest presentation of all relevant considerations. This is more than merely an attribute of "good government." The First Amendment bars government from impeding the presentation of views with which it does not agree. For the IRS to withhold exemptions from organizations it disagrees with would be an unconstitutional censorship of free expression.

In the October 9 News Release the IRS has attempted to define what in its view would be one legitimate object of litigation. The release states that litigation on behalf of traditionally recognized objects of charity

such as the poor would clearly be permissible. There is neither a statutory nor a constitutional basis for this distinction.

The IRS cannot restrict tax exemption to litigation for only one kind of charity defined in its regulations. To say that citizens who join together to pursue litigation for nonbusiness, nonpersonal reasons may not deduct their litigation expenses unless they are poor or seek to aid the poor, is a denial of the equal protection of the laws. While government may assist poor litigants by providing them with attorneys, as has been done under the Criminal Justice Act and the Office of Economic Opportunity, it may not deny other citizens who pursue other public interests, as opposed to private or business purposes, the same tax benefits as those it would grant the poor.

In addition to my serious reservations about the constitutionality of the proposed action I am also very concerned about the procedures which the IRS has followed in this matter. It strikes me as highly improper to use a press release to change the tax status of many existing organizations and to suspend the issuance of exemptions to new organizations of the same kind. Due process and proper administrative procedure require that all affected parties be given an opportunity to be heard before any action is taken which will directly affect their right to retain tax exemptions. It also requires that when and if such action is taken, the agency include a full exposition of the legal and factual basis for the action.

Because of the shortness of time before the results of your 60-day study are due, and the imminence of hearings in the Senate, I would appreciate your responding at the earliest possible time.

Thank you for your cooperation. With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, JR.  
Chairman.

Mr. ERVIN. I am in favor of allowing public interest law firms to receive contributions free from Federal taxes to protect the public interest of the people of the United States and the public interest of consumers. But I do not favor having the Federal Government subsidize private law firms or private nonprofit organizations to engage in such activities. I submit that it is contrary to our fundamental system of government. I contend that it is unwise.

I contend, further, that this bill would be very much improved if we provided, as this amendment would in effect provide, that all the grants to be made under this bill shall be made to a State consumer agency operating in accordance with the wishes of the State or to the political subdivisions of States where the State law permits them to receive such grants.

When it undertakes to finance those who seek to thwart the laws of States or who seek to dictate to the States how they should legislate in this area, I believe the Federal Government is embarking, in effect, upon the destruction of the States.

I sincerely hope that the Senate will improve the bill by adopting my amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield the floor for the time being.

Mr. RIBICOFF. Mr. President, under

the amendment offered by the Senator from North Carolina (Mr. ERVIN), private nonprofit organizations would receive no funds whatever. They would be deleted. We must recognize that nonprofit organizations throughout the country are increasingly in the forefront of consumer protection efforts and perform an important public service and serve the public interest. It is appropriate, we believe, that they have access along with local agencies to the funds to be granted by the Agency. These organizations, the committee feels, fulfill a public purpose. It is not inappropriate for them to receive a small sum of money. As a matter of fact, for the first year the funds for the entire Nation amount to only \$1 million. While amounts of the funds are small, the principle is important. I believe that we should encourage a policy of public action on public issues by private nonprofit organizations. No Government agency, Federal, State, or local, could possibly cope with all the problems facing the consumers on every front. There is an important role for these groups. We believe that the amendment of the Senator from North Carolina should be rejected and that section 305 as it relates to private, nonprofit organizations should remain in the bill.

Mr. MOSS. Mr. President, I invite my colleagues to focus their attention for a moment upon title III of the Consumer Protection Organization Act of 1970.

Consumer protection is not the sole responsibility of the Federal Government. States, local governments, and private organizations have an important role to play. Many violations of consumer rights are local in nature and may best be handled at that level. The Federal Government should encourage other governmental and private units to remedy these violations whenever possible.

Unfortunately, however, many State and local agencies lack the authority and funds to do a proper job. Title II establishes a grant program designed to assist State, local, and private nonprofit organizations with the funds they need to improve their work.

#### PLANNING GRANTS

To encourage States and localities to prepare and adopt comprehensive consumer protection plans covering their respective jurisdictions, the Director is authorized to make grants to any State or local public agency to assist in preparing or revising such plan.

The Director is authorized to make grants to any State and local public agencies, and nonprofit private organizations to assist them in meeting the cost of planning any project or program or demonstration thereof for which a grant may be made under the provisions of this title.

The Director may require as a condition to any grants under this title within any State or locality that comprehensive consumer protection planning be undertaken and that, where he deems it appropriate, a comprehensive plan or plans be prepared within a reasonable period.

#### GRANTS FOR CONSUMER PROTECTION PROGRAMS

The Director is authorized to make grants to pay the Federal share of the

cost of consumer protection programs, which may include the following:

First, the establishment or strengthening of a Consumer Protection Agency which, in the case of the establishment of such an agency shall be located in such department or agency of the State as the chief executives or the legislature of the State determines;

Second, the establishment, operation, and expansion of programs to license, or otherwise regulate, household appliance repairmen, motor vehicle repairmen, and home improvement contractors in order to provide improved consumer protection, including protection against:

False advertising;

Failure to perform the work or service as advertised;

Performing unnecessary and unrequested work or services;

Failure to perform work or services as represented to the consumer and for which the consumer was billed;

Third, the establishment, operation, and expansion of program requiring credit reporting agencies to adopt reasonable procedures for meeting the needs of commerce for credit information in a manner which is fair and equitable to the individual;

Fourth, the establishment and expansion of consumer education programs with particular emphasis upon projects which give promise of assisting persons who reside in urban areas of high concentration of unemployed or low-income individuals and the encouragement of the introduction of consumer education courses in public school curriculums;

Fifth, representation of consumer interests before administrative and regulatory agencies, courts and legislative groups, except where the agency already is representing such interests;

Sixth, the establishment or expansion of consumer complaint centers;

Seventh, provision of counseling to consumers;

Eighth, enforcement of laws to protect the interests of consumers, including laws prohibiting fraud, deceptive practices, and unfair practices against consumers, and laws concerning monopolies and restraint of trade;

Ninth, study of State laws and regulations, and the laws and regulations of units of general local government, relating to the interests of consumers, and recommendation of improvements in such laws and regulations;

Tenth, research, studies, and analyses of consumer matters;

Eleventh, the conduct of research, counseling, and educational projects concerning the nutritional value of food; and

Twelfth, such other activities as may bear a direct and material relationship to the interests of consumers.

#### CONSUMER PROTECTION IN UTAH

I am pleased to report to the Senate that consumer protection is moving forward on a number of fronts in Utah. The 1969 general session of the Utah Legislature passed five consumer bills including the Uniform Consumers Credit Code. In connection with the latter law, Gov. Calvin L. Rampton has created a Consumer Credit Advisory Council and

appointed the very capable Mrs. Richard P. Barnes as chairman.

Recently, our State attorney general created a Division of Consumer Protection operating out of his office and appointed one of his assistants, Harry E. McCoy II, to head it. While the division is underfinanced and understaffed at present it can be the nucleus for an important phase of consumer protection in Utah if the proper prerequisites for growth and development are supplied. A grant of funds to this division as provided under title III of the Consumer Protection Organization Acts would speed its development and help insure its success in providing consumer protection at the State level.

Mr. President, I oppose the amendment of the Senator from North Carolina. It seems to me that it strikes at the heart of one of the great advances being made in the bill.

Having been a chairman of the Consumer Subcommittee now for some period of time, I have been working in this area and recognize how important it is to involve not only States and State agencies in this consumer protection area but also to get the support and help of private nonprofit organizations.

I would point out that there are in existence now several private nonprofit organizations which can do effective work.

The Major Appliances Consumer Action Panel is one example. The National Association of Better Business Bureaus is another example. The American Arbitration Association is another one.

I also want to pay special tribute to another newly formed organization in Utah dedicated to consumer protection and education, and point out how their efforts can be greatly enhanced by a grant of funds as provided under title III of this bill.

This group known as Utah Consumer Action Panel, or UCAP, was organized primarily under the dynamic leadership of Dean Virginia Cutler of Brigham Young University in Provo, Utah.

She has brought together a talented group of over 100 people from throughout the State who have banded together to promote consumer interests. These people include college and public school teachers and administrators, Home Demonstration agents, economists, lawyers, dietitians, news media consumer reporters, community leaders, representatives of various organizations and homemakers.

In addition to numerous smaller meetings, the group has held two statewide conferences. The first conference last February focused upon consumer issues of national interest. Among those attending the conference from the national scene was Betty Furness, who gave a major address on "The Consumer Game." Esther Peterson also spoke to the conference by telephone and I was pleased to be invited and gave an oversight of pending and proposed consumer legislation.

The second conference held just last October dealt primarily with consumer protection in Utah. Representatives of

the various State regulatory agencies discussed the efforts of their departments to protect consumers and Mr. Harry E. McCoy, Assistant Attorney General for Consumer Protection, outlined the activities of the newly created Division of Consumer Protection within the Attorney General's office. Dr. Irma-gene N. Holloway, former Assistant for Consumer Education, Office of Product Safety, Food, and Drug Administration, HEW, and currently safety consultant for Owens-Corning Fiberglass, gave the keynote speech on "Home Hazards and Consumer Protection."

Members of UCAP have organized into a number of committees so as to give specialized attention to various consumer problems and promote consumer education.

They are certainly to be congratulated for their tireless efforts which they have had to finance largely from their own pockets.

The efforts of private nonprofit organizations such as UCAP would certainly be enhanced by the infusion of a grant of funds as provided under title III of the Consumer Protection Organization Act. Favorable action on this bill will immeasurably strengthen consumer protection at the State and local level and reduce the efforts required at the national level. I am sure that what is happening in Utah can be duplicated in other States and the funds provided by title III of the bill will go a long way to insure such success at the State and local level.

For that reason, I would think that any prohibition of funds to private nonprofit organizations now, to be given on a grant basis, under the scrutiny, supervision, and approval of the director of the agency would detract from the thrust of the bill. Certainly I would oppose strongly the elimination of any part of title III.

Mr. ERVIN. Mr. President, I commend the organizations of which the distinguished Senator from Utah (Mr. Moss) has just spoken. They are organizations in the finest sense of Americanism. They are composed of groups of people who accept as fact that liberty requires them to take responsibility for their own lives. They are doing effective work, as the Senator from Utah says, and they are doing it with private, charitable contributions, not with Government moneys.

Mr. President, there is an old adage, the truth of which no rational man will dispute, "Whose bread I eat, his songs I sing."

Mr. President, we should do something to encourage these private nonprofit organizations which depend upon funds from charitable-minded persons, and upon their own exertions, those who have the independence and liberty of action which recipients of money from the Federal Government do not have.

This bill would be destructive of the best work of organizations like those cited by the distinguished Senator from Utah (Mr. Moss). To provide those organizations with Federal funds would be to say, "Since you eat Federal bread, you must sing the Federal director's songs."

Mr. President, let us not make mendicants of these private nonprofit organizations, as this bill attempts to do. Let them operate not as agencies of the Federal Government but as private nonprofit organizations. Let us not have the Federal Government, as I say, subsidize economic, legislative, and legal warfare against the States of the Union.

The people of the States who send Senators and Representatives to Congress have enough intelligence to operate their own affairs as individuals or as nonprofit organizations without dictation from the Federal Government.

One of the queer things I cannot comprehend is that so many Senators and Representatives come to Washington and immediately reach the conclusion that the people who sent them here do not have enough sense or enough interest to manage their own affairs but have to operate as subsidized agents of the Federal Government.

I appeal to the Senate to adopt my amendment and not make these private charitable organizations, which are now doing such effective work, obedient and subservient to the Federal Government, especially the director.

Mr. JAVITS. Mr. President, this particular title of the bill is my own. I introduced the original legislation to provide for consumer protection grants to public agencies. I had in mind especially my own work as Attorney General of the State of New York, and of course, that of my successor, the present attorney general of the State of New York, Louis Lefkowitz who has been exemplary in this field. He has a fantastic reputation precisely for his work on consumer protection. The provision which the Senator from North Carolina in his amendment seeks to reach nonprofit organizations. It came about because of the testimony we had in hearings and the feeling that the nonprofit agencies ought to be included for two purposes—first, to supplement the work that could be done in individual States, and second, to be available in the event a State fell down or did not submit a plan or its plan did not work out satisfactorily.

It will be noted that section 305, which is the operative part of this particular proposition on page 33, referring to the funds which will be available, reads as follows:

Not to exceed 15 percentum of such funds shall be available for grants to local public agencies and private nonprofit organizations for consumer protection programs not included in State plans.

That would then indicate that this is not a public-State plan operating.

The next sentence deals with the situation that exists until a State has submitted a plan or, if the State fails to carry out a plan. Then the director may make grants directly to local public agencies and nonprofit private organizations.

I point out that when a State does so, the State may completely preempt the field. That is why I found myself in agreement with this benefit which was grafted on to the fundamental title which I authored and felt very deeply about. I am glad that the Senator from

North Carolina feels so deeply about it that he does not want the nonprofit private organizations in it at all.

My rationale in agreeing to this addition was that if there was an area of consumer protection excluded from State plans—for instance in a very small town or in a rural area, perhaps co-terminus with some farm marketing area that had no consumer protection plans—I could see no reason why the nonprofits could not fit in there.

Second, if the State is slow in putting in a plan, as many States may be, or if a State merely attempts to block a local or nonprofit private agency by putting in a comprehensive plan and by half-heartedly carrying out its plan of operation, the nonprofit and local public agencies ought to be admitted.

Next, and very importantly, this is not a mandate. The director may or may not use this 15 percent for this purpose. The language of the law states that "not to exceed 15 percent of such funds shall be available."

Further down where we deal with the power of the State to put in a plan or to operate its plan well, the operative language is that the director may make grants. So, we have complete jurisdiction.

Finally, it says 50-50 matching. This is not strictly a grant program without matching.

I feel that the mover of the amendment, the Senator from North Carolina, is obviously very interested in States' rights as well as State opportunities. I think, however, that the scheme of legislation does not mandate any grants to nonprofit agencies nor even require them in the contingencies set forth in the bill itself. It is only if the State has no plan or if the State falls down in the plan or is slow in submitting a plan. Considering the State has the complete opportunity to block out any other grants to public agencies within its own area of jurisdiction or to nonprofits by moving promptly with a major plan and covering the whole field, it seems to me that the permissiveness we have introduced by way of the cost sharing formula and other requirements as to what a nonprofit or local public agency must contain, the scheme of legislation holds together.

If it will be of any assistance—and I think that perhaps it will be—I would like to ask the manager of the bill whether in his view, as in mine, we are not, as it were, extending an invitation mandating nonprofit agencies to come in or in any way limiting the jurisdiction of the director of this agency—but we are trying to provide for the following contingencies:

First, if a State is slow in submitting a plan;

Second, if the coverage of the plan does not include areas which the director thinks should be covered; and

Third, if a State falls down in the plan, either in whole or in any area.

In those instances, we wish to give the director the opportunity to use the nonprofit or State agencies.

Mr. RIBICOFF. Mr. President, the Senator from New York has stated the situation correctly. We were contemplating a situation where there would not be

coverage throughout the country, or where a State were slow in formulating a plan or if a State agency did not exist. There is no reason why people living in those areas should be denied the benefits of consumer protection by private, nonprofit organizations.

I assume that the director himself is not going to give these grants to any fly-by-night organization, but will only supply them to organizations with strong, local support.

Mr. JAVITS. Mr. President, there might be some who fear that the whole 15 percent would be turned over to Nader's raiders or some who have the desire and feeling that this is a matter of local administration.

What we are trying to do is to provide for regional and indigenously local opportunities of this character.

That is the way I feel. I wonder if the manager of the bill would make that clear.

Mr. RIBICOFF. Mr. President, what we have in mind is that these nonprofit organizations will be local or statewide. I do not contemplate that national organizations will receive Federal funds.

Mr. JAVITS. Mr. President, I thank the Senator. That certainly ties it down for any director. I am hopeful that on those grounds the Senate may see fit to agree to maintain what the Senator from Connecticut and I have emphasized to be the very delicate balance of this bill.

Mr. ERVIN. Mr. President, at the top of page 33, section 305 of the bill, it says:

Not to exceed 15 per centum of such funds—

That is the funds allocated for grants in section 302—

shall be available for grants to local public agencies and private nonprofit organizations for consumer protection programs not included in State plans.

So these funds are not for organizations where the State fails to take action, but they are available directly from the Federal Government.

In other words, the Federal Government, in effect, reserves the right under this provision to make plans of its own as to 15 percent of this money.

I respectfully submit that for reasons of policy, for reasons of wisdom, and for reasons of constitutional law, the Senate should agree to my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN). 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 Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Arkansas (Mr. McCLELLAN) is absent because of a death in his family.

I further announce that, if present and voting, the Senator from Arkansas (Mr. McCLELLAN) would vote "yea."

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUMDT) is absent because of illness.

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Colorado (Mr. DOMINICK). If present and voting, the Senator from Texas would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 26, nays 53, as follows:

[No. 405 Leg.]

YEAS—26

Allen	Ellender	Hruska
Allott	Ervin	Jordan, N.C.
Anderson	Fannin	Jordan, Idaho
Baker	Gore	Long
Byrd, Va.	Griffin	Sparkman
Cook	Gurney	Talmadge
Cooper	Hansen	Williams, Del.
Curtis	Holland	Young, N. Dak.
Dole	Hollings	

NAYS—53

Aiken	Jackson	Pastore
Bible	Javits	Pearson
Boggs	Kennedy	Percy
Brooks	Magnuson	Prouty
Burdick	Mansfield	Proxmire
Byrd, W. Va.	Mathias	Randolph
Cannon	McCarthy	Ribicoff
Case	McGee	Saxbe
Cotton	McGovern	Schweiker
Cranston	McIntyre	Scott
Fong	Metcalfe	Smith
Fulbright	Miller	Spong
Goodell	Mondale	Stevenson
Harris	Moss	Symington
Hart	Murphy	Williams, N.J.
Hatfield	Muskie	Yarborough
Hughes	Nelson	Young, Ohio
Inouye	Packwood	

NOT VOTING—21

Bayh	Eastland	Pell
Bellmon	Goldwater	Russell
Bennett	Gravel	Stennis
Church	Hartke	Stevens
Dodd	McClellan	Thurmond
Dominick	Montoya	Tower
Eagleton	Mundt	Tydings

So Mr. ERVIN's amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. 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, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2224) to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define the equitable standards governing relationships between investment companies and their investment advisers and principal underwriters, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 8470) for the relief of Capt. Jackie D. Burgess.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 14213) to amend sections 5580 and 5581 of the Revised Statutes to provide for additional members of the Board of Regents of the Smithsonian Institution.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 18515) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of IOWA, Mr. HULL, Mr. CASEY, Mr. MAHON, Mr. MICHEL, Mr. SHRIVER, Mrs. RED of ILLINOIS, and Mr. BOW were appointed managers on the part of the House at the conference.

#### ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 1403) to provide an additional temporary extension of the Federal Housing Administration's insurance authority, and it was signed by the Acting President pro tempore (Mr. ALLEN).

#### CONSUMER PROTECTION ORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency, in order to protect and serve the interests of consumers, and for other purposes.

Mr. ERVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point, and that further reading be omitted, and that I be permitted to explain it very briefly.

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

Mr. ERVIN's amendment is as follows:

On page 32, beginning with line 23, strike out down through line 12 on page 33, and insert in lieu thereof the following:

#### "DIRECT FUNDING

"SEC. 305. Funds allocated pursuant to the first sentence of section 302 shall be available for grants to States which have adopted State plans in accordance with section 306 of this title. Until a State has submitted a State plan and the Director has approved such a plan, or upon the failure of the State to carry out such a plan according to the terms and conditions specified in such plan, as approved, the Director may make grants in amounts not to exceed 15 per centum of such funds directly to local public agencies for consumer protection programs within such State for the purposes set forth in section 304 of this title. Upon the failure of the State or of the local public agencies to carry out an approved plan, the Director may make grants in amounts not to exceed 15 per centum of such funds to nonprofit private organizations within such State for the purposes set forth in section 304 of this title."

Mr. ERVIN. Mr. President, the effect of the amendment would be simply this: It would provide that all of the funds allocated as grants under section 304 would be, in the first instance, allocated to the States, and that none of them could be allocated to local subdivisions or to nonprofit organizations unless the State failed to submit a plan which met with the director's approval, or the State failed to carry out the terms of a plan which had been submitted to the director and approved by him, in which event 15 percent of the funds could be allocated to local subdivisions of government or to nonprofit organizations.

I am willing to base my case for this amendment on that statement, and consent to a voice vote.

Mr. RIBICOFF. Mr. President, the basic objection to this amendment is the same as for the prior amendment: We believe there is a basic role for private, nonprofit organizations. This proposal would restrict them to a great extent, and I oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was rejected.

Mr. MOSS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 20, line 9, insert the following sentence after the period. "Any investigation, survey, or research project undertaken pursuant to this section and which has been referred to the Office of Management and Budget, shall be acted upon within 90 days by the Office of Management and Budget, and appropriate notice be given to the Director of the agency."

Mr. MOSS. Mr. President, I shall be very brief. I think the purpose of the amendment is perfectly clear on its face. This is simply a requirement that when an investigation, survey, or research project has been referred to the Office of Management and Budget, there shall be action taken on it within 90 days, and the consumer agency informed of what the action is.

We had some debate earlier on this subject, and concern was expressed that perhaps matters might become buried on referral, and therefore we would not be able to get action in the agency. This rather simple amendment simply says the Office of Management and Budget has to act within 90 days. It does not say how they act; they can reject it or approve it, but something must be done within 90 days.

I think that is perfectly reasonable, and therefore I would hope the amendment could be accepted by the manager of the bill.

Mr. RIBICOFF. Mr. President, the amendment offered by the Senator from Utah is very appealing, and I feel that the Office of Management and Budget should not sit on any questionnaire, but, to be frank with the Senate, this bill was arrived at after many months of negotiation with the executive branch and the Republican and Democratic members of the Committee on Government Operations and the Committee on Commerce. We tried to draft a bill which would be a good bill and a fair bill, and a bill that could have the overwhelming support, not only of the committees, but of the Members of this body.

Under the circumstances, I am constrained to oppose the amendment, to live up to my agreement with the members of the Committee, who have worked so hard on the bill to try to put it across. We have resisted many changes from the White House itself that would have been basic changes in this bill. The Republican members of the Committee on Commerce and the Committee on Government Operations also resisted such requests.

We tried to get a balanced bill and a good bill, and I believe we have achieved such a bill.

Under the circumstances, while I find that there is much to recommend the proposal of the Senator from Utah, I cannot accept it and I must oppose his proposal.

Mr. JAVITS. Mr. President, I think that the Senator from Connecticut has certainly stated a very honorable and accurate position. The reason why this does disturb the balance of the bill—and I am sorry to sound so hackneyed about it, but this is what it is all about—is as follows: We have tried to avoid carving this Agency out as a special one apart from government, one that would have super power over other agencies. We dealt with that with respect to the amendment of the Senator from Washington (Mr. MAGNUSON). This is very much the same type of proposal. The fact is that, with respect to other agencies, the Office of Management and Budget is not similarly restricted in terms of time. This amendment would so restrict it with respect to this Agency, and therefore, if

we acted affirmatively on this amendment, this Agency would be carved out as a special case.

I point out that the basic provision we are talking about is coordination of Federal reporting services, which is the subject of section 139 of title 5 of the United States Code. I ask unanimous consent that that section be printed in the RECORD at this point.

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

**COORDINATION OF FEDERAL REPORTING SERVICES**

**§ 139. Declaration of Congressional policy.**

It is declared to be the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government, that all unnecessary duplication of efforts in obtaining such information through the use of reports, questionnaires, and other such methods should be eliminated as rapidly as practicable; and that information collected and tabulated by any Federal agency should insofar as is expedient be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public. (Dec. 24, 1942, ch. 811, § 2, 56 Stat. 1078.)

**SHORT TITLE**

Section 1 of act Dec. 24, 1942, provided that: "This Act [which enacted sections 139-139f of this title] may be cited as the 'Federal Reports Act of 1942'."

**APPROPRIATIONS**

Section 9 of act Dec. 24, 1942, provided: "There are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act (sections 139-139f of this title)."

**§ 139a. Collection of information.**

(a) Duties of Director of the Bureau of the Budget.—With a view to carrying out the policy of sections 139-139f of this title, the Director of the Bureau of the Budget (hereinafter referred to as the "Director") is directed from time to time (1) to investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies; (2) to investigate the methods used by such agencies in obtaining such information; and (3) to coordinate as rapidly as possible the information-collecting services of all such agencies with a view to reducing the cost to the Government of obtaining such information and minimizing the burden upon business enterprises and other persons, and utilizing, as far as practicable, the continuing organization, files of information and existing facilities of the established Federal departments and independent agencies.

(b) Designation of central collection agency.—If, after any such investigation, the Director is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and any other interested persons shall have an opportunity to present their views. After such hearing, the Director may issue an order designating a collecting agency to obtain such information for any two or more of the agencies concerned, and prescribing (with reference to the collection of such information) the duties and functions of the collecting agency so designated and the Federal

agencies for which it is to act as agent. Any such order may be modified from time to time by the Director as circumstances may require, but no such modifications shall be made except after investigation and hearing as hereinbefore provided.

(c) Independent collection by an agency as prohibited.—While any such order or modified order is in effect, no Federal agency covered by such order shall obtain for itself any information which it is the duty of the collecting agency designated by such order to obtain.

(d) Determination for necessity of information; hearing.—Upon the request of any party having a substantial interest, or upon his own motion, the Director is authorized within his discretion to make a determination as to whether or not the collection of any information by any Federal agency is necessary for the proper performance of the functions of such agency or for any other proper purpose. Before making any such determination, the Director may, within his discretion, give to such agency and to other interested persons an adequate opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines the collection of such information by such agency is unnecessary, either because it is not needed for the proper performance of the functions of such agency or because it can be obtained from another Federal agency or for any other reason, such agency shall not thereafter engage in the collection of such information.

(e) Cooperation of agencies in making information available.—For the purposes of sections 139-139f of this title, the Director is authorized to require any Federal agency to make available to any other Federal agency any information which it has obtained from any person after December 24, 1942, and all such agencies are directed to cooperate to the fullest practicable extent at all times in making such information available to other such agencies: *Provided*, That the provisions of sections 139-139f of this title shall not apply to the obtaining or releasing of information by the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department: *Provided further*, That the provisions of sections 139-139f of this title shall not apply to the obtaining by any Federal bank supervisory agency of reports and information from banks as provided or authorized by law and in the proper performance of such agency's functions in its supervisory capacity. (Dec. 24, 1942, ch. 811, § 3, 56 Stat. 1078.)

**CHANGE OF NAME**

The official title of the Bureau of Internal Revenue was changed to the Internal Revenue Service by Treas. Dept. Order 150-29, eff. July 9, 1953.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in note under section 241 of this title. The Internal Revenue Service, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control, referred to in subsection (e) of this section, are all units within the Treasury Department, and the Comptroller of the Currency, also referred to in that subsection, is an officer of such Department, but the Plan excepted, from the transfer, any function vested by law in the Comptroller of the Currency.

§ 139b. Unlawful disclosure of information; penalties; release of information to other agencies.

(a) In the event that any information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law (including penalties) which relate to the unlawful disclosure of any such information shall apply to the officers and employees of the agency to which such information is released to the same extent and in the same manner as such provisions apply to the officers and employees of the agency which originally obtained such information; and the officers and employees of the agency to which the information is released shall in addition be subject to the same provisions of law (including penalties) relating to the unlawful disclosure of such information as if the information had been collected directly by such agency.

(b) Information obtained by a Federal agency from any person or persons may, pursuant to sections 139-139f of this title, be released to any other Federal agency only if (1) the information shall be released in the form of statistical totals or summaries; or (2) the information as supplied by persons to a Federal agency shall not, at the time of collection, have been declared by that agency or by any superior authority to be confidential; or (3) the persons supplying the information shall consent to the release of it to a second agency by the agency to which the information was originally supplied; or (4) the Federal agency to which another Federal agency shall release the information has authority to collect the information itself and such authority is supported by legal provision for criminal penalties against persons falling to supply such information. (Dec. 24, 1942, ch. 811, § 4, 56 Stat. 1079.)

§ 139c. Plans or forms for collecting information; submission to Director; approval.

No Federal agency shall conduct or sponsor the collection of information, upon identical items, from ten to—so in original—more persons (other than Federal employees considered as such) unless, in advance of adoption or revision of any plans or forms to be used in such collection,

(a) The agency shall have submitted to the Director such plans or forms, together with copies of such pertinent regulations and other related materials as the Director shall specify; and

(b) The Director shall have stated that he does not disapprove the proposed collection of information. (Dec. 24, 1942, ch. 811, § 5, 56 Stat. 1079.)

§ 139d. Rules and regulations.

The Director is authorized to make such rules and regulations as may be necessary to carry out the provisions of sections 139-139f of this title. (Dec. 24, 1942, ch. 811, § 6, 56 Stat. 1079.)

§ 139e. Definitions.

As used in sections 139-139f of this title—

(a) The term "Federal agency" means any executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but such terms shall not include the General Accounting Office nor the governments of the District of Columbia and of the Territories and possessions of the United States, and the various subdivisions of such governments.

(b) The term "person" means any individual, partnership, association, corporation, business trust, or legal representative, any organized group of persons, any State or Territorial government or branch thereof, or any political subdivision of any State or Territory or any branch of any such political subdivision.

(c) The term "information" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either (1) for answers to identical questions from ten or more persons other than<sup>1</sup> agencies, instrumentalities, or employees of the United States or (2) for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest. (Dec. 24, 1942, ch. 811, § 7, 56 Stat. 1079.)

#### CROSS REFERENCES

Definition of Federal agency in connection with printing of the Federal Register, see section 304 of Title 44, Public Printing and Documents.

§ 139f. Penalty for failure to furnish information.

Any person failing to furnish information required by any such agency shall be subject to such penalties as are specifically prescribed by law, and no other penalty shall be imposed either by way of fine or imprisonment or by the withdrawal or denial of any right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity, is legally conditioned on facts which would be revealed by the information requested. (Dec. 24, 1942, ch. 811, § 8, 56 Stat. 1080.)

Mr. JAVITS. That section says:

It is declared to be the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government, that all unnecessary duplication of efforts in obtaining such information through the use of reports, questionnaires, and other such methods should be eliminated as rapidly as practicable; and that information collected and tabulated by any Federal agency should insofar as is expedient be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

Then there are various duties which are assigned thereafter with respect to this matter.

So it is not because the Senator from Connecticut and I have a profound feeling that the Senator from Utah is trying to do anything that he should not do, or anything like that, but solely because we are trying to work out a bill which establishes a new agency and to keep, as far as we humanly can, the consistency of that agency with the agency structure of the Government.

The Senator knows, to be very realistic about it, that by the exercise of authority of congressional committees, including any upon which he himself serves, practically any committee around here can reach any department or any director that it wants to. By the utilization of the Senate floor and by our own political influence no matter who is President, we can obtain pretty active redress, especially against someone who is making a decision.

I believe it is unnecessary to make this a unique proposition, which this amendment, if adopted, would make it; so I hope very much that the Senate will go along with the manager of the bill and me, who are trying very hard to accom-

plish this great reform which the country, I feel, needs and wants, and at the same time not put people in fear of it because we are carving out this agency for unique treatment in respect of normal agency procedures.

For that reason, I hope the amendment will be rejected.

Mr. COTTON. Mr. President, I just want to take 2 minutes in regard to this amendment. Reference has been made several times during this debate to an agreement between members of the Committee on Commerce and members of the Committee on Government Operations. I just want to clarify that statement. It has been repeated so often that someone might think there was some deal here or something sub rosa. Such is not the case.

This bill was reported originally by the Committee on Government Operations and was referred to the Committee on Commerce, which has jurisdiction over several parts of the bill.

Frankly, the form in which the bill first came to us was deemed unacceptable to the administration. It was framed in rather broad terms in the name of the "consumer"—a magical word which we all appreciate. Nevertheless, it did what this Senator would term some rather objectionable things.

In the Committee on Commerce, with the able assistance of both the majority and minority staffs, the bill was examined carefully. I compliment our Commerce Committee chairman, Senator MAGNUSON, and my colleagues on both sides of that committee, of which the distinguished Senator from Utah (Mr. MOSS) and the distinguished Senator from Michigan (Mr. HART) are members, for the thorough consideration given this measure. As a result of our deliberations, we adopted more than 30 amendments.

In the opinion of the Senator from New Hampshire, those amendments removed 95 percent of the bill's objectionable features. These features were objectionable because they would have created a superagency that could have invaded and could have curtailed the powers left the President of the United States.

The Senator from Utah (Mr. MOSS), I have no doubt, presents the pending amendment in good faith. It is not a catastrophic amendment, by any means. Yet, it has a certain significance, which I want to discuss.

In the opinion of this Senator, one of the principal shortcomings in S. 4459 as referred to our committee was that the Agency could obligate the United States for money without regard to section 529 of title 31, United States Code. That section provides that agencies and the departments of Government cannot obligate funds and contract obligations and debts unless those funds have been appropriated by Congress. Therefore, this proposed Agency could have bypassed Congress and its Appropriation Committees. This was remedied by striking out the reference to the section in the United States Code and by putting in the words "subject to appropriation acts." This Agency, as every other agency, must now go to Congress for its appropriation, which is as it should be.

We went further. The original bill also would have allowed this Agency to transfer funds to other Federal agencies at the will of its Director. We accordingly curtailed this provision which would have permitted the unhindered and unhampered transfer of funds. That is one other respect in which this bill was carefully revised by our Committee on Commerce.

I do want to commend the distinguished Senator from Connecticut (Mr. RIBICOFF), the distinguished Senator from New York (Mr. JAVITS), and the distinguished Senator from Illinois (Mr. PERCY), who now occupies the chair, concerning their efforts on this bill.

These Senators were more anxious to get a bill which was reasonable, sensible, and logical. I am sure they did not wish to simply pass something that either would be vetoed or would not go through both Houses. This would be self-defeating. Accordingly, they very reasonably sat down with Senator MAGNUSON and myself and others, went over these Commerce Committee amendments, and agreed to accept them all. I express my appreciation—and I know that I express the appreciation of many members of our committee—for their willingness to follow the legislative process by trying to come up with something constructive for which every Member of the Senate can vote. Therefore, if there was any agreement or any deal, it was simply a commendable legislative working relationship between our committees. I personally think the resulting revisions were constructive and contributed to making it a better bill.

The administration is not entirely satisfied. Let me make that point perfectly clear. A couple of things in this bill still are objectionable. But I would hope our Commerce Committee amendments may serve to make the bill more acceptable.

If there was any agreement, then it was between some of us on the Commerce Committee—I do not undertake to speak for all my colleagues—and the managers of the bill. Certain of us did agree that if we could keep the bill in its present form, or nearly so, then in view of earlier careful consideration we would try to resist floor amendments either to expand its scope as the able Senator from Michigan (Mr. HART) sought to do, or perhaps to limit it as the very able Senator from North Carolina (Mr. ERVIN) desired to do.

We do not say that no "i's" should be dotted or "t's" crossed. But, we do think that on balance we have a reasonable, safe, and effective bill.

The pending amendment is practically the same as amendment No. 1086, submitted by the Senator from Michigan (Mr. HART), which the Senate has already rejected. Also, it represents an entering wedge. There are two ways, and only two ways, in which the budget and the expenditures of the United States can be controlled. One is by Congress and its appropriations committees; the other, by the President through the Office of Management and Budget. As for the first—the Congress—I, for one, am not very happy that under both President Johnson and under President Nixon

<sup>1</sup> So in original.

we have been adopting resolutions directing the President to cut the budget. It is our job to cut the budget. That is one way we in Congress can regain control of the expenditures in this country.

As for the second way, the President must be able to do so without impairment through the Bureau of the Budget, now called the Office of Management and Budget. It is the successor of the old Bureau of the Budget by virtue of reorganization.

There is nothing terribly wrong about this amendment, except it would be an entering wedge to encroach upon the President's powers. It would curtail and say to the Office of Management and Budget, "We give you 90 days to act on anything that this particular agency desires and if you do not, we will go ahead without you."

Personally, I feel very strongly that when we start to try to tie the hands of the President, even by a rather mild beginning such as this, through limitations on the Office of Management and Budget to control the budget, then it is similar to the situation when we start to bypass the Appropriations Committees of the Congress. We are entering upon dangerous ground.

For these reasons, Mr. President, I feel very strongly that the Senate should reject the pending amendment.

Mr. MOSS. Mr. President, it seems to me that the Senator from New Hampshire has said it well when he said that the Office of Management and Budget is the same old Bureau of the Budget with which we have been dealing for a long time now. It also seems to me that the Senate, having decided, indeed, that the Director of the Consumer Council must submit a request to the Budget Bureau when he wants to make a research project, or survey, or an investigation into a consumer matter, that he should be able to count on getting an answer.

My goodness, 90 days is a quarter of a year. Surely the Budget Bureau would have time to make a report and say yes or no. That is all my amendment is in substance. In 90 days the Bureau of the Budget would come back with an answer.

Rather than finding this to be an opening wedge or some kind of sinister plot, I sort of wish that we had this time requirement as a general proposition because we know we ask for many things from the Budget Bureau without getting a definitive answer.

Mr. President, I believe that adoption of my amendment would improve this legislation. We are trying to get a consumer agency to make its investigations and surveys on consumer problems; therefore, it should be able to make them and not have them smothered or left to die in another part of the Government which is, in this case, the Budget Bureau.

I would think that 90 days is certainly an adequate time.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.  
The PRESIDING OFFICER (Mr. PERCY). The question is on agreeing to the amendment of the Senator from Utah (Mr. Moss).

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 Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTROYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Arkansas (Mr. McCLELLAN) is absent because of a death in his family.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 28, nays 49, as follows:

[No. 406 Leg.]

YEAS—28

Burdick	Jackson	Pastore
Cranston	Kennedy	Proxmire
Fulbright	Magnuson	Stevenson
Goodell	Mansfield	Symington
Gore	McGovern	Tydings
Harris	Metcalf	Williams, N.J.
Hart	Mondale	Yarborough
Hollings	Moss	Young, Ohio
Hughes	Muskie	
Inouye	Nelson	

NAYS—49

Aiken	Ellender	Packwood
Allen	Ervin	Pearson
Allott	Fannin	Percy
Anderson	Fong	Prouty
Baker	Griffin	Randolph
Bible	Gurney	Ribicoff
Boggs	Hansen	Saxbe
Brooke	Hatfield	Schweiker
Byrd, Va.	Holland	Scott
Byrd, W. Va.	Hruska	Smith
Cannon	Javits	Sparkman
Case	Jordan, N.C.	Spong
Cook	Jordan, Idaho	Talmadge
Cooper	Mathias	Williams, Del.
Colton	McIntyre	Young, N. Dak.
Curtis	Miller	
Dole	Murphy	

NOT VOTING—23

Bayh	Goldwater	Mundt
Bellmon	Gravel	Pell
Bennett	Hartke	Russell
Church	Long	Stennis
Dodd	McCarthy	Stevens
Dominick	McClellan	Thurmond
Eagleton	McGee	Tower
Eastland	Montoya	

So Mr. Moss' amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, there can be no doubt that the time has come for more effective protection of the American consumer.

The original relationship between buyer and seller has been dramatically altered. Once, the owner of a business was the man behind the counter. He could advise the customer on price and quality, and he knew that in his advice his reputation and often a friendship were at stake.

But the marketplace has greatly changed since those days. The consumer is now faced with a multitude of products, developed to meet the increasingly complex needs of the consumer. Often, these products cannot be judged by appearances, and the buyer has no one to inform him of its features, safety, or performance potential.

With our society becoming more impersonal, and with rapidly developing technology, industrialization, and specialization, the American consumer has gradually lost the power of his dollar vote. Sophisticated advertising and merchandising techniques, including motivational research, have effectively rendered him more and more helpless in the marketplace.

And the belief that consumers are taken advantage of primarily by fly-by-night operators is pure mythology.

It is becoming clear that America's blue-chip corporations must share the guilt for producing shoddy merchandise and hazardous products.

An example is the area of automobile safety. Americans had to wait more than 50 years before legislation was enacted to protect them from murderous defective parts in automobiles, by establishing recall procedures. Here the manufacturers are some of the largest and most respected companies in the United States. As in the case of environmental pollution, it is difficult to isolate villains in our vast, interrelated economic system.

No reputable company wants to produce inferior merchandise, but through oversight of some kind or other, it happens. No company wants to destroy the quality of the world in which we live, but through oversight, it happens.

Since the consumer no longer has effective controls over this kind of oversight, he needs a type of protection that our society, under its present organization, is not prepared to give him.

With the concept in mind that society has a responsibility toward the con-

sumer, I introduced a bill almost 2 years ago to create a single, coordinating Department of Consumer Affairs in the executive branch of the Government.

The legislation, S. 860, was studied by the Committee on Government Operations, and along with at least eight other bills, formed a basis for the consumer protection bill now pending, S. 4459.

A major provision of my bill, unifying policy and programs for consumer protection within a single coordinated body, is a feature of the present bill.

A single agency is vital because much of the existing consumer legislation is being administered by old-line Government agencies which have not been responsible to the best interests of consumers. Many of the existing regulatory agencies are too often burdened with controversies between regulated competitors, and complaints raised by the ordinary taxpayer end up with the lowest priority.

Over the years, the main responsibility of many agencies has become the negotiation of differences between the businesses and industries that they regulate with the consumer's interests rarely, if ever, represented.

The pending legislation, as was proposed in my bill, would enable the consumer protection body to speak out in matters before the various regulatory agencies that do in fact affect the American consumer.

As in the consumer department bill, section 203 of S. 4459 provides that the agency will represent consumer interests before the Federal agencies and before the courts.

Unfortunately, proposals for product testing, under an Institute for Consumer Research, were not included in the new legislation, as it was reported out of the Commerce Committee.

The consumer protection bill which has resulted from diligent efforts extending at least as far back as Senator KEFAUVER's work in 1959 is an attempt to provide the consumer with a more effective voice in the marketplace. It is a result of many compromises during its legislative history, and it is probably imperfect from the standpoint of the consumer, the businessman and the legislator.

In its present form, some major weaknesses of the bill are that the proposed Consumer Protection Agency will be overly dependent on the Administration, which is under pressure from industry and nonconsumer oriented interest groups, and that its powers in the court are too limited.

Senator PHILIP HART has presented a package of amendments addressed to these particular problems. The first, No. 1084, would allow the top officials of the agency to be appointed by the President and the majority leaders of both Houses of Congress. None of the terms would be coterminous with that of the President.

Another amendment would remove the Agency from the executive control exercised through the Bureau of Management and Budget and allow its budget request to come directly to Congress.

A third provision would give the Agency standing under law, enabling it

to initiate lawsuits on behalf of the consumer.

The provisions of the six amendments would add teeth to the consumer legislation, enabling it to better represent the individual consumer. Senator HART's proposals would significantly strengthen this legislation, and I urge my colleagues to join me in voting for their passage.

Mr. MATHIAS. Mr. President, the American marketplace has changed dramatically over the past few decades. There was a time when consumers frequently purchased goods and services from individual proprietors with whom they were personally acquainted. One knew that a quart of milk was fresh because he knew the farmer, if not the cow herself. One knew that a malfunction in a handicraft product would be promptly and adequately remedied because he had grown up and gone to school with the blacksmith or carpenter who made and sold it.

But the marketplace is becoming less personal, a trend which is not likely to be reversed. The steer born in the Southwest goes to a feedlot in the Corn Belt and becomes a carcass in Chicago before it is sold on a meat counter on the Atlantic coast. Within a few years, for example, it is predicted that food will be purchased in warehouse-like facilities where prices will be "read" by optical scanners and charges will be computed automatically. Not even the vestigial remainder of the old general storekeeper—the cashier or carryout clerk—may remain to deal with the customer. Childhood friendship as a means of securing satisfactory services has been supplanted by legalistic warranties incomprehensible to the layman. Determining a product's freshness often requires cryptographic skill likewise beyond the reach of most buyers. And who has not thought of studying Fortran so he can converse with the computers necessitated by the magnitude of present-day credit operations?

The cornerstone of a free market economy is the informed choice of the individual consumer. The Malthusian mushrooming of marketplace complexity threatens, however, to displace that principle. Adam Smith's "invisible hand" now subsumes an amalgamation of decisions by consumers who are often overwhelmed by confusing and conflicting claims. Rational choice by the buyer has become incredibly difficult. We should not force a householder to use a slide rule to make elementary comparison of prices per unit.

Government has, of course, taken some steps to ameliorate these problems. Thirty-eight States have some form of consumer affairs office. There are at least 34 Federal departments and agencies administering major consumer programs. Not surprisingly, coordination of these efforts has too often been lacking. And the agencies which make crucial decisions affecting consumers tend to hear only one voice on a consistent basis, that of the enterprises they regulate.

It is far from time, Mr. President, to replace the maxim caveat emptor with caveat venditor. Nor is it appropriate to merely curse the changing times. The

American consumer today probably gets higher quality, lower priced, and more accurately labeled goods and services than any other in the world. But we have documentation from one of our colleagues of consumer losses through various kinds of deceptive practices totaling nearly \$200 billion a year. The vast majority of American businesses operate fairly and honestly. They and the 200 million American consumers deserve a marketplace cleansed of the unscrupulous and the overreaching. Unless action is taken promptly to deal with the unethical few and to assist the vast ethical majority in American business, the festering resentment of consumer unhappiness will redound to the detriment of us all.

Consumer-oriented reforms have been initiated by individual concerns and trade organizations with vision ranging beyond today's profit-and-loss statement. But it is time for the Federal Government to act decisively in concert with this enlightened point of view. As a member of the Government Operations Committee, I have been privileged to participate in the shaping of the pending order of business, the Consumer Protection Organization Act of 1970.

Reported unanimously by that committee, the bill would create a top-level Council of Consumer Advisers to the President. This three-man body would oversee and coordinate the consumer programs of the entire Federal Government. The Council would confer on consumer affairs the visibility and policy consistency it so richly deserves.

The bill would also create an independent Consumer Protection Agency, the Director of which would be a member of the Council of Consumer Advisers. The Agency would be vested with an essential advocacy function, representing the consumer interest where appropriate before Federal regulatory agencies and courts. It would receive and analyze individual consumer complaints and serve as a consumer-supplier liaison to encourage informal settlement of differences. The Agency would disseminate data necessary for wise purchasing decisions and would produce a Federal Consumer Register to serve as a basic, understandable consumer information text. It would conduct research and investigations to highlight the problems facing business and consumers and to suggest means for their solution.

Finally, the Agency would be empowered to administer a grant-in-aid program for State, local, and nonprofit private consumer protection programs.

The Consumer Protection Organization Act is the product of months of exhaustive committee hearings, debate, and consultation. It is designed to achieve this goal without undue interference with the legitimate and world-envied practices of almost all American businesses. And it is necessary to conform our marketplace to changing times and to forestall a massive consumer revolution which may otherwise force alteration of that marketplace beyond reason or recognition.

Mr. HARRIS. Mr. President, as a member of the Government Operations Committee and one who strongly believes

in the need for the establishment of a Federal agency to protect and serve as an advocate in the interests of American consumers, I am pleased to support S. 4459, the consumer protection bill. I commend the distinguished Senator from Connecticut (Mr. RIBICOFF) and members of his subcommittee for the very fine job which they did in drafting most of the bill we have before us today.

As has been stated by several of my colleagues on the committee, at least nine bills dealing with consumer protection were introduced in the Senate during the 91st Congress. Generally, these bills expressed, unequivocally, the need for coordination of consumer programs; representation in the interests of consumers; consumer information programs; and Federal assistance to State and local organizations working in the area of consumer protection.

Concerning the latter point, I might add that the committee determined that no Federal consumer protection program alone could adequately serve the needs of consumers and businessmen. As a result provisions were made for the funding of consumer programs at the State and local levels. Under the present bill governmental agencies and nonprofit private agencies would be eligible for funds on a participating basis by submitting their own plans—a prerequisite to receiving Federal funds. I am glad to see this provision in the bill for several reasons. First, it recognizes and establishes the fact that consumer protection is not and should not be the responsibility of the Federal Government alone. Second, it encourages action on the part of State and local governments and private nonprofit agencies and organizations. This is as it should be and I support the concept wholeheartedly.

Under title I of the bill a Council of Consumer Advisers would be created. The Council would be small and consist of three members, one of whom would be the director of the Consumer Protection Agency—CPA. All three members of the Council will be appointed by the President and would have the general responsibility of assisting the President in formulating policy.

Title II contains, perhaps, one of the more important provisions of the bill as it establishes the CPA and establishes the staff for the agency. The director will be appointed by the President with the advice and consent of the Senate. He would serve a 4-year term coterminous with the President. The President is also authorized to appoint five assistant directors of the CPA.

As I understand the bill, the CPA would not have regulatory or enforcement powers. Its mandate would be to represent consumer interests before Federal agencies and the courts; refer consumer complaints to appropriate agencies such as the Justice Department and the FTC; publish and disseminate information for consumers; conduct economic surveys and research; and provide financial assistance to State and local organizations. The CPA would also develop and promote consumer education programs and work with business in the promulgation and implementation of consumer protection activities.

Most importantly the Agency would function as an advocate in behalf of consumers. However, I had hoped that the agencies would have been permitted to initiate suits in the courts. This power is not granted the CPA as provided in S. 4459. This would have been a far more useful function and would, in my judgment, have minimized inevitable delays involved in the process of initiating suits in the courts.

On this matter, compromises were made as was true in other sections of the bill. As presently provided, however, I do not believe that the limitations placed on the Agency are restrictive enough to seriously impair the effectiveness of the CPA and the consumer interests which it will serve to protect.

Finally, Mr. President, let me say that the bill intends that the CPA be established as a reasonably independent agency, but not separated from the Government in its entirety. If the Agency is to serve effectively as an advocate of the consumer interests it must not be hamstrung by politics and other factors. Yet the committee sought not to create a supergovernmental agency. As I stated earlier, all of the major staff members will be appointed by the President with the advice and consent of the Senate. I might add that although the CPA may fall short of the proposals advanced in other bills introduced on this subject it was, nonetheless, agreed to by many proponents of consumer protection including Ralph Nader one of the foremost crusaders in this area.

Without question the interests of consumers have been neglected. Every day thousands of complaints are made about false and misleading products—some of which just recently were exposed and banned from the public market; many products do not function properly and repair services are inadequate. The distinguished senior Senator from Michigan (Mr. HART) reported that consumers are defrauded and cheated out of approximately \$200 billion each year. This is incredible. The bill we have before us will do much to correct these scandalous and totally unacceptable conditions faced by millions of American consumers. Accordingly, I urge Senators to support the pending bill.

#### CONSUMERS NEED PROTECTION BY LAW

Mr. YARBOROUGH. Mr. President, I am pleased to support S. 4459 to establish a Council of Consumer Advisers in the Executive Office of the President and an independent Consumer Protection Agency. This bill gives formal legislative recognition to the principle that the buyer in the marketplace has a right to expect that the products he purchases will be of the highest quality and the highest standards of safety. It insures that this fundamental right will be protected by an official in the Executive Office of the President and by a permanent executive agency.

At present, consumer rights are protected by many agencies of Government and by a member of the President's personal staff who has no status in law.

I believe that the approach emphasized in this bill is far superior. It will create a single agency whose prime func-

tion is to protect consumer rights. This agency will have no other role and accordingly there will be no chance for conflicts of interest between buyers and sellers to develop within the agency.

In addition, the President's consumer adviser will be given permanent status in law. The functions, powers, and duties of this office will be clearly delineated. It cannot be eliminated nor its functions limited by the whim of a Chief Executive whose supporters' interests are not those of the American consumer.

For many years, we have abandoned the old concept of caveat emptor—"let the buyer beware." Instead, we have accepted the principle that the seller has an obligation not to cheat those to whom he sells by offering shoddy or unsafe merchandise. This bill will give substance to our good intentions. I urge its adoption.

Mr. ERVIN. Mr. President, I trust that I will not detain the Senate long. However, I do want the RECORD to show why I am going to vote against the bill on final passage.

The objectives of the bill are set forth in section 202 which is found on pages 9 through 11.

The section provides:

SEC. 202. It shall be the function of the Agency to—

(1) represent the interests of consumers in proceedings before Federal executive agencies and Federal courts in accordance with section 203 of this Act;

(2) make grants to States, localities, and nonprofit private organizations to encourage and assist consumer protection programs in accordance with title III of this Act in order to prevent consumer frauds.

Then, in subsection (8) it provides:

(8) after consultation with the United States Office of Education, encourage the adoption or expansion of consumer education programs at all education levels, including consumer adult education projects, and consumer counseling services and provide technical assistance to public agencies and private nonprofit organizations for such programs;

I do not wish to comment in detail upon the function of the Agency as set forth in subsection (8) but this is one of those few times where Congress undertakes to expressly provide that the Federal Government shall undertake to interfere with public education by encouragement in setting the curriculums for the public schools of this country. That is counter to the proper function of the Federal Government.

To return to subsection (1), I would like to call to the attention of the Senate that subsection (1) of section 202 is implemented by section 203, which appears on pages 11 through 16 of the bill. In the interest of time, I ask unanimous consent that section 203 of the bill be printed in the RECORD.

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

#### REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL AGENCIES AND IN FEDERAL COURTS

SEC. 203. (a) The Director may request or petition for the initiation of any proceeding within the responsibility and authority of any Federal executive agency concerning any

matter which substantially affects the interests of consumers, but participation in such proceedings once initiated shall be in accordance with the provisions of this section.

(b) Whenever there is pending before any Federal executive agency any matter or proceeding not involving the internal operations of such agency, and the Director finds that the determination of such matter or proceeding is likely to affect substantially the interests of consumers within the United States, the Director shall be entitled as a matter of right to intervene, with respect to any issue affecting the interest of consumers, within the time limits specified in the rules and regulations of such agency, in such matter or proceeding as a party to represent the interests of consumers. Upon any such intervention, the Director shall present to such agency, in conformity with the rules of practice and procedure thereof, such evidence, briefs, and argument as he shall determine to be necessary for the effective protection of the interests of such consumers.

(c) Whenever—

(1) there is pending before any Federal executive agency any matter or proceeding, or

(2) there is pending before any court of the United States any matter or proceeding to which the United States or any Federal executive agency is a party, other than a proceeding to which subsection (d) is applicable,

and the Director finds the determination of such matter or proceeding is likely to affect substantially the interests of consumers within the United States, the Director upon his own motion, or upon written request made by the officer or employee of the United States or of such agency who is charged with the duty of presenting the case for the Federal executive agency in the matter or proceeding, may transmit to such officer or employee all evidence and information in the possession of the Agency relevant to that matter or proceeding, and whenever the Director takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency, he may, in the discretion of the Federal executive agency or the court, appear as amicus curiae and present written or oral argument to such agency or court on such issue.

(d) (1) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon interests of consumers within the United States or of any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) the Agency was an intervenor in such an action; and

(C) a right of review is otherwise accorded by law, the Director shall be entitled as a matter of right to bring a proceeding in the appropriate court of the United States to review such an action with respect to any such issue in order to represent the interests of consumers within the United States generally or any group or class of such consumers.

(2) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) there is pending before any court of the United States any matter or proceeding involving the review of such an action; and

(C) the Agency was an intervenor in such

action, the Director shall be entitled as a matter of right to intervene in such matter or proceedings with respect to any such issue as a party to represent the interests of consumers within the United States or of any group or class of such consumers.

(3) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or of any group or class of such consumers, and takes a position on any issue in whole or in substantial part adverse to or different from that of the Federal executive agency; and

(B) the Agency was not an intervenor in any such action,

the Director may, at the discretion of the court, intervene as plaintiff or defendant or appear as amicus curiae in any proceeding brought to review such action with respect to any such issue in order to represent the interests of consumers within the United States or any group or class of such consumers.

(e) Under such regulations as he may prescribe, the Director may petition to initiate proceedings, seek leave to intervene or appear pursuant to subsection (b) (c), or (d) of this section, whichever is applicable, in any Federal executive agency proceeding upon a petition by a substantial number of citizens of the United States stating a cause of national significance requesting that he do so. Within sixty days after the receipt of the petition the Director shall notify the principal sponsors of the petition with respect to the action which he has taken. If the Director determines not to seek leave to intervene or appear the answer required by the preceding sentence shall include a clear and concise statement of his reasons therefor.

(f) Findings of the Director under subsections (b) (c), and (d) of this section shall be made in the exercise of his reasonable discretion, shall be in writing, and shall be available to the public.

(g) An officer or an employee of the Agency designated by the Director, for the purpose of this section, shall be entitled to enter an appearance before any Federal executive agency for the purpose of representing the Director in any proceeding pursuant to this section without compliance with any requirement for admission to practice before such agency.

(h) The Director is authorized, in any Federal executive agency proceeding to which he is a party, to request that Federal executive agency to issue on his behalf such orders, as authorized by the statutory authority of such agency, for the copying of documents, papers and records, summoning of witnesses, production of books and papers, and submission of information in writing as is relevant to the subject matter of the proceeding. The Federal executive agency to which such a request is made shall issue such discovery orders requested by the Director unless the Federal executive agency determines that the request for discovery is not relevant to the matter at issue, or is unnecessarily burdensome, or is not authorized by the agency's statutory powers.

Mr. ERVIN. Mr. President, in short, this section undertakes to establish a Consumer Agency to regulate the regulators. In other words, Congress created the Federal Communications Commission to regulate communications; it created the Interstate Commerce Commission to regulate railroads and bus lines; it created the Federal Trade Commission to regulate deceit and falsehood in advertising and the like, and to insure fair trade practices. It created a number of other agencies in the executive branch

of Government to discharge specified functions of regulation.

Section 203 provides, in effect, that the newly created Agency has a right to tell all of the executive agencies of the Federal Government how it thinks they should discharge their functions. It gives this new Agency the right to interfere in every proceeding pending before any Federal regulatory body and to undertake to persuade the Commission that it should adopt policies contrary to those of the Commission. It provides that the new Agency can interfere in any lawsuit in any Federal court to which the Federal Government is a party, if it thinks that lawsuit affects any consumer interest of a substantial nature. It provides that when agencies set up by Congress to regulate specific areas of activity make a ruling, it can go to the courts and have that ruling reviewed.

In other words, we have a situation in which the taxpayer is going to have to finance both sides of a case in many instances. We have a situation where the right hand of the Federal Government can go before the regulatory bodies or the courts where the United States is a party and undertake to tell the left hand what to do. In other words, we have a regulator of the regulators. Mr. President, we will have chaos in the agencies, all in the name of the consumers. That, to my mind, is inconsistent with sound government at the Federal level.

Now, I wish to address myself to how subsection 2 of section 202 is to be implemented. This section provides:

It shall be the function of the agency to . . . (2) make grants to States, localities, and nonprofit private organizations to encourage and assist consumer protection programs in accordance with title III of this act in order to prevent consumer frauds.

This function is to be carried out in the manner set out in section 304, which is set forth on pages 30 through 33, and in section 307, which is set forth on pages 35 through 36. In the interest of time, I ask unanimous consent that section 304 and section 307 be printed in the RECORD.

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

#### GRANTS FOR CONSUMER PROTECTION PROGRAMS

SEC. 304. The Director is authorized to make grants to pay the Federal share of the cost of consumer protection programs, which may include the following—

(1) the establishment or strengthening of a Consumer Protection Agency which, in the case of the establishment of such an agency, shall be located in such department or agency of the States as the chief executive or the legislature of the State determines;

(2) the establishment, operation, and expansion of programs to license, or otherwise regulate, household appliance repairmen, motor vehicle repairmen, and home improvement contractors in order to provide improved consumer protection, including protection against—

(A) false advertising;

(B) failure to perform the work or service as advertised;

(C) performing unnecessary and unrequested work or services;

(D) failure to perform work or services as represented to the consumer and for which the consumer was billed;

(3) the establishment, operation, and ex-

pansion of programs requiring credit reporting agencies to adopt reasonable procedures for meeting the needs of commerce for credit information in a manner which is fair and equitable to the individual;

(4) the establishment and expansion of consumer education programs, with particular emphasis upon projects which give promise of assisting persons who reside in urban areas of high concentration of unemployed or low-income individuals and the encouragement of the introduction of consumer education courses in public school curriculums;

(5) representation of consumer interests before administrative and regulatory agencies, courts and legislative groups, except where the Agency already is representing such interests;

(6) the establishment or expansion of consumer complaint centers;

(7) provision of counseling to consumers;

(8) enforcement of laws to protect the interests of consumers, including laws prohibiting fraud, deceptive practices, and unfair practices against consumers, and laws concerning monopolies and restraints of trade;

(9) study of State laws and regulations, and the laws and regulations of units of general local government, relating to the interests of consumers, and recommendation of improvements in such laws and regulations;

(10) research, studies, and analyses of consumer matters;

(11) the conduct of research, counseling, and educational projects concerning the nutritional value of food; and

(12) such other activities as may bear a direct and material relationship to the interests of consumers.

#### RECIPIENTS OF GRANTS

SEC. 305. Eighty-five per centum of the funds allocated pursuant to the first sentence of section 302 shall be available for grants to States which have adopted State plans in accordance with section 306 of this title. Not to exceed 15 per centum of such funds shall be available for grants to local public agencies and private nonprofit organizations for consumer protection programs not included in State plans. Until a State has submitted a State plan and the Director has approved such a plan, or upon the failure of the State to carry out such a plan according to the terms and conditions specified in such plan, as approved, the Director may make grants directly to local public agencies and nonprofit private organizations for consumer protection programs within such State for the purposes set forth in section 304 of this title.

#### APPLICATIONS

SEC. 307. (a) Any local public agency or nonprofit private organization desiring to receive a grant under this title shall submit an application at such times, in such manner and containing or accompanied by such information as the Director may prescribe. Such applications shall—

(1) set forth a program under which funds provided under this title will be expended for the purposes described in section 304 of this title;

(2) provide for the proper and efficient administration of such application;

(3) provide adequate assurances that the remaining cost of such application will be paid from funds derived from a source other than this title;

(4) provide, whenever appropriate, for cooperation and coordination with State and local legal services programs and other consumer oriented programs carried out by community action agencies under the Economic Opportunity Act of 1964;

(5) provide, whenever appropriate, for co-

operation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

(6) provide that reports on programs receiving assistance shall be made in such form and containing such information as the Director may reasonably require;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement of and accurate accounting of funds received under this title.

(b) The Director shall approve any applications and modifications thereof which comply with subsection (a).

Mr. ERVIN. Mr. President, there can be no doubt that under the system of government created by the Constitution of the United States certain functions were allocated to the Federal Government and certain other functions were reserved to the governments of the States. Among those functions reserved to the States was the function, the power, and the duty of regulating contracts between consumers and producers and between consumers and suppliers of services.

This bill has been carefully drawn, and I wish to commend its draftsmen on the care which they have exercised. It does not undertake directly to let the Federal Government assume and exercise the powers of the States in this field. It apparently recognizes that these duties in protection of the rights of consumers against producers are powers reserved to the States, so it undertakes to make grants to the States to induce the States to change their laws in these respects so as to fit the notions of the Federal Government and the director.

Mr. President, through the use of money the governments of the various States which have been ordained through the Constitution can be changed or disregarded. There is no doubt about that. The Scriptures tell us that money is the root of all evil. We know governmental people have to have money and so we have a bill here which is calculated, and I assert designed, to persuade the States to accept Federal money to influence their actions and thus to adopt, not the views of the States, but the views of the Federal administrator as to what the laws of the States ought to be.

We have a provision here which states that the Federal Government, in effect, concerns itself with the question throughout the United States as to whether automobile mechanics should be licensed, as to whether plumbers should be licensed, and as to whether plasterers should be licensed; and whether or not the plumber does his plumbing correctly or the plasterer puts the plaster on the wall correctly, or whether the carpenter drives his nail correctly. It seems to me that the Federal Government under the Constitution has more important things assigned to it.

Under this bill the Federal Government indirectly gets itself into every controversy between an automobile mechanic and a customer as to whether the mechanic has repaired a muffler correctly, whether the painter put the paint on the walls correctly, whether the plas-

terer put the plaster on the walls correctly, or whether the carpenter has done his work correctly.

Also it indirectly attempts to influence the curriculums in the public schools.

In addition, it provides if the States will not do as the Federal Government thinks they should do, the director can give money to the local subdivisions of government to thwart the policies of the States so far as the activities of the subdivisions of government can thwart those policies.

Then, it provides they can make grants to ambulance-chasing lawyers to bring litigation in the courts at the expense of the taxpayers for any conceivable subject were there is a contract between a consumer—and that includes everybody in the United States—and a provider of goods and services. Under this bill the taxpayers of the United States can be charged with the responsibility through their taxes of financing malpractice suits against doctors, malpractice suits against surgeons, controversies between an automobile owner and a mechanic, controversies between a carpenter and a person who contracted for the repair of a home.

I think the Federal Government has more important things to do than that. I think these matters should be left to the States. There are plenty of laws on the statute books of the 50 States. Every court in those States is open to anyone who wants to protect the rights of consumers. In every township there is a local justice of the peace to do that. There are State courts to do that. There are State supreme courts to do that. And there are Federal courts to do that.

This measure puts the Federal Government directly into every transaction relating to goods or services consummated or contracted for anywhere in the United States of America. It proceeds on the idea that we must let the Government do for the people what the people ought to do for themselves. It is premised on the idea that the people of the United States cannot manage their own affairs without Government supervision. It proceeds on the idea that the people of the United States shall no longer be required to recognize their responsibility for the activities of their lives as one of the attributes of liberty.

I know there are good motivations behind the effort to have the bill adopted. Those who advocate the bill are actuated by the desire to act for the good of the people. But I remind the Senate that the Parliament of England was concerned with the good of the people and it wanted to rid them of their responsibility, and by so doing England was reduced from one of the great empires of the world, whose ships sailed the seven seas, to an impotent nation of this earth. I feel this act will be the same thing as those acts of the British Parliament.

This bill is being pushed in the name of the consumer, but I can never forget that when the guillotine was about to behead a famous French lady during the French Revolution, she exclaimed, "O Liberty, how many crimes are committed in thy name." I want to say,

"O Consumers, what crimes we are about to commit in your name."

If we adopt this bill, which is calculated to permit the Federal Government to inject itself into all transactions in the United States, big and small, relating to furnishing goods or services the Senate should realize that every journey to a forbidden or unwise end begins with a single step. If it approves the bill, the Senate will not only be taking a single step to an end forbidden by the Constitution—namely, control by the Federal Government of many of the State functions—but will be taking many steps in that direction.

I give these reasons for my opposition to the bill on final passage. It is not the easy thing to do. This is a politically popular bill. I stood on the floor of the Senate when another politically popular bill came before the Senate which contained the no-knock provision, and I predicted that we were going to have dire consequences. The first fruits of that bill became manifest a few days ago in Arizona, when narcotic agents for the Federal Government undertook to enter, without knocking, an apartment house, and the person in the apartment house, as he had a right to do, fired at the officers. The officers fired back. As a result, one of the occupants of the apartment was killed, and so was one of the officers of the United States.

We had better give long consideration to this bill before we act on it.

Mr. METCALF. Mr. President, I had not intended to talk about the bill except that the very eloquent and impassioned remarks of the Senator from North Carolina compel me to object to the statement he made.

Mr. President, a consumer should have a right to be represented in court. A consumer should have a right to be represented before the regulatory agencies. That is what the bill provides—the right of a consumer of electricity, a consumer of drugs, a consumer of the other articles that are in trade, to be represented before the regulatory agencies or the courts. The corporations have a right to appear, and they do appear.

If the ideas of the Senator from North Carolina were put into effect, there would be only one person to appear, and that is the rich person, the corporation. The consumer who is overcharged only \$1 on his bill—and there are thousands of them—the consumer who is overcharged only a couple of dollars on his drug bills—but there are thousands of them—would not have a right to appear.

These decisions are going to be made in the courts of the United States. There will be an appearance either before the court or the regulatory agencies by the consumers as well as the corporations. Why should these questions not be thrashed out as fully and as completely and in as great detail as possible?

The Senator from North Carolina and I have argued about this matter in committee. I have some bills in committee that would provide for more consumer representation.

I do not want to take too much of the time of the Senate at this time, but I do

want to object to the concept that we cannot have class suits, that the consumer cannot come in and be represented in the courts or before the regulatory agencies or before the other agencies created by Congress.

With all due deference to all the objections made by the Senator from North Carolina, I just want to say that there is a basic principle involved that a man should have a lawyer and he should have a right to go into court and he should have a right to be represented. That is all the bill provides. There is no bar-ratry here. There is no Federal subsidy of suits. There is only a provision that, for example, a man who purchases electric power or purchases natural gas or purchases drugs shall have an opportunity to band with his fellow consumers and go before a regulatory agency or a court and have his case heard and have competent lawyers represent him. That is all that is involved.

Mr. ERVIN. Mr. President, just in reply to my good friend from Montana, I would say he is arguing the class action consumer bill. This is the bill establishing a Consumer Protection Agency.

I would say that in every township in the United States there is a justice of the peace who can handle small suits and a man does not need any lawyer. I can also say that there are hundreds of thousands of lawyers in the United States looking for clients to represent. I do not know of any case in which a man who has a just cause cannot be represented by a lawyer in the United States. I have appeared for many poor people. Most lawyers do.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass. 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 Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Arkansas (Mr. McCLELLAN) is absent because of a death in his family.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA), the Senator from Alaska (Mr. GRAVEL), and the Senator from Idaho (Mr. CHURCH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from South Caro-

lina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. HATFIELD), is detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from South Carolina (Mr. THURMOND), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 74, nays 4, as follows:

[No. 407 Leg.]

YEAS—74

Aiken	Hansen	Nelson
Allott	Harris	Packwood
Anderson	Hart	Pastore
Baker	Hollings	Pearson
Bible	Hruska	Percy
Boggs	Hughes	Protsy
Brooke	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Va.	Javits	Ribicoff
Byrd, W. Va.	Jordan, N.C.	Saxbe
Cannon	Jordan, Idaho	Schweiker
Case	Kennedy	Scott
Cook	Long	Smith
Cooper	Magnuson	Sparkman
Cotton	Mansfield	Spong
Cranston	Mathias	Stevenson
Curtis	McGee	Symington
Dole	McGovern	Talmadge
Fannin	McIntyre	Tydings
Fong	Metcalf	Williams, N.J.
Fulbright	Miller	Williams, Del.
Goodell	Mondale	Yarborough
Gore	Moss	Young, N. Dak.
Griffin	Murphy	Young, Ohio
Gurney	Muskie	

NAYS—4

Allen	Ervin	Holland
Ellender		

NOT VOTING—22

Bayh	Goldwater	Pell
Bellmon	Gravel	Russell
Bennett	Hartke	Stennis
Church	Hatfield	Stevens
Dodd	McCarthy	Thurmond
Dominick	McClellan	Tower
Eagleton	Montoya	
Eastland	Mundt	

So the bill (S. 4459) was passed, as follows:

S. 4459

An act to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, 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 "Consumer Protection Organization Act of 1970".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the Federal Government to protect and serve the interests of the people of the United States as consumers of goods and services which are made available to them through commerce or which affect commerce by establishing a Council of Consumer Advisers and an independent Consumer Protection Agency in order to facilitate the coordination of Federal programs and activities affecting consumers, to insure adequate representation of the interests of consumers in administrative and judicial proceedings, to provide information to consumers generally, to provide financial assistance to State and local consumer frauds and consumer protection programs, and to insure

that the interests of consumers are considered by the Federal Government.

#### TITLE I—COUNCIL OF CONSUMER ADVISERS

##### CONSUMER REPORT OF THE PRESIDENT

SEC. 101. (a) The President shall transmit to the Congress not later than March 1 of each year a report to be known as the Consumer Report, setting forth (1) the effectiveness of Federal programs and activities designed to carry out the policy declared in section 2, with particular emphasis upon the manner in which such programs and activities adequately protect the interests of consumers in the United States; (2) a review of such other programs and activities as the Council determines are of unique or national significance and suggesting areas most in need of attention; (3) a review of State, local, and private programs which are designed to carry out the policy set forth in section 2 and are assisted by the Federal Government, including an assessment of the success of such programs in protecting the interests of consumers; (4) an evaluation of the degree of cooperation and coordination among the departments and agencies of the Federal Government engaged in carrying out programs or conducting activities designed to implement the policy declared in section 2; and (5) a program for remedying deficiencies in existing programs and activities designed to implement such policy together with such recommendations for additional legislation as he deems necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Consumer Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 2.

(c) The Consumer Report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the appropriate committees of the Congress, including the Committee on Government Operations and the Committee on Commerce of the Senate and the Committee on Government Operations and the Committee on Interstate and Foreign Commerce of the House of Representatives.

##### COUNCIL OF CONSUMER ADVISERS TO THE PRESIDENT

SEC. 102. (a) There is created in the Executive Office of the President a Council of Consumer Advisers. The Council shall be composed of—

(1) the Director of the Consumer Protection Agency; and

(2) two persons appointed by the President, by and with the advice and consent of the Senate, who by reason of their training, experience, and attainments are exceptionally qualified to appraise programs and activities of the Government in the light of the policy declared in section 2, and to formulate and recommend programs to carry out that policy.

No member of the Council who is otherwise an officer or employee of the United States shall receive additional compensation for service as a member of the Council. The President shall designate one member to serve as Chairman of the Council.

(b) (1) The Chairman of the Council is authorized to employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its functions under this title 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, and is authorized, subject to such provisions, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(2) The Chairman of the Council shall act on behalf of the Council in all executive and administrative matters.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Consumer Report;

(2) to gather timely and authoritative information and statistical data concerning programs designed to carry out the policy declared in section 2, both current and prospective, to analyze and interpret such information and data in the light of the policy declared in section 2 and to compile and submit to the President studies relating to such programs;

(3) to assist the President in coordinating the programs and activities of all Federal executive agencies relating to the interests of consumers in order to avoid waste, duplication, and inconsistencies;

(4) to advise the President in establishing priorities, and when necessary, with the approval of the President, to resolve conflicts between Federal executive agencies engaged in such programs or activities;

(5) to conduct investigations, studies, surveys, research, and analyses relating to the protection of the interests of the consumer;

(6) to develop and recommend to the President national policies to foster and promote the protection of the interests of consumers, including recommendations relating to the most effective way to allocate Federal responsibilities and the level of government—Federal, State, or local—best suited to carry out programs and activities relating to the interests of consumers;

(7) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation to carry out the policy declared in section 2 as the President may request.

(d) Whenever the Chairman of the Council determines that information or data developed pursuant to subsection (c) of this section should be made available to the States and localities he shall so advise the President and recommend that he be authorized to make arrangements for the timely dissemination of such information and data to such States and localities as he deems appropriate.

(e) The Council shall make an annual report to the President in February of each year.

(f) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such consumers, representatives of industry, agriculture, labor, State and local governments, and other groups, organizations, and individuals as it deems advisable;

(2) the Council shall, to the fullest extent possible, use the services, facilities, and information, including statistical information, of other Government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided.

##### COMPENSATION OF MEMBERS OF THE COUNCIL

SEC. 103. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(20) Chairman, Council of Consumer Advisers."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(94) Members, Council of Consumer Advisers."

##### AUTHORIZATION OF APPROPRIATIONS

SEC. 104. There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary.

#### TITLE II—CONSUMER PROTECTION AGENCY

##### ESTABLISHMENT

SEC. 201. (a) There is established as an independent agency within the executive branch of the Government an agency to be known as the Consumer Protection Agency.

(b) The Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate for a term of four years. There shall be in the Agency a Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate for a term of four years. The Director and the Deputy Director, in the event of a vacancy, shall be appointed for the remainder of the term for which his predecessor was appointed. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director. Notwithstanding the provisions of this subsection the terms of the Director and the Deputy Director first taking office shall terminate on January 20, 1973. Upon the expiration of his term, the Director shall continue to serve until his successor has been appointed and has qualified.

(c) There shall be in the Agency a Consumer Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The Consumer Counsel shall be the chief legal officer of the Agency, and shall perform such duties as the Director may prescribe and shall be Acting Director during the absence or disability, or in the event of vacancies in the offices, of the Director and the Deputy Director.

(d) The President by and with the advice and consent of the Senate is authorized to appoint within the Agency not to exceed five Assistant Directors.

##### FUNCTIONS OF THE AGENCY

SEC. 202. It shall be the function of the Agency to—

(1) represent the interests of consumers in proceedings before Federal executive agencies and Federal courts in accordance with section 203 of this Act;

(2) make grants to States, localities, and nonprofit private organizations to encourage and assist consumer protection programs in accordance with title III of this Act in order to prevent consumer frauds;

(3) receive and evaluate complaints from consumers and refer complaints to the appropriate Federal executive agency and State and local agency and take such other action as authorized by section 204 of this Act;

(4) conduct, support, assist, and coordinate research and economic investigations and surveys in accordance with section 205 of this Act;

(5) publish a Federal Consumer Register which shall set forth the times, places, and subject matters of major rulemaking proceedings by Federal regulatory agencies, civil actions and other useful information of national significance which relate to the protection of consumer interests, stated in language which is readily understood by consumers generally;

(6) disseminate information of importance to consumers, including information concerning consumer items which the Government purchases for its own use, in the most efficacious manner possible, especially through the publication and distribution of

periodicals and other printed material which can be readily understood by consumers generally;

(7) cooperate with and encourage private enterprise in the promotion and protection of consumer interests;

(8) after consultation with the United States Office of Education, encourage the adoption or expansion of consumer education programs at all education levels, including consumer adult education projects, and consumer counseling services and provide technical assistance to public agencies and private nonprofit organizations for such programs;

(9) submit a report to the President and to the Congress at least once each year on the activities and programs of the Agency together with such recommendations including legislative recommendations as the Agency deems appropriate.

#### REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL AGENCIES AND IN FEDERAL COURTS

SEC. 203. (a) (1) The Director may request or petition for the initiation of any proceeding within the responsibility and authority of any Federal executive agency concerning any substantive or procedural matter which substantially affects the interests of consumers.

(2) If any Federal executive agency declines to initiate any requested or petitioned for proceeding described in paragraph (1) of this section it shall timely make public in a current and concise statement its reasons therefor.

(3) If any Federal executive agency declines to initiate any general policymaking or rulemaking proceeding requested or petitioned for, the Director may, after reviewing the reasons therefor, submit the issue to the President who shall by order published in the Federal Register decide whether the proceeding shall be commenced.

(4) Proceedings requested or petitioned for having been initiated, the Director shall participate in accordance with the provisions of this section.

(b) Whenever there is pending before any Federal executive agency any matter or proceeding not involving the internal operations of such agency, and the Director finds that the determination of such matter or proceeding is likely to affect substantially the interests of consumers within the United States, the Director shall be entitled as a matter of right to intervene, with respect to any issue affecting the interest of consumers, within the time limits specified in the rules and regulations of such agency, in such matter or proceeding as a party to represent the interests of consumers. Upon any such intervention, the Director shall present to such agency, in conformity with the rules of practice and procedure thereof, such evidence, briefs, and argument as he shall determine to be necessary for the effective protection of the interests of such consumers.

(c) Whenever—

(1) there is pending before any Federal executive agency any matter or proceeding, or

(2) there is pending before any court of the United States any matter or proceeding to which the United States or any Federal executive agency is a party, other than a proceeding to which subsection (d) is applicable,

and the Director finds the determination of such matter or proceeding is likely to affect substantially the interests of consumers within the United States, the Director upon his own motion, or upon written request made by the officer or employee of the United States or of such agency who is charged with the duty of presenting the case for the Federal executive agency in the matter or proceeding, may transmit to such officer or employee all evidence and information in the possession of the Agency relevant to that

matter or proceeding, and whenever the Director takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency, he may, in the discretion of the Federal executive agency or the court, appear as amicus curiae and present written or oral argument to such agency or court on such issue.

(d) (1) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon interests of consumers within the United States or of any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) the Agency was an intervenor in such an action; and

(C) a right of review is otherwise accorded by law, the Director shall be entitled as a matter of right to bring a proceeding in the appropriate court of the United States to review such an action with respect to any such issue in order to represent the interests of consumers within the United States generally or any group or class of such consumers.

(2) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) there is pending before any court of the United States any matter or proceeding involving the review of such an action; and

(C) the Agency was an intervenor in such action, the Director shall be entitled as a matter of right to intervene in such matter or proceeding with respect to any such issue as a party to represent the interests of consumers within the United States or of any group or class of such consumers.

(3) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or of any group or class of such consumers, and takes a position on any issue in whole or in substantial part adverse to or different from that of the Federal executive agency; and

(B) the Agency was not an intervenor in any such action,

the Director may, at the discretion of the court, intervene as plaintiff or defendant or appear as amicus curiae in any proceeding brought to review such action with respect to any such issue in order to represent the interests of consumers within the United States or any group or class of such consumers.

(e) Under such regulations as he may prescribe, the Director may petition to initiate proceedings, seek leave to intervene or appear pursuant to subsection (b), (c), or (d) of this section, whichever is applicable, in any Federal executive agency proceeding upon a petition by a substantial number of citizens of the United States stating a cause of national significance requesting that he do so. Within sixty days after the receipt of the petition the Director shall notify the principal sponsors of the petition with respect to the action which he has taken. If the Director determines not to seek leave to intervene or appear the answer required by the preceding sentence shall include a clear and concise statement of his reasons therefor.

(f) Findings of the Director under subsections (b), (c), and (d) of this section

shall be made in the exercise of his reasonable discretion, shall be in writing, and shall be available to the public.

(g) An officer or an employee of the Agency designated by the Director, for the purpose of this section, shall be entitled to enter an appearance before any Federal executive agency for the purpose of representing the Director in any proceeding pursuant to this section without compliance with any requirement for admission to practice before such agency.

(h) The Director is authorized, in any Federal executive agency proceeding to which he is a party, to request that Federal executive agency to issue on his behalf such orders, as authorized by the statutory authority of such agency, for the copying of documents, papers and records, summoning of witnesses, production of books and papers, and submission of information in writing as is relevant to the subject matter of the proceeding. The Federal executive agency to which such a request is made shall issue such discovery orders requested by the Director unless the Federal executive agency determines that the request for discovery is not relevant to the matter at issue, or is unnecessarily burdensome, or is not authorized by the agency's statutory powers.

#### CONSUMER COMPLAINTS

SEC. 204. (a) Whenever the Agency receives from any person any complaint or other information disclosing a possible violation of (1) any law of the United States, (2) any rule or order of any Federal executive agency, or (3) any judgment, decree, or order of any court of the United States, concerning consumer interests, the Director shall transmit such complaint or other information received by the Agency not later than sixty days after receiving such complaint or other information to the Federal executive agency charged with the duty of enforcing such law, rule, order, judgment, or decree, for appropriate action.

(b) Whenever the Agency receives complaints or other information disclosing any commercial or trade practice which it deems detrimental to the interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Director shall transmit such complaint or other information not later than sixty days after receiving such complaint or other information to the Federal, State, or local agency whose regulatory or other authority provides the most effective means to act upon them.

(c) Whenever practicable the Agency shall ascertain the nature and extent of action taken with regard to complaints and other information transmitted under subsections (a) and (b) of this section.

(d) Not later than sixty days after the receipt of any complaint signed and in writing, the Agency shall notify any producer, distributor, retailer or supplier of goods named or readily identifiable in each complaint received under this section of such complaint. The Agency shall notify any producer, distributor, retailer, or supplier of goods and services named or identified in any other complaint or information received or developed by the Agency of the matter complained of unless the Director determines there is a more effective means of remedying such matter.

(e) The Agency shall maintain for convenient public inspection and copying a current listing and brief summary of all consumer complaints signed and in writing received by it pursuant to this title. The complaints shall be arranged in meaningful and useful categories together with annotations of actions taken by the agency or person to whom any such complaint has been referred and the response of and actions taken by the person complained against. Names of

complainants shall be included in any such listing if they so request. The Director shall carry out the provisions of this subsection not later than one hundred and twenty days after the receipt of any complaint, or promptly after the date on which the Agency receives a response from the person complained against, but in no event shall such complaint be made available to the public until the party complained against has had sixty days to comment on such complaint. The Director shall not include in the listing and brief summary required by this subsection any complaint which has been satisfied during the sixty-day period provided in the previous sentence, the evidence of such satisfaction having been provided to the Director.

#### ECONOMIC SURVEYS AND RESEARCH

SEC. 205. (a) The Director is authorized to—

(1) conduct economic research, investigations, conferences, and surveys concerning the needs, interests, and problems of consumers, including the execution of Federal laws for the protection of consumer interests;

(2) analyze and disseminate to the public information obtained or developed under this section.

(b) In carrying out the provisions of this section, the Director may recommend to other Federal agencies the conduct of research pertaining to the interests of consumers by such other agencies and obtain from any such agency a report on the action taken with respect to a recommendation under this subsection.

(c) Unless the Director determines that an economic survey or other research or investigation is essential to the performance of the functions of the Agency under this Act, no such survey, research or investigation which is substantially a duplication of any current or recent survey, research or investigation conducted by any other Federal agency shall be conducted under this section.

(d) (1) In carrying out provisions of this section the Director is authorized to require any persons, by general or specific order setting forth with particularity the consumer interest involved and the purposes for which the information is sought, to file with the Agency a report, or answers in writing to specific questions, relevant to the functions of the Agency. Any such reports or answers shall be made under oath, or otherwise as the Director may prescribe, and shall be filed with the Agency within such reasonable period as the Director may prescribe, unless additional time be granted in any case by the Director.

(2) Any district court of the United States within the jurisdiction of which the subject of an inquiry authorized by this section is found, or has its principal place of business, may upon petition by the Director, in the case of refusal to obey a valid order of the Director issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(e) No compilation or summary of complaints that are signed and in writing shall be published under this section until sixty days after the date of receipt by the Agency of the most recent complaint contained therein.

#### ADMINISTRATION

SEC. 206. (a) The Director is authorized, in carrying out his functions under this Act, to—

(1) appoint and fix the compensation of personnel of the Agency;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(3) appoint one or more advisory committees composed of such private citizens and

officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

(4) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Agency, and delegate authority for the performance of any function to any officer or employee of the United States under his direction and supervision;

(5) utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

(7) adopt an official seal, which shall be judicially noticed;

(8) request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and with the approval of the President convene meetings of the heads of those Federal agencies, or their designated representatives, on programs affecting consumers;

(9) arrange with the heads of other Federal agencies for the performance of any of his functions under this title with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this title;

(10) establish such regional offices as the Director determines to be necessary to serve more adequately the interests of consumers;

(11) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible;

(12) subject to appropriation Acts, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

(13) transfer funds made available under this Act to facilities of other Federal, State, local and private agencies and instrumentalities as reimbursement for utilization of their services, personnel, and information as authorized in paragraph (5) and appropriations Acts; and

(14) designate representatives to serve or assist on such committees as the Director may determine to be necessary to maintain effective liaison with Federal executive agencies and with State and local agencies carrying out programs and activities related to the protection of the economic interests of consumers.

(b) Upon request made by the Director each Federal executive agency is authorized to make its services, personnel, facilities and information (including suggestions, estimates and statistics) available to the greatest practicable extent consistent with other laws to the Agency in the performance of its functions with or without reimbursement.

(c) Attorneys in all proceedings under section 203 of this Act, except proceedings before the Supreme Court, shall be under the supervision of the Director of the Agency. Before bringing any action in a court or taking an appeal in any court pursuant to section 203 of this Act the Director of the Agency shall notify the Attorney General or his designee.

(d) Each member of a committee appointed pursuant to paragraph (3) of subsection (a) of this section who is not an officer or employee of the Federal Govern-

ment shall receive an amount equal to the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence and necessary expenses incurred in the performance of their duties.

#### COMPENSATION OF THE DIRECTOR, THE DEPUTY DIRECTOR, THE CONSUMER COUNSEL AND THE ASSISTANT DIRECTORS

SEC. 207. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(57) Director, Consumer Protection Agency."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Deputy Director, Consumer Protection Agency."

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(130) Consumer Counsel, Consumer Protection Agency."

"(131) Assistant Directors, Consumer Protection Agency (5)".

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated to carry out the provisions of this title \$10,000,000 for the fiscal year ending June 30, 1971, \$15,000,000 for the fiscal year ending June 30, 1972, and \$25,000,000 for the fiscal year ending June 30, 1973.

#### TITLE III—CONSUMER PROTECTION GRANTS

##### AUTHORIZATION

SEC. 301. For the purpose of assisting States, localities, and nonprofit private organizations to establish or strengthen consumer protection programs under this title, there is authorized to be appropriated \$7,500,000 for the fiscal year ending June 30, 1971, \$15,000,000 for the fiscal year ending June 30, 1972, and \$25,000,000 for the fiscal year ending June 30, 1973.

##### ALLOCATION OF FUNDS

SEC. 302. (a) (1) From funds appropriated pursuant to this title for any fiscal year the Director shall allocate 80 per centum among the States for the purposes specified in section 304 of this title, as follows: Each State, other than possessions of the United States, having an approved plan shall be allocated \$50,000, each possession having an approved plan shall be allocated \$20,000, and the remainder of such 80 per centum shall be made available among the States according to their respective populations. The remaining 20 per centum of such funds for any fiscal year shall be allocated among the States for planning grants pursuant to section 303, as the Director may determine.

(2) For the purposes of this subsection the term "possessions of the United States" means the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The amount of funds available to any State under subsection (a) for any fiscal year which the Director determines will not be required for such fiscal year shall be available for reallocation from time to time, on such dates during such year as the Director may fix, to other States, to the extent the Director estimates such State, or local public agency or nonprofit private organization within such State, needs and will be able to use such amount being reallocated.

##### PLANNING GRANTS

SEC. 303. (a) In order to encourage States and localities to prepare and adopt comprehensive consumer protection plans covering their respective jurisdictions, the Director

is authorized to make grants to any State or local public agency to assist in preparing or revising such plan.

(b) The Director is authorized to make grants to any State and local public agencies, and nonprofit private organizations to assist them in meeting the cost of planning any project or program or demonstration thereof for which a grant may be made under the provisions of this title.

(c) The Director may require as a condition to any grants under this title within any State or locality that comprehensive consumer protection planning be undertaken and that, where he deems it appropriate, a comprehensive plan or plans be prepared within a reasonable period.

(d) No such grant may exceed 75 per centum of the cost of the planning with respect to which such grant is made.

#### GRANTS FOR CONSUMER PROTECTION PROGRAMS

SEC. 304. The Director is authorized to make grants to pay the Federal share of the cost of consumer protection programs, which may include the following—

(1) the establishment or strengthening of a consumer protection agency which, in the case of the establishment of such an agency, shall be located in such department or agency of the State as the chief executive or the legislature of the State determines;

(2) the establishment, operation, and expansion of programs to license, or otherwise regulate, household appliance repairmen, motor vehicle repairmen, and home improvement contractors in order to provide improved consumer protection, including protection against—

(A) false advertising;

(B) failure to perform the work or service as advertised;

(C) performing unnecessary and unrequested work or services;

(D) failure to perform work or services as represented to the consumer and for which the consumer was billed;

(3) the establishment, operation, and expansion of programs requiring credit reporting agencies to adopt reasonable procedures for meeting the needs of commerce for credit information in a manner which is fair and equitable to the individual;

(4) the establishment and expansion of consumer education programs, with particular emphasis upon projects which give promise of assisting persons who reside in urban areas of high concentration of unemployed or low-income individuals and the encouragement of the introduction of consumer education courses in public school curriculums;

(5) representation of consumer interests before administrative and regulatory agencies, courts and legislative groups, except where the Agency already is representing such interests;

(6) the establishment or expansion of consumer complaint centers;

(7) provision of counseling to consumers;

(8) enforcement of laws to protect the interests of consumers, including laws prohibiting fraud, deceptive practices, and unfair practices against consumers, and laws concerning monopolies and restraints of trade;

(9) study of State laws and regulations, and the laws and regulations of units of general local government, relating to the interests of consumers, and recommendation of improvements in such laws and regulations;

(10) research, studies, and analyses of consumer matters;

(11) the conduct of research, counseling, and educational projects concerning the nutritional value of food; and

(12) such other activities as may bear a direct and material relationship to the interests of consumers.

#### RECIPIENTS OF GRANTS

SEC. 305. Eighty-five per centum of the funds allocated pursuant to the first sentence of section 302 shall be available for grants to States which have adopted State plans in accordance with section 306 of this title. Not to exceed 15 per centum of such funds shall be available for grants to local public agencies and private nonprofit organizations for consumer protection programs not included in State plans. Until a State has submitted a State plan and the Director has approved such a plan, or upon the failure of the State to carry out such a plan according to the terms and conditions specified in such plan, as approved, the Director may make grants directly to local public agencies and nonprofit private organizations for consumer protection programs within such State for the purposes set forth in section 304 of this title.

#### STATE PLANS

SEC. 306. (a) Any State desiring to participate in the grant program under this title shall designate or create an appropriate State agency for the purpose of this section and submit through such State agency, a State plan which shall—

(1) set forth a program under which funds provide under this title will be expended by the State directly or through grants to local public agencies or nonprofit agencies and organizations for the purposes described in section 304 of this title;

(2) provide for the proper and efficient administration of such plan and programs set forth in the plan;

(3) provide adequate assurances that the remaining cost of such plan and programs will be paid from funds derived from a source other than Federal funds;

(4) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant other Federal, or non-Federal, funds available for the purposes set forth in section 304 of this title;

(5) take into account the needs of units of general local government in the State;

(6) provide for effective use of existing resources and improvement of existing programs;

(7) provide for cooperation and coordination with State and local legal services programs and other consumer oriented programs carried out under the Economic Opportunity Act of 1964;

(8) provide, whenever appropriate, for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

(9) provide that reports on programs receiving assistance shall be made in such form and containing such information as the Director may reasonably require;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement of and accurate accounting of funds received under this title;

(11) contain such other terms and conditions as the Director may prescribe to assure the effectiveness of the programs assisted under this title; and

(12) contain safeguards to insure that the agency designated or created by the State will effectively represent the consumer.

(b) The Director shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

#### APPLICATIONS

SEC. 307. (a) Any local public agency or nonprofit private organization desiring to receive a grant under this title shall submit an application, at such times, in such manner and containing or accompanied by such

information as the Director may prescribe. Such applications shall—

(1) set forth a program under which funds provided under this title will be expended for the purposes described in section 304 of this title;

(2) provide for the proper and efficient administration of such application;

(3) provide adequate assurances that the remaining cost of such application will be paid from funds derived from a source other than this title;

(4) provide, whenever appropriate, for cooperation and coordination with State and local legal services programs and other consumer oriented programs carried out under the Economic Opportunity Act of 1964;

(5) provide, whenever appropriate, for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

(6) provide that reports on programs receiving assistance shall be made in such form and containing such information as the Director may reasonably require;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement of and accurate accounting of funds received under this title.

(b) The Director shall approve any applications and modifications thereof which comply with subsection (a).

#### PAYMENTS

SEC. 308. (a) From the amounts allotted to each State under section 302, the Director shall pay to each State which has a plan approved under section 306(b) and to each local public agency and private nonprofit organization which has an application approved under section 307(b) an amount equal to the Federal share of the amount needed for the purposes set forth in such plan or application.

(b) For the purposes of subsection (a), the Federal share for each State and local public agency shall be 50 per centum for each fiscal year and for each nonprofit private organization 50 per centum for each fiscal year.

(c) 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.

(d) Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment or services.

#### WITHHOLDING

SEC. 309. (a) Whenever the Director, after reasonable notice and opportunity for hearing to the grantee under this Act, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 306;

(2) the application has been so changed that it no longer complies with the provisions of section 307; or

(3) in the administration of the plan or application there is a failure to comply substantially with any such provision,

the Director shall notify any such grantee that no further payments will be made under this Act (or in his discretion, that further payments will be limited to programs or portions of the State plan or application not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made under this Act (or payment shall be limited to programs or portions of the State plan or application not affected by such failure).

(b) An agency or organization dissatisfied with a final action of the Director under section 306, section 307, or subsection (a) of

this section may appeal to the United States court of appeals for the circuit in which the agency or organization is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or any officer designated by him for that purpose. The Director thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm the action of the Director or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Director may modify or set aside his order. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Director to take further evidence, and the Director may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Director shall be final, 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. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Director's action.

#### RECORDS AND AUDITS

SEC. 310. (a) Each recipient of assistance under this Act shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition of such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used and the portion of the total cost supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.

#### TITLE IV—GENERAL PROVISIONS DEFINITIONS

Sec. 401. As used in this Act—

(1) "Agency" means the Consumer Protection Agency;

(2) "commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State, and such term includes foreign commerce;

(3) "Council" means the Council of Consumer Advisers;

(4) "Director" means the Director of the Consumer Protection Agency;

(5) "Federal executive agency" means any department, agency, or independent establishment in the executive branch of the Government; including any agency described in section 551 of title 5, United States Code, and any wholly owned Government corporation;

(6) "consumer" means any person who is offered or supplied goods or services for personal, family, or household purposes;

(7) "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, Guam, American Samoa; and the Trust Territory of the Pacific Islands except as provided in section 302(a) of this Act.

#### CONSIDERATION OF THE CONSUMER INTEREST IN FEDERAL AGENCY DETERMINATIONS

SEC. 402. Every Federal executive agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers within the United States of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, studies, reports, or standards, shall, in taking such action, give due consideration to the valid interests of consumers. When, in the normal course of its operations, the agency concerned makes public a statement with respect to such action, it shall indicate in such public statement the manner of its consideration of consumer interests.

#### INFORMATION DISCLOSURE

SEC. 403. (a) Subject to the provisions of this section, the Director shall disclose to the public so much of the information he obtains under this Act as he determines will assist in carrying out the purposes of this Act. The Director may not disclose trade secrets or information which includes formulas, processes, plans or patterns of manufacture, research, methods of doing business, costs, names of customers or other competitive information otherwise unavailable to the general public except to other Government officials and to authorized committees of Congress and except, where such disclosures are necessary to assure protection of the interests of consumers and such disclosures do not unreasonably prejudice the interests of those owning or lawfully possessing such information, (1) in a judicial proceeding if ordered by a court, (2) in a proceeding in which he appears pursuant to this Act, or (3) in carrying out his survey, research, and information dissemination function in cases involving extraordinary health and safety hazards or extraordinary economic harm. Before disclosing such protected information in a court or in an agency proceeding or in carrying out the survey, research, and information dissemination functions, the Director shall give fifteen days' notice to the owner or lawful possessor of such information.

(b) No information shall be disclosed if that information is inaccurate, misleading, or is not reasonably complete. Before disseminating any information which may injure the reputation or good will of a person or company (or its products or services) or which may disclose product names or otherwise may permit identification of a product or service with a person or company, the Director shall notify the person or company of the information to be disclosed, and shall afford an opportunity for comment, unless extraordinary health and safety hazards dictate otherwise.

(c) In disseminating any information under the provisions of this Act which discloses product names, the Director shall take such action as may be necessary to assure that any disclosure or dissemination of such information includes a statement making it clear that products of a competitive nature are not included and that there is no intent to rate one product as better than another product, to imply that certain products are superior in quality to any other products, or that one product is a better buy than any other product.

(d) In any case in which information is disclosed or disseminated under this Act and is subsequently found to be inaccurate, the Director shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of the new data in a manner similar to the initial disclosure or dissemination of such information.

(e) Nothing in this Act shall be construed to modify the application of section 552 of title 5 of the United States Code; and nothing in this section shall be construed as a specific exemption from disclosure under paragraph (3) of subsection (b) of section 552 of title 5 of the United States Code.

#### SAVINGS PROVISION

SEC. 404. (a) Nothing contained in this Act shall be construed to alter, modify, or repeal any other provision of law, or to prevent or impair the administration or the enforcement of any other provision of law, or to affect the duty of the Administrator of General Services to represent the interests of the Federal Government as a consumer pursuant to section 201(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(4)).

(b) Nothing contained in this Act shall be construed as relieving any Federal executive agency of any responsibility to protect and promote the interests of consumers in the United States.

(c) Nothing contained in this Act shall be construed to limit the rights of any person or group or class of persons to initiate, intervene, or otherwise participate in any court or Federal executive agency proceeding.

(d) Nothing in this Act shall be construed by any court or agency as affecting the discretion of any court or agency to permit any person or group or class of persons to initiate, intervene, or otherwise participate in any court or agency proceeding.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill as passed.

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

Mr. MANSFIELD. Mr. President, on balance, the measure just passed could be labeled one of the most important proposals ever considered in behalf of the American consumer. The lion's share of praise for this achievement goes to two Senators. Certainly our thanks must go to the distinguished Senator from Connecticut (Mr. RIBICOFF); and equally to be praised is the distinguished Senator from Washington (Mr. MAGNUSON). We are indebted to them for their tireless efforts on behalf of the American consumer. This joint expertise in this field is unsurpassed, and their devotion to the task of seeing that the public gets a fair shake from its government and all agencies of government in consumer matters is well known. The entire Senate is indebted to Senator RIBICOFF and Senator MAGNUSON for such outstanding leadership in steering this proposal through the Senate.

Joining them in pressing for the efficient disposition of this far-reaching consumer proposal were the distinguished Senators from New York (Mr. JAVITS) and New Hampshire (Mr. CORTON). They, too, are well known for their strong advocacy in behalf of measures that will assure all citizens of fundamental protections. In urging their sincere and strong views on this measure, their

support was indispensable to the Senate's overwhelming approval.

To be commended also for their contributions to the high caliber of the discussion are the Senator from Michigan (Mr. HART), the Senator from North Carolina (Mr. ERVIN), the Senator from Utah (Mr. MOSS), and the many others who offered their own perceptive views. Together they engendered a quality of consideration that assured full and thorough regard for the many features of this proposal.

Mr. RIBICOFF. Mr. President, I want to take this opportunity to pay tribute to the entire membership of the Committee on Government Operations and the Subcommittee on Executive Reorganization for their long and patient efforts in behalf of this bill.

Tribute especially should be paid to the senior Senator from New York (Mr. JAVITS), the ranking minority member, who worked so hard and carefully and thoughtfully with me throughout and to the Senator from Illinois (Mr. PERCY), who now presides over the Senate.

I would be remiss if I did not pay tribute to Mr. Robert Wager of my staff and of the committee and Mr. Dennison Young, of the staff of Senator JAVITS, whose loyalty and hard work throughout made passage of this bill possible. Over many months they provided valuable assistance in drafting this bill. I appreciate their efforts.

The cooperation of the Committee on Commerce was absolutely essential. It was required that this bill, under the procedures of the Senate, be referred to the Committee on Commerce. Under the leadership of Senator MAGNUSON and Senator COTTON, we had the utmost cooperation. They worked hard on the bill. They had a number of amendments which, in my opinion, improved the bill. I want to take this opportunity to pay special tribute to all those involved in making the passage of this measure possible.

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

Mr. RIBICOFF. I yield.

Mr. JAVITS. First, I should like to join in everything Senator RIBICOFF has said.

Second, I should mention the names of the staff, minority and majority, of the Committee on Commerce: Art Pankopf, Mike Pertschuk, and Lynn Sutcliffe. They also helped in this matter, and we are very grateful to them, and the entire Senate should be grateful to them.

Finally, I wish to say that I think my colleague has done superbly. He had a deep feeling about an agency, but he certainly was willing to work it out with deference to the views of many of us. It is a very fitting crown of success to a very difficult job and one which I feel has great promise for the country. I believe that he, as I, will feel that we have an obligation.

I am sure the Senator from Illinois, who is presiding, would join us in that—to exercise our vigilance, to be sure that our design and our intention that this should be an agency for the protection of consumers, not an agency for the

vexation of American business, should be carried through.

I think it is going to be very important that we remain alert to our "child," as it were, as it becomes law, to see that it really performs in a positive and constructive way.

I am gratified to have been associated with Senator RIBICOFF, with whom I have been associated in many, many things, especially in this matter, which I regard as an historic milestone in the activities of our economy; because, as I have said all my life, this is a consumer's economy rather than a capitalistic system, and this signalizes that situation.

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

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

Mr. RIBICOFF. I yield.

Mr. PERCY. I have enjoyed working very much, indeed, the past year with the distinguished Senator from Connecticut, who has managed this bill and who has been a staunch defender of the rights of consumers from the first day we started talking about this legislation.

He thoroughly understands the need. He has helped guide us over some rough periods where I know, for one, that I had certain doubts as to whether setting up another agency or a bureaucracy was the right way to do it. I tenaciously clung to the idea that the prestige and power of the presidency should not be lost in this effort, that we should not stand in the way, so we evolved the concept of a council and tied the two together to have the chairman of the council heading the agency. So that this classification process is in the spirit of bipartisanship. We have striven to find the best and most effective means to protect the consumers of America. And they need protecting, which the evidence shows, by the fact that in surveys taken of \$750 billion of consumer expenditures, in the case of \$200 billion of that \$750 billion, many questions arise as to whether the customer actually received value.

Mr. President, I fully respect the rights and the comments the Senator from North Carolina (Mr. ERVIN), made with respect to States' rights. I believe in States' rights. But we cannot sit on them. We have to do something about them. This legislation will enable us to strengthen consumer protection in this area more than it was before.

The distinguished Senator from Montana has pointed out in testimony before committees the power that the producer has many times, and the lack of resources available to the consumer. Many States take in huge revenues as a result of the charges made by, say, utility companies, but a pittance is appropriated by State legislatures to protect consumers. Too many times we have had direct testimony that State legislatures were under the control of the producers and the utilities who were trying to suppress the interests of consumers many times.

The direct testimony we had was evidence of the fact that we did need assistance and protection in this field.

Lastly, may I say that even though all of the amendments of the Senator from Michigan (Mr. HART) were not accepted,

he has been a great defender and protector of the consumer as long as I have ever known him. I was happy that we saw fit to accept some of his amendments in the spirit that he was trying to accomplish, which has been, for the most part, I hope, embodied in the bill. We respect him for standing up and fighting for what he believes in. We are working toward the same objective. We may have different means of bringing that about, but certainly the distinguished leadership of the Senator from Connecticut (Mr. RIBICOFF) who has managed this bill has enabled us to put together a bill in the best interests of the consumers of this country and I am very proud to have worked with him and to support him.

Mr. RIBICOFF. I thank the distinguished Senator from Illinois.

Mr. HART. Mr. President, I thank the distinguished Senator from Illinois for his kind remarks.

Mr. President, I congratulate Senators RIBICOFF, COTTON, MAGNUSON, PERCY, and other Senators who have over a long period of time given of their talents and energies to the climax we see today in passage of this bill.

Clearly the desire on the part of all who participated was to produce an effective voice for the consumers of this country in the form of a Consumer Protection Agency.

As my separate views indicated when the bill came out of the Committee on Commerce, I had grave reservations, not about the sincerity of purpose but the effectiveness of the product.

I am compelled to voice again what amounts only to a hope and not a conviction, that the product which has now passed the Senate will prove to be sound. Certainly, after the debate and some of the modifications that resulted from the amendments, I am not prepared and was not prepared on the rollcall to convert my reservations into a vote of no.

There are useful devices contained in the bill. I certainly was not prepared, given the overwhelming attitude of this body, to assign to myself a wisdom beyond the majority. I join the majority in supporting the bill as passed.

I have indicated the areas of my concern and I hope, with the passage of time, that I will be proved to be 100 percent wrong. I know that, with the passage of time and the experience accumulated as a result of it, some of the concerns I have and which other Senators have voiced will prove to have been at least genuinely based and that all of us will join in what then must be a renewed effort to improve the bill.

Certainly, Mr. President, the commitment in this bill to fund in substantial sums consumer education in consumer protection agencies across the country, not just governmental, is a significant forward step. I repeat, it is a significant forward step. It has been discussed almost as an incidental feature of the bill. Over the long haul, it may very well be taken as it has been with the law enforcement assistance administration bill, the kind of bill in which the Senator from Connecticut (Mr. RIBICOFF) can

take the greatest pride. I congratulate him.

Mr. President, certainly I would be remiss if I did not thank two staff members of the Antitrust and Monopoly Subcommittee for their thoughtful and penetrating suggestions in the development of amendments to this bill. Prof. John Flynn and Mrs. Patricia Barrio have contributed substantially to the background and development of much of the debate on this bill. I am glad to have the opportunity, on the record, to express my appreciation and high regard.

Mr. RIBICOFF. I thank the Senator.

#### PRESIDENT LUIS ECHEVERRIA ALVAREZ OF MEXICO

Mr. MANSFIELD. Mr. President, while the Senate was busily engaged in debate this morning, an event of singular importance was taking place far to the south in Mexico City. There, at 11 o'clock local time, the red, white, and green sash of the Mexican Presidency was transferred from incumbent Gustavo Diaz Ordaz to newly elected Luis Echeverria Alvarez. This peaceful transfer of power, accomplished amidst great fanfare and popular acclaim, launches Mexico into a new decade.

The exemplary transition of power should alone command the attention of a world which still knows too much strife and instability. But Mexicans have demonstrated too many times in this century the firmness of their conviction that power be institutionalized, and that freedom be carefully guarded. So, our attention is drawn to the promise which the Echeverria administration holds for the future of Mexico.

President Echeverria wasted little time in drawing the outlines of that promise. In his earliest remarks as President, he pledged his administration to continued reforms in agriculture, expansion of education, and the creation of at least 100,000 new jobs each year to keep pace with the growing economy.

As a young man of 48, President Echeverria typifies the dynamism of today's modern Mexico. And as a Mexican, he typifies the timeless warmth and humanity which has characterized his people throughout their history. It is a good combination and augurs well for one of my favorite countries. I speak as one man, but I am sure my sentiments are echoed in the Senate and in this Nation when I extend to President Echeverria, his family, and his nation our sincerest congratulations and best wishes.

May I say, Mr. President, that one of the finest statements I have ever read concerning a chief of state is the following. This is what the President-elect said some days ago:

I shall be on the side of the needy, the poor, and the humble, because the others know how to defend themselves.

Mr. JAVITS. Mr. President, I want to add to what the majority leader, the Senator from Montana (Mr. MANSFIELD) has said about President Echeverria. The President very graciously invited my wife and myself to come to the inauguration today. We could not do so, for obvious

reasons. I was engaged with Senator RIBICOFF actively in connection with the Consumer Protection Agency bill.

I feel that President Echeverria is a remarkable chief executive. I know him well. It will mark again a most auspicious chapter in the life and development of the people of Mexico, who have stepped across the threshold of development through the remarkable presidencies which have occurred there in the last quarter of a century and of which President Echeverria is in the very highest and finest tradition.

#### ORDER FOR RECOGNITION OF SENATOR MILLER TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the able Senator from Ohio (Mr. YOUNG), the distinguished Senator from Iowa (Mr. MILLER) be recognized for not to exceed 20 minutes.

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

#### PUEBLO DE TAOS INDIANS CULTURAL AND CEREMONIAL SHRINE PROTECTION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1356, H.R. 471.

The PRESIDING OFFICER (Mr. SPONG). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 471) to amend section 4 of the act of May 31, 1944 (48 Stat. 108).

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 Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Pueblo de Taos Indians Cultural and Ceremonial Shrine Protection Act of 1970".

(b) Congress hereby finds that the Rio Pueblo de Taos watershed and certain related areas with the Carson National Forest have been used since time immemorial for religious and other purposes by the Pueblo de Taos Indians in New Mexico, that the Indians have continued to use substantially all of such lands for such purposes after the national forest was first established and such lands have been specially managed to accommodate such uses, that Congress in 1933 specifically recognized the dependence of the Indians on a portion of such lands and provided the Indians certain rights and privileges relating to their use, that such lands have not been administered as other national forest lands have been administered, in that the use of the area has been limited, that the tribe has been adjudged to have had "Indian title" to these specific lands, and in view of the unique religious significance attached to the land that there is a need to resolve the controversy regarding the Blue Lake watershed by providing assurances to the Pueblo de Taos Indians that the rights and privileges specifically provided by section 4 of the Act of May 31, 1933 (48 Stat. 108),

and enjoyed by them with full recognition by the Government for more than thirty years shall be protected.

Sec. 2. Section 4 of the Act of May 31, 1933 (48 Stat. 108), providing for the protection of the watershed within the Carson National Forest for the Pueblo de Taos Indians in New Mexico is amended to read as follows:

"Sec. 4. (a) For the purpose of protecting the watersheds of the Rio Lucero and of the Rio de Pueblo de Taos and the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the Secretary of Agriculture is hereby authorized and directed to segregate the following-described lands, which thereafter shall not be subject to entry under the land laws of the United States, and to thereafter administer the said lands for the exclusive use and benefit of the said tribe, which administration shall continue for so long as the provisions of this Act are complied with and the continued protection of the watershed is required by public interest:

"Beginning at the southeast corner of the Tenorio tract on the north boundary of the Taos Pueblo grant in section 22, township 26 north, range 13 east;

"thence northwesterly and northeasterly along the east boundary of the Tenorio tract to the point where it intersects the boundary of the Lucero de Godol or Antonio Martinez Grant;

"thence following the boundary of the Lucero de Godol Grant northeasterly, southeasterly and northerly to station 76 on the east boundary of the survey of the Lucero de Godol Grant according to the March 1894 survey by United States Deputy John H. Walker as approved by the United States Surveyor's Office, Santa Fe, New Mexico, on November 23, 1894;

"thence east 0.85 mile along the south boundary of the Wheeler Peak Wilderness, according to the description dated July 1, 1965, and reported to Congress pursuant to section 3(a)(1) of the Wilderness Act (Public Law 88-577);

"thence northeast approximately 0.25 mile to the top of an unnamed peak (which is approximately 0.38 mile southeasterly from Lew Wallace Peak);

"thence northwesterly 1.63 miles along the ridgetop through Lew Wallace Peak to Old Mike Peak;

"thence easterly and northeasterly along the ridgetop of the divide between the Red River and the Rio Pueblo de Taos to station numbered 109 of said 1894 survey, at the juncture of the divide with the west boundary of the Beaubien and Miranda Grant, New Mexico (commonly known as the Maxwell Grant), according to the official resurvey of said grant executed during July and August 1923 by United States Surveyor Glen Haste and approved by the General Land Office, Washington, District of Columbia, on April 28, 1926;

"thence southeasterly, southwesterly, and southerly along the west boundary of the Maxwell grant to the north line of unsurveyed section 33, township 26 north, range 15 east;

"thence southerly to the north boundary of fractional township 25 north, range 15 east;

"thence southerly and southwesterly through sections 4, 9, 8, and 7, township 25 north, range 15 east to the southwest corner of said section 7;

"thence westerly along the divide between the Rio Pueblo de Taos and Rio Fernando de Taos to the east boundary of the Taos Pueblo grant;

"thence north to the northeast corner of the Taos Pueblo grant;

"thence west to the point of beginning, containing approximately 48,000 acres, more or less.

"(b) These lands shall be administered by the Secretary of Agriculture in accordance with the provisions of this section and, except to the extent provided for in subsection (c) of this section, shall be maintained as a wilderness as defined in section 2(a) of the Act of September 3, 1964 (78 Stat. 890), but in no event shall any activity involving the location and production of minerals be permitted. The Secretary of Agriculture shall be responsible, pursuant to such regulations as he shall establish, for the establishment and maintenance of conservation measures for such lands, including, without limitation, protection of forests from fire, disease, insects, or trespass; prevention or elimination of erosion, damaging land use, or stream pollution; and maintenance of streamflow and sanitary conditions.

"(c) The lands described in subsection (a) of this section shall, except to the extent provided in subsection (d) or hereafter provided by Congress, be available for the exclusive use by the Pueblo de Taos Indians in New Mexico. Such lands shall be used by such Indians for traditional purposes only, such as religious ceremonies, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use; except that all such uses shall be subject to such regulations for conservation purposes as the Secretary of Agriculture may prescribe pursuant to subsection (b) of this section.

"(d) Lessees of permittees of lands described in subsection (a) which were not included in the lands described in this section as it existed immediately prior to the date of the enactment of the Pueblo de Taos Indians Cultural and Ceremonial Shrine Protection Act shall be given the opportunity to renew their leases or permits under rules and regulations of the Secretary of Agriculture to the same extent and in the same manner that such leases or permits could have been renewed if the Pueblo de Taos Indians Cultural and Ceremonial Shrine Protection Act had not been enacted."

SEC. 3. The Indian Claims Commission shall determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the provisions of the amendment made by this Act should be considered when determining any setoff against any claim of the Pueblo de Taos Indians of New Mexico against the United States.

SEC. 4. (a) To carry out the purposes of this Act, the Secretary of Agriculture is hereby directed to establish a Special Rio Pueblo de Taos-Rio Lucero Watershed ranger district embracing the 48,000 acres described herein and such other land needed to protect this watershed, and to provide special regulations for the protection of the area. To the extent possible, this ranger district shall be manned by qualified members of the Pueblo de Taos Indian Tribe.

(b) Nothing in this Act shall impair any vested water right.

Mr. METCALF. Mr. President, yesterday I presented to the Senate a statement detailing my position and that of the Senator from New Mexico (Mr. ANDERSON) in support of the report of the Committee on Interior and Insular Affairs, No. 1345, on H.R. 471, the Taos Pueblo bill, now the pending business.

Mr. President, my statement appears on pages 39139 through 39142 of the CONGRESSIONAL RECORD of yesterday.

There is only one issue which will be presented, as I understand it, by an amendment to be offered by the Senator from Oklahoma (Mr. HARRIS), as to

whether we should pass the Senate bill or pass the House bill without amendment.

As I understand it, there will be no vote on the bill tonight but that the very distinguished and able Senator from South Dakota (Mr. MCGOVERN), who is the chairman of the Indian Affairs Subcommittee, will make a speech on this matter, as will the Senator from Oklahoma (Mr. HARRIS).

Therefore, I feel that there need be no formal presentation other than the presentation that was made, so far as the Senator from New Mexico (Mr. ANDERSON) and I were concerned, in the statement placed in the RECORD last night.

In this connection, Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from the Citizens Committee on Natural Resources in opposition to the bill, and an excerpt from the National Wildlife Federation newsletter dated November 27, 1970, from Thomas L. Kimball, executive director.

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

WASHINGTON, D.C.,  
November 30, 1970.

SENATOR LEE METCALF,  
Washington, D.C.

While sympathetic to desires of Taos Indians for exclusive use of Blue Lake area, Carson National Forest, granting title to land would set dangerous precedent for opening national parks, wildlife refuges, other public lands to similar claims. Objective of Indians suitably met by proposed Senate Interior Committee amendment, which also safeguards all public interests, in opinion of these major conservation groups: Wildlife Management Institute, National Wildlife Federation, Trout Unlimited, Sierra Club, Izaak Walton League of America, American Forestry Association.

SPENCER M. SMITH,  
Secretary.

Citizens Committee on Natural Resources.

SENATE SOON MAY ACT ON FEDERAL LAND  
GIVEAWAY

The Senate soon may act, possibly as early as next week, on a proposal which could open the door to wholesale giveaways of Federal lands to Indian tribes. In fact, some veteran Capitol Hill observers believe that many national parks, wildlife refuges, and public lands can be opened to land claims as a result of the precedent which would be established if action on the Senate floor overturns recommendations of the Senate Committee on Interior and Insular Affairs.

On 11/16/70, the Senate Interior Committee filed its report (Senate Report 91-1345) upon H.R. 471 and recommended passage, with amendments (Report No. 36, page 392). The committee said the purpose of the House-passed bill is to give full and final protection to the rights and privileges provided by section 4 of the Act of May 31, 1933, to the Pueblo de Taos Indians "with respect to the Rio Pueblo de Taos watershed and certain related areas within the Carson National Forest." The bill would cover 48,000 acres, including the shrine of the Pueblo known as Blue Lake located 25 miles northeast of the Pueblo. As amended, H.R. 471 would protect the Pueblo's use of Blue Lake and its environs by eliminating the permit arrangement through which the tribe now utilizes the area and directing the Secretary of Agriculture to administer the entire 48,000-acre area for the exclusive use

and benefit of the tribe. It would be the first time that exclusive use of this type has been granted for religious purposes.

The Senate Committee said it "strongly disagrees" with the conclusion of those who say that transfer of Blue Lake to the Pueblo de Taos Tribe, either directly or in trust, would not create an undesirable precedent. "Several witnesses who appeared at the hearings on S. 750 and H.R. 471 described a number of areas within national forests and national parks which have special religious significance for Indian tribes," the Committee says. "Congressional consideration and action relating to the Pueblo de Taos Indians already has served to encourage other tribes to press their claims to Federal lands in lieu of the cash compensation to which they are or might be entitled. A formal grant of national forest or other public lands to one Indian tribe will clearly stand as an example for others to seek to follow, regardless of language in legislative proceedings intended to limit the scope of an action."

The Committee amendment is designed to fully protect existing rights and concerns of the Pueblo de Taos Indians without setting an unwise precedent by transferring actual title to national forest lands. As passed by the House, H.R. 471 would declare that the 48,000 acres would be held in trust for the Pueblo de Taos. Under terms of the Committee substitute, the lands would continue to be national forest lands but the Secretary of Agriculture would be directed to administer the area for the exclusive use and benefit of the tribe. In fact, the Secretary would establish the area as a special ranger district to be staffed to the extent possible with qualified members of the Pueblo de Taos Tribe.

Some members of the Senate are expected to try to amend the Committee's proposal to substitute the House-passed bill.

Mr. METCALF. Mr. President, after the amendment is offered, and after my very able and distinguished colleagues have presented their case, I shall elaborate on the facts presented in the telegram and the newsletter.

Mr. HARRIS. Mr. President, as I understand it, the pending business will be the committee amendment in the nature of a substitute.

For myself and Senators GRIFFIN, BROOKE, CRANSTON, MCGOVERN, and PERCY, I rise in opposition to the committee amendment.

Mr. President, I will have more to say on this matter tomorrow when the particular issues are joined. However, I want to make some opening remarks on this very serious subject.

Senators who are on opposing sides of this matter are all honorable men who happen to differ on this issue. But I believe that the cause of justice will be served by rejecting the committee amendment and thereafter agreeing to the bill first presented to us which was passed by the House of Representatives.

Mr. President, the issue before us today affects directly about 1,800 people, not a large number. But the importance of our decision cannot be measured by the numbers of people involved. An injustice has been done to a group of people by our Government. We recognize, we admit the injustice. Will we rectify it? That is the question we must answer today.

Support for the Taos Indians in their struggle to reclaim Blue Lake and the surrounding land has spread far beyond

the Taos Pueblo. Millions await our decision.

Mr. President, may I say at this point that if the committee bill, a new bill altogether, is agreed to by the Senate, then the matter will have to go to conference. There is grave question as to whether that bill or any bill could thereafter emerge from the conference in time for adoption this year. Therefore, unless we adopt the House bill, I think it is very likely that the Taos Pueblo Indians will have to start this long battle all over again next year.

Mr. President, I think that is an important reason why we ought to adopt the House bill without change, speed the bill on without conference, send it to the President for signature. The President will sign it because he is one of the more ardent supporters in this land of the Taos Pueblo position.

"The Indian capitol of the world is in Blue Lake." These words were spoken by Governor Querino Romero of the Taos Pueblo in his testimony before the Subcommittee on Indian Affairs in July of this year.

That is figuratively true today. Indians throughout the United States have supported and are supporting the Taos Pueblo. Justice for the Taos Indians will have great symbolism for all Indians. Justice for the Taos Indians will mean that Congress really has begun to declare a century of wrongs suffered by Indians enough, that it recognizes the unique worth of American Indian culture and American Indian heritage.

But support for the Taos Pueblo is not confined to the Indian community. It is to the credit of our country that so many of our people deplore the past and support the Taos Indians in their struggle to secure their claim to these sacred lands.

However, it is the Taos Indians who will be the main winners or losers. For they must live with our decision. A delegation from the Taos Pueblo testified before the subcommittee in July.

Mr. President, at this time I want to pay particular tribute to the distinguished Senator from South Dakota (Mr. McGOVERN), chairman of the Subcommittee on Indian Affairs. He is one of the cosponsors of the position which I rise to support at this time.

In a powerful and moving statement, the delegation from the Taos Pueblo Indians testifying before the subcommittee which the Senator from South Dakota heads, said:

Like Job in the Biblical story, our people have patiently endured great hardship and deprivation fighting to save the religious heritage embodied in this holy land. In this fight we are also struggling to preserve the identity of our people as a tribe, to preserve our Indian way of life, and to obtain restitution of land wrongfully taken from us.

It is accepted without argument that Blue Lake and surrounding lands were wrongfully taken from the Taos Indians in 1906. Return of the area has been consistently recommended by the Department of the Interior since 1912, and in 1965 the Indian Claims Commission found that the Taos Indians had established "Indian title" to 130,000 acres of

land, including the 48,000 acres described in H.R. 471.

By virtue of the act of May 31, 1933, the Taos Indians have had the use of approximately 32,450 acres of the land for 50 years with provisions for renewal.

Why is the present permit arrangement unacceptable? First, it has not been practically satisfactory. Conflicts have occurred over the years with the Forest Service, with tourists, and with others. Beyond the practical problems is the principle of right, of law, of justice. The Taos Indians have consistently demanded that the rights of the Pueblo to the lands, which they consider to be sacred and essential for the proper conduct of many of their religious ceremonies, be finally recognized. Governor Romero so well worded the frustrations of years of struggle when he said to the subcommittee:

Do you feel a continuous struggle, a continuous torture by the law justice?

Do you think that is the principle that is set forth in this country?

What I want to do now is for you to consider this. We want to end this struggle that you and I have been having. We want to end this feeling, a useless fight between the white brothers and the Indian brothers.

The House of Representatives, in passing H.R. 471, reached an equitable settlement of the claim of the Taos Pueblo. The Taos Pueblo and Indians and Indian leaders throughout the United States approved H.R. 471. President Nixon called for the immediate enactment of the legislation.

However, unfortunately the Senate Committee on Interior and Insular Affairs did not agree, substantially modified H.R. 471, and reported a bill unacceptable to the Taos Indians. The distinguished junior Senator from Michigan (Mr. GRIFFIN) and I, along with the others whom I have named, also found the action of the Senate committee to be unacceptable and therefore have offered the pending amendment which restores the House language to H.R. 471, the same action which would be accomplished by rejection of the pending committee amendment in the nature of a substitute.

The House bill, and the amendment we are offering, gives "trust title" to the Taos Indians of 48,000 of the 130,000 acres the Indian Claims Commission determined belonged to them. The use of the acreage by the Taos Indians under the House version would be for traditional purposes—religious ceremonies, hunting, fishing, and so forth—and except for such use "shall remain forever wild and shall be maintained as wilderness."

Mr. President, I call particular attention to that provision in the House bill because, as has been noted earlier in the telegram introduced into the Record by the distinguished Senator from Montana (Mr. METCALF), there is some objection to the House bill—unfortunately, and I think very mistakenly—by certain groups interested in wildlife and in conservation. Mr. President, I find that terribly ironic since the American Indian is the original and best practitioner of the proper conservation of the human environment.

The American Indian has been wronged

by the use and the misuse of his land, water, and natural resources.

It is not the American Indian who has been guilty of the pollution of our environment and of the destruction of the great natural resources of this country.

It is not the American Indian who caused the Cuyahoga River in Ohio, for example, to become a fire hazard.

It was not the American Indian who cut down the great forests, and destroyed so much of the natural wilderness of this country.

I find it to be a terribly unfortunate and mistaken action, therefore, that any organization would raise the issue of conservation of natural resources as wilderness or of the flora or fauna of this area as an objection to the bill when the question is whether we shall return in its natural state, protected for all time as a wilderness, the land of the American Indians involved, whose land it really is.

It is important to understand the difference between our amendment and the Senate committee substitute, or between the House bill and the Senate substitute. Under the Senate committee substitute the "lands would continue to be national forest lands, but the Secretary of Agriculture would be directed to administer the area for the exclusive use and benefit of the tribe." The Taos Indians believe that "exclusive use" is nothing more than the "permit" arrangement that they presently have and that to give them anything less than "trust title" is to treat them unfairly. I agree.

Originally, the concept of "title" to lands was alien to many if not most American Indians. Traditionally, they believe that ownership of land by a particular person or tribe was not possible; the land belonged to all the people. However, settlement of this country forced many American Indians to change their thinking. They were moved about the country and their best lands were taken. As lands given to them in exchange for other lands became valuable, they were usually taken also. "Title" to land gained significance for the American Indians, and they learned in the white man's world that "permit" or "exclusive use" and "title" are not synonymous.

To continue the present arrangement, which, basically, the Senate committee substitute does, would make a mockery of the continuous and heroic efforts made by the Taos Pueblo for the past half century to get their land back. Gilbert Suazo, president, Youth of Taos Pueblo, in his testimony before the Subcommittee on Indian Affairs said:

We have seen our grandfathers and fathers gallantly and tirelessly carry this struggle for our people.

In the past years, we the younger generation of Taos Pueblo, have been silently involved in this Blue Lake struggle with the feeling of conviction that our non-Indian brothers would understand the obvious fact that this has always been our tribal land, and that after necessary formalities, our land would be legally returned to us.

The Indians do not consider a continuation of the present "permit" arrangement to be a legal return of the land. Neither is "exclusive use," in their view.

The Taos Indians will not consider the Blue Lake and the other sacred lands to have been "legally returned" to them until the Taos Pueblo has trust title to the 48,000 acres. It is then, and only then, that the struggle of the Taos Pueblo will be ended.

It is important to note that if by some unfortunate action of the Senate, and eventually of the conferees, and then through the adoption of the conference report, the Senate committee substitute is all that is finally enacted into law, I believe I am quite safe in predicting that this long struggle will continue and that the representatives of the Taos Pueblo will be back here next session and succeeding sessions until at last the provisions of H.R. 471 have been enacted into law. So by passage of the Senate committee substitute we will have settled nothing; the historic fights will go on.

The Senate committee substitute is also unfair to the Taos Pueblo because it continues the Forest Service supervision of the Indian's use of the lands. The pending amendment, and the House version of the bill, provides for such supervisory jurisdiction over these sacred lands to be transferred to the Department of the Interior, which the Indians consider to be far preferable. In fact, the Departments of Agriculture and Interior have agreed with the Taos Indians that supervision of the lands by the Forest Service has not been an acceptable solution to the problems of all concerned.

Indian lands are generally held in trust by the Department of the Interior for the Indian or the tribe involved. If the Senate Committee substitute is agreed to these Indian lands will be a part of a national forest and will be supervised by the Department of Agriculture. Not only is this highly unusual, but it is a bad policy. I think Leonard Garment, special assistant to President Nixon, was absolutely correct when in a letter dated October 5, 1970, to the distinguished senior Senator from Colorado (Mr. ALLOTT), he said:

The purpose of this letter is to emphasize to you and other distinguished Senators on the Interior Committee that the newly proposed substitute itself continues an undesirable precedent, i.e., statutorily carving out pieces of a National Forest for "exclusive use." National Forests, like National Parks, are explicitly "National" and for the benefit and use of all. To sequester the use of a section of such lands, by statute, yet still call it a "National Forest" seems to be an inconsistency, compounded by the fact that the result is misleading to the public.

The clear way to assure "exclusive use" of a piece of land is to confer title upon the users. This is what H.R. 471 does and the President hopes you and your colleagues will support it tomorrow morning.

Both policy and justice favor giving "trust title" to the 48,000 acres to the Taos Indians.

Another significant difference in the House bill and the Senate Committee substitute. This clause could result in a termination of the use-rights of the Taos Indians in the event of a breach of the conditions of use. The termination could occur without notice or without a hearing, and in effect the "exclusive use" right

of the Taos Indians amounts to a "determinable" interest. This provision, along with provisions in the substitute giving the Forest Service the responsibility of protecting watersheds and other related responsibilities, further reduces the nature of the claim the Taos Pueblo would have to their sacred lands under the Senate Committee substitute.

Why did the Senate Committee choose "exclusive use" as it is called "trust title?" Why supervision by the Department of Agriculture rather than the Department of the Interior? The Report of the Senate Committee clearly provides the answer. The report contains the following language:

It is, therefore, the opinion of the committee that the House bill, H.R. 471, would set a dangerous precedent and would be the basis for claims to land by many tribes; and that these claims should not be satisfied by invasion upon the public estate.

The evidence relating to the claim of the Taos Pueblo does not support the argument that doing justice to them would establish any precedent.

The Department of the Interior has recognized that the claim of the Taos Pueblo is unique—

We think this is a unique situation . . . it is where they go to worship and when we refer to a church in Christianity that is the way we feel they view this land.

Likewise, the uniqueness of the claim of the Taos Pueblo has been recognized by the Department of Agriculture.

Former Secretary of the Interior, Stewart L. Udall, in his testimony before the Senate Subcommittee on Indian Affairs, observed that during his 8-years term as Secretary, no other tribe presented a case similar to the Taos Pueblo. He said:

I have come to believe that the Taos Pueblo have a very special and very singular relationship that can be distinguished from any other.

John J. Bodine, Professor at American University, commented on the uniqueness of the Taos Pueblo claim in a letter to the distinguished junior Senator from Montana (Mr. METCALF) and said:

Its uniqueness is not the fact that they have asked for this land since 1906 nor does it relate to the existence of shrines of other Indian religious systems which are valid and deserving of protection. The Taos claim is unique because if Blue Lake and the surrounding lands are not returned to the tribe it will effectively destroy Taos culture. No other Indian tribe can make that claim, because no other Indian group today relies to the same degree on shrines in a restricted area for the continuation of its religion. Only Taos depends upon the undisturbed existence of its shrines which happen to be confined in the area of Blue Lake. This is what must be explained.

President Nixon recognized the special circumstances surrounding the claim of the Taos when in his message to Congress on Indian Affairs he said:

The restoration of the Blue Lake lands to the Taos Pueblo is an issue of unique and critical importance to Indians throughout the country.

If the Senate gives credence to the precedence argument, it will be admitting that while others can weigh the facts

and recognize what is a unique situation, the Senate does not have that ability. The evidence in regard to the Taos Pueblo claim is overwhelming. The Senate should do its duty in this unique case.

What the Senate must decide is the claim of the Taos Pueblo. Not the past, present, or future claim of other Indians.

If the Senate wishes to dwell on precedence, then it should be reminded of the precedence for destroying the culture, heritage, religion, and pride of the American Indian—precedence for this is plentiful. Let us now set a precedent for justice in the individual and unique case of the Taos Pueblo.

Mr. GRIFFIN. Mr. President, will the Senator yield for just a moment?

Mr. HARRIS. I am glad to yield to the distinguished Senator from Michigan, for whose support on this important issue I am very grateful.

Mr. GRIFFIN. I thank the Senator. I shall have a more complete statement to make tomorrow during the debate, but I want to associate myself with the very excellent statement just made by the distinguished Senator from Oklahoma, and to reiterate what he has already said—that President Nixon strongly supports the amendment which the Senator from Oklahoma and the junior Senator from Michigan will be cosponsoring tomorrow and considers this measure, which will be offered, a very important part of his program, as was outlined in his message to Congress on Indian affairs earlier.

I shall do everything I can from this side of the aisle to make sure that the substitute amendment to be offered will be agreed to. I hope the Senate in its wisdom will adopt the amendment.

Mr. HARRIS. I thank the distinguished Senator from Michigan.

I now yield to the distinguished chairman of the Subcommittee on Indian Affairs, whose steadfast help in this matter has been vital in getting it to this point and who, I am pleased to say, is a cosponsor of the position I have just expressed.

Mr. McGOVERN. Mr. President, I want to thank the Senator from Oklahoma.

I want to begin by commending the Senator from Oklahoma for presenting what I believe to be an entirely compelling and unanswerable argument in support of the amendment that he, the Senator from Michigan (Mr. GRIFFIN), and other Senators are offering with reference to the claims of the Taos Pueblo Indians.

It has been my privilege to serve as a member of the Indian Affairs Subcommittee for the past 8 years, and to act as chairman of the subcommittee for the past 2 years, and I want to say in all candor that I cannot recall any other Indian claim that was so clearly in the interest of justice as this claim being pressed by the Taos Pueblo Indians.

I had the privilege during the Thanksgiving break of visiting Taos, New Mexico, where my daughter is a resident. While I was there I called on Governor Romero and Secretary Paul Beral, who had worked so hard for so many years on behalf of this very important claim.

No one can talk to those 2 very distinguished Indian leaders without being convinced both of the depth of their character and their sincerity and the respect in which they are held by Indians and non-Indians alike.

In the few days that I was in Taos, I did not find a single informed or thoughtful person, Indian or non-Indian, who did not fully support the claims of the Taos Pueblo Indians on this very important matter.

Mr. President, what is involved here is far more than simply a legal claim, important as that is. What really is involved here is a deeply spiritual and religious matter, which goes right to the heart of freedom of religion and freedom of conscience in our country, because the Blue Lake area which is in dispute, and which has been in dispute for so many years, is regarded as the most sacred of all places by the Indian people, and particularly the Taos Pueblo Indians.

There is a great story in the New Testament that, so far as I know, describes the one instance in which the great teacher from Nazareth demonstrated anger and a certain amount of violence, and that was when he drove the money changers out of the temple. Nothing less than that same issue is involved in the matter that is before the Senate now.

The Taos Pueblo regard the Blue Lake area as a cathedral. It is their place of worship. For any government agency, as the Forest Service has done—and I am not criticizing the Forest Service as such, because it was given that authority—to invade this religious shrine in the way it has been invaded and disrupted is, in my judgment, an incredible violation of the respect that we have under our system of government for freedom of conscience and religion. I think this issue, on that ground, is almost beyond debate and dispute.

I do want to say that, because of the long dispute I have had with the senior Senator from New Mexico, who feels differently about this issue than I do, and also because of my role as chairman of the Indian Affairs Subcommittee, I have tried to keep an open mind on this question until the time came when the roll was called in the Interior and Insular Affairs Committee; but at that point it seemed to me that the issue was so clear that I could no longer postpone a judgment, and I have reached an irrevocable decision that we owe to the Taos Pueblo Indians, we owe to our own sense of respect for the Constitution and our concept of the separation of church and State and our concept of freedom of religious expression, the request that is contained in the measure offered by the Senator from Oklahoma, myself, and other Senators as contained in the bill already passed by the House of Representatives.

In that connection, Mr. President, we should keep in mind that the present form of H.R. 471, which is the language of the proposal of the Senator from Oklahoma (Mr. HARRIS), passed the House of Representatives on three dif-

ferent occasions. On two different times the Indian Affairs Subcommittee held hearings on this matter, first in 1966 and later on July 9 and July 10 of this year, when testimony was taken both on the House bill and the Senate version, S. 750.

We also ought to understand that everyone recognizes the right of the Taos Pueblo Indians to title to the 48,000 acres in question, which is part of the Kit Carson National Forest. The Indians' claim is clear on that. It is judicially determined that the area has been used continually by the Taos since the 14th century until it was wrongfully taken away from them without compensation in 1906.

The question we are debating here is whether the Taos Indians should be given money, monetary compensation, as in other cases, reestablish title to the aboriginal tribal land, or have the land in trust.

There is a question of whether we are setting a precedent here that other Indians tribes might press, but anyone who will take the time to look into the hearing record, the record made by the Interior Department, I am convinced, will realize that this is a unique case. It is the only instance I know of where a case is made for land to be given to the Indians that will be used for religious purposes only.

It is on that basis that I very strongly advocate the claim of the Taos Pueblo Indians.

Mr. President, I shall have more to say on this subject tomorrow. There are a number of supporting materials that I shall ask to have printed in the RECORD, including the following:

First, a brief summary stating the reasons for enactment of H.R. 471.

Second, a brief excerpt from the message of President Nixon of July 8.

Third, the statement of the Taos Pueblo delegation before the Subcommittee on Indian Affairs of the Senate on July 9, 1970.

Fourth, the text of H.R. 471.

Fifth, a brief analysis that compares S. 750 with the pending House bill, setting forth the objections that have been raised to the Senate version of the bill.

Sixth, and finally, a series of editorials from newspapers in various parts of the country, supporting the claims of the Taos Pueblo.

I shall read just a portion of one of those editorials, from the St. Louis Post-Dispatch of July 14, 1970, entitled "The Taos Pueblo Claim." It reads as follows:

The Indians claim that the return of Blue Lake and its watershed is essential to their way of life. In the Taos Pueblo form of government, religion forms the basis of civil government and officials are selected by religious leaders. The exercise of religious worship, in turn, is dependent on the land around Blue Lake. To compare the cultural importance of Blue Lake to the Taos Pueblo with the economic returns on a few timber leases is absurd. The Indians have a right to this land.

Mr. President, I ask unanimous consent that the materials to which I have referred be printed in the RECORD at this point.

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

#### REASONS FOR ENACTMENT OF H.R. 471

##### 1. Justice Requires Passage of H.R. 471.

President Nixon has urged Congress to restore the 48,000 acre sacred Blue Lake lands to the Taos Pueblo Indians of Northern New Mexico, to be used by the Indians for religious and traditional purposes only. The Indian Claims Commission has judicially determined that this area, used and occupied continuously by the Taos since the 14th Century, was wrongfully taken from them without compensation in 1906. Now in the Carson National Forest under Forest Service jurisdiction, the Blue Lake lands are considered by the Taos as the source of all life—a natural cathedral containing the holy places and altars of their ancient religion which remains the central force of their culture.

While the Indians have continued to use the area for religious and traditional purposes, their religion, which prohibits interference with the natural condition of the land, has been subjected to grave disturbance by activities of the Forest Service, including stocking of fish, dynamiting of a lake, and construction of trails and other facilities for tourists. Entry by unauthorized persons and Forest Service personnel onto the sacred lands has resulted in disruption of religious ceremonies which, under the tenets of the Taos faith, must not be observed by outsiders. In view of the Forest Service's announced desire to harvest mature timber, manipulate the ground cover, and otherwise disrupt the natural state of the area in the name of water shed management, the Taos has grave reason to fear further substantial desecration of their sacred lands.

Conveyance of the land to the Taos in trust as provided in H.R. 471, is the only way to insure that the area will remain forever wild and that Taos religion and cultural life will be protected and sustained. Moreover, as President Nixon noted in his historic message to Congress of July 8, 1970, the passage of H.R. 471 "would stand as an important symbol of this government's responsiveness to the just grievances of the American Indians."

##### 2. Passage of H.R. 471 Would Not Set a Legislative Precedent.

It has been asserted that justice cannot be done for the Taos Pueblo because other tribes might then seek similar legislation. The Department of Agriculture, which had opposed the measure because it feared that it might be used as a precedent, recently advised the Senate Interior Committee that certain amendments to H.R. 471 recommended by the Department, and agreed to by the Taos Pueblo, "conclusively establish the uniqueness of this situation to keep it from being used as a precedent." The Department of the Interior has also recognized that this is the only instance where a tribe is making a claim for land that it has continuously used and occupied, after deprivation of title, and where the land, once restored, would not be subject to commercial development but could only be used for traditional and religious purposes.

#### PRESIDENT NIXON'S MESSAGE TO CONGRESS OF JULY 8, 1970

##### RESTORING THE SACRED LANDS NEAR BLUE LAKE

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the Federal government and the Indian people. Such a relationship cannot be completed overnight—it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people. One such grievance concerns the sacred

Indian lands at and near Blue Lake in New Mexico. From the fourteenth century, the Taos Pueblo Indians use these areas for religious and tribal purposes. In 1906, however, the United States Government appropriated these lands for the creation of a national forest. According to a recent determination of the Indian Claims Commission, the government "took said lands from petitioner without compensation."

For 64 years, the Taos Pueblo has been trying to regain possession of this sacred lake and watershed area in order to preserve it in its natural condition and limit its non-Indian use. The Taos Indians consider such action essential to the protection and expression of their religious faith.

The restoration of the Blue Lake lands to the Taos Pueblo Indians is an issue of unique and critical importance to Indians throughout the country. I therefore take this opportunity wholeheartedly to endorse legislation which would restore 48,000 acres of sacred land to the Taos Pueblo people, with the statutory promise that they would be able to use these lands for traditional purposes and that except for such uses the lands would remain forever wild.

With the addition of some perfecting amendments, legislation now pending in the Congress would properly achieve this goal. That legislation (H.R. 471) should promptly be amended and enacted. Such action would stand as an important symbol of this government's responsiveness to the just grievances of the American Indians.

RICHARD NIXON.

#### STATEMENT OF TAOS PUEBLO DELEGATION

Mr. Chairman, it has been many years and several congresses since we first came before this subcommittee to appeal for the return of our sacred Blue Lake lands. Our spirits were lifted yesterday as we heard the President of the United States endorse H.R. 471. Like Job in the Biblical story, our people have patiently endured great hardship and deprivation fighting to save the religious heritage embodied in this holy land. In this fight we are also struggling to preserve the identity of our people as a tribe, to preserve our Indian way of life, and to obtain restitution of land wrongfully taken from us.

We are poor village people, and it has been hard for us to bear the costs of this long struggle for justice over the years since 1906 when the federal government first took the land and put it in the national forest. Even the young children of our village have contributed their pennies to bring our representatives to Washington time and again.

Apart from the financial hardship, we have had to contend with the irreverent curiosity and even mockery that this distasteful, prolonged public conflict has engendered among some white men—such as the threat reported by one of our tribal members in 1968 of a stranger who had declared that he would force his way with a gun into our ceremonies at Blue Lake. That man did not carry out his threat; perhaps because we responded by posting guards to protect our people and the sanctity of their worship. But the incident typifies how difficult it is for everyone—non-Indians as well as Indians—to tolerate the present permit system under which the sacred land is treated on the one hand as an Indian special-use area, on the other as a public multiple-use area.

We ask you to resolve this inherent conflict once and for all by returning the sacred area to our stewardship for religious and traditional use, and by doing so to extend to our people the Constitutional right of all Americans to religious freedom and self-determination.

Of the two bills now pending before this committee, H.R. 471 and S. 750, the Senate bill, S. 750, makes a mockery in every important respect of the religious and cultural needs of our Indian people. What does it do?

We testify in good faith that our religious needs require the entire watershed to be maintained intact as an ecological unit, as is provided by H.R. 471; in direct repudiation of our simple request, S. 750 breaks this natural unit into four separate and distinct pieces for the benefit of others; one piece, a tiny island of 1,640 acres around Blue Lake, would be earmarked for our exclusive use; a second piece, about 3,000 acres surrounding that island, is added to the Wheeler Peak Wilderness and opened to the public without restriction; the third piece, 34,500 acres mainly in the existing Permit Area, is made available for logging and other Forest Service uses with minor Indian use; and the fourth piece of approximately 8,000 acres is opened for logging and multiple use by the Forest Service and the public, with no provision whatever for our Indian needs.

Then we plead for protection of our religious privacy—as it is guaranteed by H.R. 471—so that our religion and strength will not be destroyed as those of other tribes have been; the response to this plea under S. 750 is to take away 4,800 acres from the Special Permit Area and convert 3,000 of those acres into a corridor around Blue Lake for free and unimpeded public access through the Wheeler Peak Wilderness Area into the remaining areas of the watershed. Under those conditions it would be impossible to preserve our sacred area from public intrusions under S. 750.

Again, we assert the profound belief of our people that the trees and all life and the earth itself within the watershed are comparable to human life and must not be cut or injured, but must be protected by wilderness status as is provided by H.R. 471. What does S. 750 do about this? S. 750 gives the Secretary of Agriculture discretion to harvest timber in 34,500 acres (including most of the watershed), to "manipulate vegetation" and fence off pastures in the interest of "water yield," and entirely excludes the 8,000 acres of critical drainage only one-half mile from the Rio Pueblo de Taos from any protection whatever against such desecration.

We ask this committee to reject S. 750 as the very opposite of the principles of religious freedom and self-determination upon which this nation was founded.

H.R. 471, on the other hand, would uphold those principles by placing the sacred area under the jurisdiction of the Interior Department in trust for Taos Pueblo—the normal arrangement for Indian lands—and by requiring that it be maintained forever in wilderness status in accordance with the most fundamental tenets of our religion. The wasteful conflicts and confusion as between the purposes of the Forest Service and the real needs of Taos Pueblo would be ended without harming any other interests.

The three amendments proposed by the Administration, for the purpose of clarifying that our case is unique, and not a precedent for every tribe, preventing the location or production of minerals, and deleting provisions for the purchase of existing grazing permits, are acceptable to us. They do not affect the essential provisions of the bill, which grant us trust title to the full 48,000 acre sanctuary, including the watershed of the Rio Pueblo de Taos, to be preserved forever as a wilderness defined by law under the jurisdiction of the Secretary of the Interior.

The documented history behind H.R. 471 was set forth in the Memorandum filed with this subcommittee in September, 1968, and we ask that it be included again in the record of these hearings as a part of our official statement. We want to answer here briefly some of the questions that have been raised in connection with the legislation.

1. *Record of Conflict.* Repeated conflicts between our religious beliefs and practices and cultural needs, on the one hand, and Forest Service policies and practices, on the

other hand, have occurred under the existing system: from the grazing permits first issued by the Forest Service to non-Indians in 1918 through direct attacks on our religious and educational practices during the 1920's, through unilateral issuance of entry permits to pleasure-seekers, artificial stocking of Blue Lake and other lakes and streams, dynamiting to kill excess fish, construction of trails to attract campers, construction and maintenance of a Forest Service administrative cabin at Blue Lake (finally destroyed in 1969), a logging trespass, and the continued threat of ecological disruptions in the interest of timber production, "water yield," or "watershed management." In addition to the record of those conflicts, which is set forth at length in the Memorandum, we refer to the testimony of Mr. Greeley of the Forest Service at the 1968 hearings (pp. 83-86) regarding the Forest Service's desire to harvest mature timber, to manipulate the ground cover, and to increase recreational use of the watershed.

We believe that the testimony at this hearing of Dr. Myra Ellen Jenkins, a leading historian of the Southwest, will amply corroborate the record of repeated conflicts that have continued to occur under Forest Service jurisdiction.

The actual destructive effect of logging operations within the watershed—even by sustained-yield methods under Forest Service controls—does not have to be imagined. Timber is now being cut under a contract let and supervised by the Forest Service in Capulin Canyon, part of the Carson National Forest which borders on the south boundary of the Blue Lake area. The natural growth in the canyon has already been devastated, precious springs destroyed, and streams polluted, as the photographs we are submitting clearly show. In contrast, the beauty of our sacred land lying just over the ridge to the north is shown by a single photograph which is also submitted herewith.

Mr. Chairman, we invite you and the committee members to inspect these photographs. We would be happy to answer any questions at this time or at the end of our statement.

2. *Religious Use and Interferences.* The entire watershed is permeated with holy places and shrines used regularly by our Indian people; there is no place that does not have religious significance to us. Each of the peaks or valleys or lakes, springs, and streams has a time in our religious calendar when homage in one form or another must be given, or plants that we have studied and used for centuries gathered, or rituals performed. Our religious leaders and societies go regularly to perform these duties in accordance with this yearly calendar throughout the area. They also supervise, for a period of 18 months, the preparation of our sons for manhood at various places throughout the sacred area.

In addition to the actual and threatened interference with our religious practices by disruptions of the natural condition of the watershed cited above, there have been continued and repeated interferences with those practices by non-Indian Forest Service employees and sportsmen. These include Forest Service trail-builders or construction workers from adjacent areas, and pleasure-seekers who treat the land as a public part of the national forest. They have been found camping and fishing at Blue Lake and at other places in the sacred area; they have been encountered at places where rituals were to be performed, and on the route to such places.

Tribal officers for the past six years have reported a total of twelve unauthorized entries by Forest Service personnel into the special-use area through Indian land without following the agreed-upon procedure of

checking in with the War Chief's office. None of those unauthorized entries involved a forest fire or other emergency.

Our religious leaders are not policemen; they cannot and should not be expected to perform police functions by conducting interrogations on the spot, or making precise records associated with their private ceremonies. They have, as the Memorandum abundantly shows, repeatedly complained of the interferences described above.

3. *Conservation and Water Rights.* Taos Pueblo has used and occupied the watersheds of the Rio Pueblo and Rio Lucero for 700 years or more. We have always practiced conservation of those watersheds; they yield clear water today because of our long-standing care. Today it is more important than ever that the natural condition of those watersheds be preserved as the source of pure water in those streams. Our life depends upon that water even more than does the welfare of the non-Indians downstream because we obtain our drinking water directly from the Rio Pueblo. For these reasons we want the protections of H.R. 471, which require the Secretary of the Interior to "be responsible for the establishment and maintenance of conservation measures for these lands, including without limitation, protection of forests from fire, disease, insects or trespass, prevention or elimination of erosion, damaging land use, or stream pollution, and maintenance of stream flow and sanitary conditions."

We also want the protection of wilderness status for the watershed, which will prevent destruction of the natural values of that area more effectively than the present system. The Wilderness Society has inspected the area and has reported that it is suitable for wilderness status. Indeed, the Forest Service itself has repeatedly testified that the watershed is presently a "wild" area.

We have always accommodated our need for the waters of the Rio Pueblo and Rio Lucero to the needs of non-Indians downstream. The methods of allocating those waters, which have been in force between our Pueblo and the non-Indian users downstream since 1893, have operated fairly for Indian and non-Indian users. Recently a complaint was made by non-Indians concerning the flow of the Rio Lucero; an investigation was promptly made by tribal and BIA officials; the investigation disclosed no infringement of non-Indian water rights. We want to add to the record of these hearings the reports of the BIA officials regarding that investigation.

The record shows that we have cooperated with our non-Indian neighbors, and are seeking ways to improve the effectiveness of cooperation with them; furthermore, Taos Pueblo fully endorses the provisions of H.R. 471, which expressly protects existing methods of allocating water, stating that nothing in the bill shall "impair any vested water right."

4. *Existing Grazing permits.* The grazing permits which the Forest Service has issued for areas along the east side of the watershed are protected from termination by Section (c) of H.R. 471. As indicated above, we have no objection to the deletion of lines 13 through 24 on page 5 of the Union Calendar print, which authorize purchase of the ex' 'er permits.

5. *Precedent Issue.* It has been asserted that justice cannot be done for Taos Pueblo because other tribes might then seek similar legislation. The Interior Department has pointed out, however, that this is the only instance in which land claimed by a tribe has been continuously used and occupied by the claimant, and that no other tribe has a claim pending solely for religious and traditional use.

The Chief Counsel of the Indian Claims Commission has stated in a letter submitted herewith that to his knowledge "this is the

only petition filed before the Commission wherein the plaintiff tribe has requested the return of a portion of the land in trust rather than a money judgment."

A list of prior legislation submitted in the record of the 1968 Senate hearing (pp. 74-75) includes two statutes enacted by Congress which turned over large tracts of Government land to tribes in New Mexico: Public Law 81-226, which transferred 612,000 acres to seven New Mexico Pueblos and a Navajo group, and Public Law 84-926, which transferred 41,212 acres to Zia Pueblo and 36,352 acres to Jemez Pueblo. Those statutes involved land for economic use, not religious use as in our case, and would therefore be far more likely to serve as precedents than H.R. 471.

#### SUMMARY

Under S. 750 our use of the watershed would be disrupted and our religious life destroyed. No longer could we congregate with privacy at holy places; they would be opened to recreationalists and other interlopers. No longer could we gather important plants in sacred precincts; they would be destroyed by commercial timbering, "vegetative manipulation," increased grazing, or other ecological disruptions. No longer could we use the pure water of Blue Lake and the Rio Pueblo; it would be polluted by timber operations, clear-cutting of the Engelmann spruce forests, and removal of vegetation to improve "water yield."

H.R. 471, by providing for a trust title to the entire watershed and insuring that the area will remain "forever wild" as a wilderness defined by law, guarantees that our religious and culture life will be protected and sustained.

All Indians yearn for Congress' recognition of the right to preserve their cultures, their religion, their tribal governments, and pride in their heritage. We want to take our rightful place in American society as Indians. Enactment of H.R. 471 would signal a new policy that will henceforth support Indian efforts to sustain their culture, their religions, and their tribal governments. Thus, H.R. 471 poses issues that are national in scope and touch Indians everywhere. We urge you to proclaim such a policy by recommending enactment of H.R. 471.

The past and the future of our Indian heritage is in your hands.

#### TEXT OF H.R. 471

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4 of the Act of May 31, 1933 (48 Stat. 108), providing for the protection of the watershed within the Carson National Forest for the Pueblo de Taos Indians in New Mexico, be and hereby is amended to read as follows:

"Sec. 4. (a) That, for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the following described lands and improvements thereon, upon which said Indians depend and have depended since time immemorial for water supply, forage for their domestic livestock, wood and timber for their personal use, and as the scene of certain religious ceremonials, are hereby declared to be held by the United States in trust for the Pueblo de Taos:

"Beginning at the southeast corner of the Tenorio tract on the north boundary of the Taos Pueblo grant in section 22, township 26 north, range 13 east;

"thence northwesterly and northeasterly along the east boundary of the Tenorio tract to the point where it intersects the boundary of the Lucero de Godol or Antonio Martinez Grant;

"thence following the boundary of the Lucero de Godol Grant northeasterly, southeasterly and northerly to station 70 on the east boundary of the survey of the Lucero

de Godol Grant according to the March 1894 survey by United States Deputy Surveyor John H. Walker as approved by the United States Surveyor's Office, Santa Fe, New Mexico, on November 23, 1894;

"thence east 0.85 mile long the south boundary of the Wheeler Peak Wilderness, according to the description dated July 1, 1965, and reported to Congress pursuant to section 3(a)(1) of the Wilderness Act (Public Law 88-577);

"thence northeast approximately 0.25 mile to the top of an unnamed peak (which is approximately 0.38 mile southeasterly from Lew Wallace Peak);

"thence northwesterly 1.63 miles along the ridgetop through Lew Wallace Peak to Old Mike Peak;

"thence easterly and northeasterly along the ridgetop of the divide between the Red River and the Rio Pueblo de Taos to station numbered 109 of said 1894 survey, at the juncture of the divide with the west boundary of the Beaubien and Miranda Grant, New Mexico (commonly known as the Maxwell Grant, according to the official resurvey of said grant executed during July and August 1923 by United States Surveyor Glen Haste and approved by the General Land Office, Washington, District of Columbia, on April 28, 1926;

"thence southeasterly, southwesterly, and southerly along the west boundary of the Maxwell grant to the north line of unsurveyed section 33, township 26 north, range 15 east;

"thence southerly to the north boundary of fractional township 25 north, range 15 east;

"thence southerly and southwesterly through sections 4, 9, 8, and 7, township 25 north, range 15 east to the southwest corner of said section 7;

"thence westerly along the divide between the Rio Pueblo de Taos and Rio Fernandez de Taos to the east boundary of the Taos Pueblo grant;

"thence north to the northeast corner of the Taos Pueblo grant.

"(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations or conservation purposes as the Secretary of the Interior may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 390). With the consent of the tribe, but not otherwise, nonmembers of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands, including, without limitation, protection of forests from fire, disease, insects or trespass; prevention or elimination of erosion, damaging land use, or stream pollution; and maintenance of streamflow and sanitary conditions; and the Secretary is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any of such measures.

"(c) Lessees or permittees of lands described in subsection (a) which are not included in the lands described in the Act of May 31, 1933, shall be given the opportunity to renew their leases or permits under rules and regulations of the Secretary of the Interior to the same extent and in the same

manner that such leases or permits could have been renewed if this Act had not been enacted; but the Pueblo de Taos may obtain the relinquishment of any or all of such leases or permits from the lessees or permittees under such terms and conditions as may be mutually agreeable. The Secretary of the Interior is authorized to disburse, from the tribal funds in the Treasury of the United States to the credit of said tribe, so much thereof as may be necessary to pay for such relinquishments and for the purchase of any rights or improvements on said lands owned by non-Indians.

"(d) The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land conveyed by this Act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States.

#### AMENDMENTS PASSED BY THE HOUSE

Page 4, line 2, strike out "Fernandez" and insert "Fernando".

Page 4, line 5, strike out "grant" and insert "grant";

Page 4, between lines 5 and 6, insert a new paragraph as follows:

"thence west to the part of beginning; containing approximately 48,000 acres, more or less".

Page 4, line 14, strike out "or" and insert "for".

Page 5, line 21, after the period insert a new sentence as follows: "The authority to pay for the relinquishment of a permit pursuant to this subsection shall not be regarded as a recognition of any property right of the permittee in the land or its resources".

Page 6, line 4, strike out "States." and insert "States".

Page 6, after line 4, insert a new subsection (e) as follows:

"(c) Nothing in this section shall impair any vested water right."

#### OBJECTIONS TO S. 750 WITH COMPARISON OF BLUE LAKE BILLS IN THE 91ST CONGRESS

S. 750 would amend Section 4 of the Act of May 31, 1933, to add approximately 4,600 acres to the Wheeler Peak Wilderness. It would set aside approximately 1,640 acres within that wilderness area for the exclusive use of the Taos Indians, and it would expand the existing permit area to include 34,500 acres. It omits the area outside the existing permit along the eastern boundary of the Rio Pueblo de Taos watershed.

H.R. 471, on the other hand, provides that the entire 48,000 acre tract (including the easterly portion of the Rio Pueblo de Taos watershed) shall remain forever wild, and shall be maintained as a wilderness which the Taos Indians may use for their traditional purposes only, such as religious ceremonies, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber and other natural resources for their sole use, subject to regulations prescribed for conservation purposes by the Secretary of the Interior. A comparison of the provisions of S. 750 and H.R. 471 follows this memorandum.

S. 750 is highly objectionable in two primary respects: it fails to recognize that the Taos Indians in fact need the entire 48,000 acres (including the eastern section of the Rio Pueblo de Taos watershed) for their religious and ceremonial purposes; and it fails to preserve the entire 48,000 acres as a wilderness area. S. 750 is based upon the false assumption that the Indians need only a small area around Blue Lake for their religious purposes, and it excludes almost 90% of the watershed from wilderness status. Thus, S. 750 invites the development of commercial timber operations within the Indians' religious sanctuary, and it expressly di-

rects the Secretary of Agriculture to manage the watershed in a manner that would undoubtedly interfere with the natural ecology. This is provided in Section 3(c) of S. 750 which reads as follows:

"Through extension and improvement of the forest and other vegetative cover in the permit area the Secretary shall manage the area in accordance with accepted watershed management principles so as to provide optimum quantities and quality of water from the area for the benefit of the Pueblo de Taos Indians and others depending on the Rio Pueblo de Taos and Rio Lucero for water.

Not only is manipulation of the natural vegetation unnecessary, but disturbance of the natural ecology of the watershed will disrupt the Indians traditional religious practices.

If Congress recognizes the Indians religious needs, it should meet those needs fully. S. 750 would recognize the Indians' need to use the land in the practice of their religion, but it would deprive them of the right to undisturbed use of most of the area they require. They would be relegated as it were, to the last row of pews in their "church."

If a wilderness area is desirable in the watershed of the Rio Pueblo de Taos, the wilderness should encompass the entire watershed and not be limited to a small area around Wheeler Peak. Apparently, the reason S. 750 limits the wilderness area is to open the way to commercial timber operations and manipulations of the ecology under the guise of "watershed management." Those practices are not warranted as conservation measures, and they will surely destroy the religion of the Taos Indians.

The return of Blue Lake area to the Taos Pueblo, as provided in H.R. 471, has become an issue of national importance to Indian tribes throughout the country. Enactment of H.R. 471 would signal to them a new national policy which recognizes and supports the tribal cultures and religions of Indians everywhere. Enactment of S. 750, on the other hand, would be understood by Indians as an attempt to destroy Indian cultures and religion. S. 750 should be rejected.

#### COMPARISON OF BLUE LAKE BILLS IN THE 91ST CONGRESS

##### LAND OWNERSHIP AND PURPOSE

H.R. 471: The 48,000-acre area would be held as a single unit by the Government in trust for Taos Pueblo for traditional and religious uses only. No economic benefit would accrue to the tribe.

S. 750: All of the land would continue to be held by the Government as a part of the Carson National Forest. The Rio Pueblo watershed would be subdivided into units for various purposes, permitting the Indians exclusive religious use of only 1,640 acres. An additional 34,500 acres would be subject to a modified version of the Indians' present special-use permit.

##### GOVERNMENT LIABILITY

H.R. 471: Under the Indian Claims Commission judgment that the land was unjustly seized and that the tribe has never been compensated, the Government is liable for compensation. H.R. 471 would satisfy this judgment by returning the land itself, thereby saving the Government the cost of a money award.

S. 750 would not satisfy the judgment against the Government. Under that judgment, the value of the tribe's special-use permit since 1940 will be deducted from the award for lands in the Town of Taos, regardless of whether the Blue Lake Area is returned to the tribe or not. Under S. 750, the Government would still be liable for the full value of the Blue Lake Area.

##### RESPONSIBILITY FOR CONSERVATION

H.R. 471: The Government would continue to be responsible for conservation of the area.

Jurisdiction would be transferred from the Agriculture Department to Interior. The land would then automatically come under an existing inter-agency agreement providing for Forest Service cooperation in fighting fires on Indian lands, and a similar arrangement for controlling insect infestations. In addition, H.R. 471 explicitly authorizes a contract between the agencies for these purposes.

S. 750: The Department of Agriculture would have unilateral responsibility for conservation measures.

##### PRESERVATION OF WILDERNESS

H.R. 471: The entire 48,000-acre area would be preserved as a wilderness, as the Indians have preserved it from time immemorial.

S. 750: Only 4,600 acres would be preserved as a wilderness by incorporation in the Wheeler Peak Wilderness area.

##### CONSERVATION PRACTICES

H.R. 471: Conservation practices would be limited to those appropriate to a wilderness area. These would include preservation of the natural beauty of the land and purity of the water supply, as well as fire and infestation control.

S. 750: The Forest Service would be authorized to apply controversial measures to increase water yields in all but the 4,600-acre wilderness section of the watershed. These measures, advocated in public hearings by the Forest Service, include logging, fencing off pasture units and "vegetative manipulation." The application of these measures in other Southwestern watersheds has raised an outcry among conservationists against resultant defacement of the landscape and silting of water supplies which, among other things, adversely affects downstream fishing.

##### COMMERCIAL LOGGING

H.R. 471: No commercial logging permitted.

S. 750: As indicated above, logging would be permitted at discretion of the Forest Service in all but 4,600 acres. In portions of the Rio Pueblo de Taos watershed where commercial logging has already been proposed by the Forest Service, Engleman spruce predominates, Engleman spruce is always clear-cut in checkerboarded blocks of 20 acres, to prevent wind damage. The result is devastating to the landscape.

##### PRESENT GRAZING PERMITS

H.R. 471: Existing non-Indian grazing permits in the east side of the watershed would continue in effect. The tribe would be authorized to purchase relinquishment of the permits *only by mutual agreement* with the permittees.

S. 750: Permits would continue at discretion of the Forest Service.

##### PUBLIC ENTRY AND RELIGIOUS PRIVACY

H.R. 471: Public entry for purposes compatible with wilderness preservation may be permitted with the consent of the tribe. This would allow the tribe to protect its religious privacy. Religious activities occur throughout the area, where young men receive their training and religious societies go to perform sacred obligations year-round. The presence of outsiders prevents the performance of these rites, and therefore privacy is essential.

S. 750: The present permit system would continue on 34,500 acres, allowing issuance of permits to non-Indians only if approved by the tribe. Of the 4,600 acres added to the Wheeler Peak Wilderness area, 3,000 acres surrounding the exclusive religious-use area in the heart of the sacred land would be open to the public. This would make it impossible to control intrusion by outsiders upon the private religious activities of the Indians. Logging and "vegetative manipulation" would destroy the natural values essential to the Indians' religion. The total effect of S. 750 would be to desanctify most of the area and destroy the Indians' religion.

## CONFLICTS OF INTEREST

H.R. 471 would end repeated conflicts and misunderstandings between the Forest Service and the tribe over needs and rights of the Indians as opposed to the multiple-use policies of the Forest Service. It would relieve the Forest Service of the burden of administering sacred Indian land as a natural resource for conflicting purposes.

S. 750 would continue and intensify the problems and conflicts inherent in the permit system.

## RECENT NEWSPAPER EDITORIALS SUPPORTING H.R. 471

[From the New York Times, July 15, 1970]  
JUSTICE FOR THE FIRST AMERICANS

When Europeans first arrived on this continent and spread into its interior, they found a people whose ancestors had come from Asia 25,000 years earlier and had long since mastered the North American environment as hunters, agriculturists, or fishermen. The various Indian tribes boasted complex cultures and religious systems, technologies adequate to their need, and proud traditions.

However, those first generations of Europeans saw the Indians only as inferior beings to be conquered and destroyed so that the continent could be exploited for the benefit of the newcomers and their descendants. Today, this long era of brutal conquest is ancient history; most of the continent belongs to the heirs of the victors; and the majority of remaining Indians live in abject poverty, "the most deprived and most isolated minority group in our nation," as President Nixon termed them the other day in presenting his constructive new Indian program.

The conquest cannot be reversed, but the Indians can be helped to lift themselves from poverty, to improve their education and health, and corporately—tribe by tribe, band by band—to be masters of their own future destinies so they can retain or discard their ancient cultural heritage as they wish. These essentially are the goals of the Nixon program.

Part of the task ahead is to scrap the mistakes of the past. The policy adopted in 1953 of trying to "terminate" the Federal Government's responsibility for the Indians was an error. Most tribes—composed mainly of poverty-stricken and culturally disorganized individuals—are not ready for full independence, and will not be ready in the presently foreseeable future. As we noted at the time, the termination policy was premature and could only worsen Indian conditions.

If the Federal trusteeship must remain, it must not be—as too often in the past—a stifling paternalism that imposes upon the Indians policies and courses of action reflecting non-Indians' preferences. Much wiser is the new course the President has recommended, a course that gives the Indian communities self-respect and some power over Federal programs affecting their lives.

There should be no illusion, however, that the nation's overdue debt to the First Americans can be discharged quickly or cheaply. So great are the needs of the Indian communities after centuries of neglect or worse, that the increased sums the President has asked Congress to appropriate are only the first small downpayments on the multi-billion dollar expenditures that will be required in the decades ahead.

Of particular symbolic importance is the President's endorsement of the return of the Blue Lake and its 48,000-acre watershed in New Mexico to the Taos Pueblo tribe for which the area has special sacred significance. Only the ignorance or the indifference which has so often and disgracefully marked Washington's past Indian policies accounts for the unfortunate decision in 1906 to

remove that land from control of its proper owners. The House has twice passed a bill to rectify this historic injustice, and it is shameful that Senator Clinton P. Anderson and his allies in the Senate are blocking the bill in that chamber. The compassion that marks Mr. Nixon's attitude in this case makes all the more bewildering the fact that his message ignores the land claims of Indians and other natives in Alaska.

But the new Nixon program as a whole gives great hope—if followed up by action and sufficient funds—that a new era may at last be opening for the American Indian.

[From the Washington Star, July 10, 1970]  
NEW ERA FOR INDIANS

A square deal for the American Indians seems finally to be taking shape. President Nixon deserves commendation for his substantive and forceful message of July 8, telling the Congress it is time "for a new era in which the Indian future is determined by Indian acts and Indian decisions."

Mr. Nixon's statement on Wednesday, which was delivered at a White House meeting with Indian leaders, proclaimed a sharp departure in federal policy. He has agreed to the Indians' demands that they be given operational control of many federally financed programs which aid them, and that government assistance be continued. Mr. Nixon went beyond that, advocating an enlargement of expenditures, and he endorsed a pending House resolution that would return to a New Mexico tribe 48,000 acres of sacred land. Denouncing the "centuries of injustice" endured by the Indians, he proposed some solid programs to bolster the livelihood, health, education and pride of the "first Americans." Aid is envisioned not only for tribes on reservations, but for the hundreds of thousands of Indians in poor urban areas.

Indians are heartened by this support for removal of what they perceive as the blight of paternalism—the ordering of their affairs by federal officials and field workers. They feel that lack of self-determination has eroded Indian pride. Also, they had feared a scaledown of government aid, since Interior Secretary Hickel a year ago said that they were too dependent on federal upkeep and would have to "cut the cord." With their problems of poverty, health, isolation and conflict with the dominant society, that is unthinkable to them. So the President's reassurances were a great relief.

No doubt their victory at the White House was due in large measure to a rising militancy among young Indians and a deepening grimness among older ones. Last October, Hickel was almost booed off the stage when he addressed the National Congress of American Indians at Albuquerque, and of course there are those war whoops at Alcatraz. But Vice President Agnew also spoke at the Albuquerque meeting and indicated that something new was in the wind. "It is important to remember," he said, "that federal support of Indian services is to a great extent legally due the Indian community. These are not services offered at the pleasure of the government, but solemn obligations. . . ."

Congress should adopt Mr. Nixon's proposals, giving fresh hope to these abused citizens who carry a peculiar burden of history.

[From the New York Post, July 10, 1970]  
DAYLIGHT FOR AMERICAN INDIAN?

The Nixon Administration, faulted with good cause for its faint-hearted response to the needs and aspirations of black Americans, has reacted with praiseworthy boldness and conviction to the long-unheeded grievances of the nation's Indians. Cynics may observe that this is safer political ground; it is nevertheless full-scale, ungrudging recognition of inhumanities too long ignored.

In a message to Congress Wednesday, Mr. Nixon deplored "centuries of injustice" toward Indians, proposed meaningful reforms of the justly resented policy of "termination" of national responsibility for the Indians' dilemma, threw his support behind legislation returning 48,000 acres of sacred land in New Mexico to the Taos Pueblo tribe and pledged to seek more money for programs benefiting the Indian.

Sen. Harris (D-Okla.), the former Democratic National Committee chairman who is the Capital's leading spokesman on Indian affairs, hailed Nixon's message as "forward-looking and progressive." That spirit of bipartisan support should greet the President's proposals in Congress.

[From the Washington Post, July 13, 1970]  
A NEW FUTURE FOR INDIANS?

Because the world of the some 600,000 American Indians is filled with so much suffering and frustration, President Nixon's message to Congress could not and did not try to describe it. Instead, the President succinctly deplored a history of white "aggression, broken agreements, intermittent remorse and prolonged failure" in relations with Indians, and went on to make a series of broad and rectifying proposals.

The new policy would allow Indians, for once, to run their own lives free of outside paternalism and pressure. Specifically, the legislation would let any tribe or group of tribes vote to assume all or part of the federal programs that affect them locally. As more and more young Indians become impatient with the slow pace of social change, as prompted from Washington, local control has become a must. In line with this is the President's idea that Indian communities should run their own schools where possible. The Navajo Community College in Many Farms, Ariz., is the best example of Indian controlled education. Future federal funds for the college, which the President did not talk about, will be decided on shortly by a congressional appropriations conference committee.

Other recommendations that can only improve matters include more money for Indian social programs, a new post in the Interior Department that would put Indian affairs in the hands of an assistant secretary, a repudiation of the dreaded termination policy that lets the government, not the Indians, decide when the trustee relationship should end. To show that his words are accompanied by action, the President endorsed the controversial proposal—already passed by the House—that would return 48,000 acres of land near Blue Lake, New Mexico, to the Taos-Pueblo Indians, property the U.S. government now admits it stole in 1906. Land has perhaps more meaning to the Indians than anything else, and the current efforts of Sen. Clinton Anderson and other members of the Senate Interior Subcommittee on Indian Affairs to block this bill should be defeated.

The Indians know that too many white Americans still view them as a conquered people—prisoners of war, really—for a White House message to have an immediate effect on the nation's attitude toward them. Moreover, Indians have had their hopes raised over the years by top-level recommendations made one day—and forgotten the next. But Mr. Nixon's admirable message could make a difference this time around because the Indians themselves are now a little more vocal and active in demanding their rights and more and more white Americans have joined their struggle in a serious way.

[From the Chicago Tribune, July 11, 1970]  
HOPE FOR INDIANS?

In a special message to Congress, President Nixon called for "a new era" in which

"the Indian future is determined by Indian acts and Indian decisions." If only earlier Presidents like Andrew Jackson and others had thought that way, the Indians could have been spared much suffering and degradation, and the national honor some of its deepest stains.

The Indian problem is as tough as it is in part because Indian culture is far less individualistic than the culture prevalent in the United States. American Indians have strong ties to the ancestral land and a lively sense of being part of tribal life. They do not shift residence as readily as most Americans do, and the form of property ownership natural to them is collective rather than personal.

Until the 20th century, the best treatment the United States government was prepared to give the Indians was to shove them into reservations [so apparently worthless that whites did not much want them] and subject them to an oppressive and ungenerous paternalism. Generations of life under these conditions bred into most Indians a despair as profound as their distrust of the forked tongues of palefaces.

At last, the government and the Indians' few disinterested white friends and the Indians themselves share the conviction that Indians need and should have considerably autonomy without loss of tribal life. Not long ago the federal government adopted a policy of "termination"—which meant liquidating tribal assets in a one-time distribution to individuals on the tribal lists. This was hard on Indians as well as on the timber market, which was staggered when even one whole reservation went on sale at one time. Now President Nixon wisely proposes a middle course between termination and arbitrary control over reservation Indians.

Giving tangible implementation to the new policy of considering Indians' wishes and values, the President recommended restoring a tract of national forest land to the Taos Pueblo tribe for which it has great religious value. We hope that Congress will respect wise Presidential leadership in Indian affairs. It has in the past gone along only too willingly with deplorable executive policies for our Indian minority.

[From the Philadelphia Inquirer, June 21, 1970]

#### INDIANS MAKE THEIR STAND

The Taos Pueblo Indians are hopeful that their long struggle to regain at least a good part of the land taken from them in 1906 will end successfully this year.

Much of the success of their efforts could depend on a hearing before the U.S. Senate Indian Affairs subcommittee on July 9 in Washington, D.C. For the occasion, the 90-year-old spiritual leader of the tribe, Juan de Jesus Romero, is expected to make his first airplane trip in order to testify.

Romero and his people contend that 130,000 acres of their land was taken from them in 1906 for the Carson National Forest. They insist that at least 48,000 acres of it be returned, including the Blue Lake area, which has religious significance for the tribe.

Actually, the Taos have been occupying the land for centuries. After the U.S. Government took it over for parklands, the tribesmen were told they could use it, with restrictions.

According to a congressional act, which went into effect in 1940, the Indians have a permit to use the land for 50 years. But the Indians feel they shouldn't need any permits to occupy their own land.

The U.S. Indian Claims Commission agrees with the tribe's claim. It stated in 1965 that the tribal lands were taken "without pay-

ment or compensation." It said the Taos should be paid for the 130,000 acres at 1906 value, which isn't much of a bargain.

The Taos, however, want title to the land, not the money.

A bill passed by the U.S. House of Representatives last September will give the Indians the 48,000 acres they want.

But the bill is being blocked in the Senate mainly because of the opposition to it by Senator Clinton P. Anderson (D., N.M.). He has a companion bill which would set aside 4000 acres of wilderness for the Indians. The tribe rejects the Senate measure.

Senate sympathy has been mounting on the side of the Taos. And when the hearing comes up next month in Washington, Anderson may end up feeling like the last of the Indian fighters.

[From the St. Louis Post-Dispatch, July 14, 1970]

#### THE TAOS PUEBLO CLAIM

Most Americans doubtless would be outraged if the Federal Government adopted a policy that resulted in chopping up furniture in all the churches for firewood and turning the sanctuaries into bowling alleys. Yet this in essence is what the Government has done in the case of Blue Lake in New Mexico, a small body of water with a 48,000-acre watershed that has been sacred to the Taos Pueblo Indians for 800 years. The Indians consider Blue Lake the source of all life and the retreat of souls after death.

In 1906, the lake and watershed were taken from the Indians and were made part of the Carson National Forest. Fish have been stocked in sacred lakes and streams, facilities for outdoorsmen have been built near shrines and forest lands have been leased to timbering interests. "These acts," says Interior Secretary Hickel, "had the same meaning to the Indians as vandalizing a church would have to the Christian community."

For the past two years, the House has passed a bill that would return the 48,000 acres to the Indians, who have refused the cash compensation the Government has offered for the land. The bill now is before a subcommittee of the Senate Interior Committee and it has the warm endorsement of President Nixon. It also has, however, the opposition of the Forest Service, which is reluctant to give up timber leasing, and its ally, Senator Anderson of New Mexico who has been successful in blocking the legislation. The Senator has introduced his own bill that would set aside 1640 acres around Blue Lake for the exclusive use of Indians.

The Indians claim that the return of Blue Lake and its watershed is essential to their way of life. In the Taos Pueblo form of government, religion forms the basis of civil government and officials are selected by religious leaders. The exercise of religious worship, in turn, is dependent on the land around Blue Lake. To compare the cultural importance of Blue Lake to the Taos Pueblo with the economic returns on a few timber leases is absurd. The Indians have a right to this land.

[From the Minneapolis (Minn.) Tribune, Aug. 23, 1970]

#### INDIAN LAND IS SYMBOL, BUT OF WHAT?

In his Indian affairs message to Congress six weeks ago, President Nixon proclaimed a "new commitment" to the American Indian. The President cited one specific injustice when he called for "prompt" return to the New Mexico Taos Indians of the "Blue Lake" land seized from them for a national forest in 1906. "Such an action would stand as an important symbol of this government's re-

sponsiveness to the just grievances of American Indians," said the President.

A month ago, Mr. Nixon's special assistant, Leonard Garment, went to New Mexico and told the tribe, "You have my word that this administration will do its utmost to see that this legislation restoring these lands to you is passed."

The Senate Interior Committee's subcommittee on Indian affairs has yet to schedule a vote on the Taos claim, although it was heard July 8. The subcommittee chaired by Sen. McGovern of South Dakota, has twice in past years killed House-passed bills restoring the tribal lands, both times by failing to vote.

The problem is that Sen. Anderson of New Mexico opposes the bill. He is senior member of the Interior Committee and of McGovern's subcommittee. The Indians believe that Anderson wants the land retained because it contains valuable timber and water. "Anderson and the Taos are anything but fast friends," says one Indian affairs expert, adding, "The senator is the real hangup." Anderson wants to grant the Indians use (but not possession) of only 1,640 acres.

The Blue Lake is sacred to the Indians. They believe it essential to gain back 48,000 acres to achieve religious privacy and to assure that commercial activities cease in the area. The request is reasonable. The tribe has occupied the land for 600 years. In 1965, the U.S. Indian Claims Commission ruled that 130,000 acres rightfully belong to the Taos. They refused compensation and are requesting only the smaller area, which they consider essential to their religious freedom.

The administration is not working actively to advance the bill, according to several persons connected with the matter in Washington. McGovern, though privately for the bill, has let it die twice in deference to Anderson, who is said to be "negotiating" with the tribe.

So far, the Blue Lake case is not symbolic of, as Mr. Nixon put it, "the government's responsiveness to just grievances." Rather it symbolizes that the administration is more interested in rhetoric than promises and that the Senate and its Interior Committee are perfectly willing to sacrifice justice to the desires of one powerful senior senator.

[From the Albuquerque Tribune, Oct. 16, 1970]

#### ANDERSON RUNS INTO STRONG OPPOSITION ON TAOS INDIAN BILL

(By Seth Kantor)

WASHINGTON.—A possible candidate for the presidency in 1972, Sen. George S. McGovern D-S.D., is not buying the compromise Sen. Clinton P. Anderson, D-N.M., has worked out for the Taos Indians.

Losing McGovern is a blow to Anderson, since McGovern not only is a leader among Senate liberals but he is Chairman of the Indian Affairs Subcommittee, where the Taos argument has been waged.

The Anderson compromise, product of the parent Interior and Insular Affairs Committee, heads into the Senate chamber for a showdown debate when Congress comes back next month from its election-time break.

Sen. Henry M. Jackson, D-Wash., Interior chairman, is likely to prosecute the case for a compromise for Anderson, who no longer can handle a vigorous or prolonged debate on the Senate floor.

Half the Democrats and half the Republicans on the McGovern subcommittee are against the bill Anderson—also a member of that subcommittee—has produced.

Besides McGovern, subcommittee members Quentin N. Burdick, D-N.D., and Mike Gravel, D-Alaska, are against Anderson on this one.

So are Republicans Clifford P. Hansen, Wyo., and Henry Bellmon, Okla.

So is President Nixon. So are Interior Secretary Walter J. Hickel and his Democratic predecessor Steward L. Udall.

McGovern is the key to the opposition, since senators pay a lot of attention to the views of chairmen who have jurisdiction over the legislation at hand.

But Sen. Fred R. Harris, D-Okla., will front the fight on the floor to shoot down the Anderson compromise. Harris is backing a more liberal House version of the bill—which is what the Taos Indians and the Nixon administration are after, too.

Harris is planning to circulate a "Dear-Colleague" letter among Senate members, seeking majority support for his battle against compromise, when Senate business resumes in mid-November.

Members of the New Mexico GOP hierarchy are urging the White House to pencil in a stop in the Land of Enchantment between now and Election Day, Nov. 3, for President Nixon.

The President will be in Dallas on Oct. 28 to boost the Senate candidacy of George Bush.

Even a brief stopover next-door in New Mexico after that by Nixon could be a significant boost to the campaigns of Anderson, Carter and Pete Domenici in their quest for the Senate and governorship.

No word—not even privately—from the White House yet on The Man's Southwest schedule.

Fabian Chavez Jr., the Democrat running for Congress against Rep. Manuel Lujan, Jr., R-N.M., is getting the endorsement of the powerful New Mexico Education Association.

Lujan has voted against major education-funding legislation.

But indications are that rank-and-file school teachers in the state's first district are not withholding support from Lujan, on grounds that he advocates economizing in general.

The situation is similar to organized labor—where unions these days formally endorse liberals while the blue-collar workers go vote for conservatives.

Rep. Ed F. Foreman, R-N.M., starts a day-and-night political stumping of his district tomorrow, carrying him over a path hundreds of miles long, until election day. Polls show him well ahead.

"However, it is that 'poll' taken on Tuesday, Nov. 3, with which we are presently concerned," said Foreman.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment (No. 1083) of the Senator from Oklahoma (Mr. HARRIS) to H.R. 471.

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

Mr. KENNEDY. Mr. President, I wish to join in commending the distinguished Senator from Oklahoma and the distinguished Senator from Michigan, along with other cosponsors of this proposal, for the leadership that they have shown in this matter. It has been a long and difficult battle, I know, and they have never failed in their determination, their concern, or their commitment to the cause of justice for the Taos Pueblo. Here on the eve of what I am hopeful and confident will be a final, just settlement of the Taos Pueblo claim for return of Blue Lake, I think it is appropriate to commend the Senator from Oklahoma and the other supporters of the amend-

ment for their consistent and persistent effort in the cause of justice for the Taos Pueblo.

I also commend President Nixon and the administration for the position which they have taken on this matter. I think they have shown an independent concern and a sense of justice and commitment on this question, which strongly and permanently affects the Taos Pueblo Indians.

Mr. President, Taos Pueblo is hopeful that the Senate's action today will end its long struggle to regain the sacred Blue Lake area taken from it 64 years ago. A year ago I had the opportunity to talk with the Governor and Council from Taos, who explained to me in moving words the importance of having their sacred lands returned in trust to them. These people are of one mind. They are not tempted by monetary compensation. They are not interested in commercial development of the land. They are not lured by talk privileges, licenses, or permits. They are unwilling to compromise. And in the matter of religious freedom and integrity of the Taos Indians, they should not be compromised.

Almost 10 years ago the Governor of the Pueblo addressed an audience in New York City. He said:

Blue Lake is the most important of all our shrines because it is a part of our life, it is our Indian church.

And he continued:

You have beautiful statues, beautiful figures of representative scenes which we now worship, you and I together. We don't have the beautiful structures and we don't have the gold temples in this lake, but we have a sign of the living God to whom we pray—the living trees, the evergreen and spruce, and the beautiful flowers, and the lake itself. . . .

Before the Indian Affairs Subcommittee last June the Taos Governor re-emphasized both the nature and the magnitude of the issue:

In this fight we are . . . struggling to preserve the identity of our people as a tribe, to preserve our Indian way of life, and to obtain restitution of land wrongfully taken from us.

Mr. President, I do not think that it is necessary for me to review here the history of the Pueblo's struggle to regain Blue Lake. The hearings contain extensive documentation on this point. Nor will I attempt a dissertation supporting the legal rights of the Pueblo to the Blue Lake area. The Indian Claims Commission in 1965 set any unsettled disputes to rest when it held that the sacred Blue Lake area belonged to Taos Pueblo and that "the United States extinguished Indian title to said lands without payment of compensation."

Ordinarily this would have put the entire issue at rest, for following the usual affirmation of title to lands wrongfully taken by the Federal Government, the Claims Commission usually proceeds to a determination of the compensation to be afforded the Indians involved. The Taos Indians, however, would have nothing of that.

Taos Pueblo will only accept return of the land; the Commission can only, under its statutory authority, award money. Thus it is up to Congress to settle the matter.

The basic argument in opposition to the House bill—which would return Blue Lake in trust to the Pueblo—is that such action would set an unfortunate precedent. This argument, I fear, has already diverted our attention from the real issues involved in this bill. In effect, supporters of the Senate substitute bill are saying—and the bill specifically finds: That the Taos had legal title to the land; that the land was wrongfully taken; that the land is an integral part of the native religion and that the Indians are sincere in their religious attachment to the land. The Senate substitute, in addition, does not alleviate the interference with or pressures on the Taos Indian in the observance of their religious ceremonies. But, say supporters of the substitute, the amendment might set a bad precedent.

Let us stop for a moment and, as we consider the amendment to the Senate substitute, ask ourselves:

Does it afford fullest protection to the free exercise of religion by Taos Pueblo?

Is the public's interest in maintaining the area as a wilderness free from commercial exploitation fully protected?

Is the amendments a more just and fair way of our dealing with Taos Pueblo?

Mr. President, is it not time that we stop congratulating ourselves on how generous and understanding we are when we pay no heed to the needs and wishes of the Indian people?

There are those who are saying that if this bill passes, every hill and lake will be sacred sanctuary to nearby Indians and every totem pole a religious shrine to neighboring Eskimos. This is not only crass and offensive to the native population of this country; it is particularly demeaning to the Taos Pueblo.

I for one have more confidence in the Congress of the United States. I sincerely believe that this body is fully capable of determining whether a bill sets some sanctimonious and unbreakable precedent. I am confident that we can look at a claim, can analyze the hearings and report, can weigh the debate, and can decide on the merits of the individual claim. We do it daily on special claims and immigration bills. And we certainly do it on major pieces of legislation.

To vote against the amendment to the Senate substitute bill for fear of setting a precedent that may be blindly followed later is to abdicate our function and responsibility to look at each bill on its own merits, important in and of itself. I for one am not willing to accept this position.

Certainly the Agriculture and Interior Departments consider the Taos claim to be unique. The President of the United States does not see this as a precedent. The Indian Claims Commission has found no other situation comparable to Taos Blue Lake. Anthropologists can find no claims, like that of Taos, based on continuous and uninterrupted use of

lands for strictly religious purposes. Even the Interior Committee chairman, the Senator from Washington, who has great expertise and extensive experience in Indian legislative matters, observed that the Senate substitute does not "represent a precedent for future cases."

If we are to be concerned with precedent, let us be equally concerned with the precedent that would be set by the Senate substitute bill. The White House has strongly indicated that it considers that bill to be an undesirable precedent in statutorily carving out pieces of a National Forest for "exclusive use." To set apart a section of such lands, by statute, yet to call it a "National Forest," is not only inconsistent but is misleading to the public. More importantly, it is unworkable in terms of full protection of Taos religious practices.

Mr. President, last summer, members of Taos Pueblo appeared at the Senate hearings on H.R. 471. I was impressed and moved by their testimony. Governor Romero told the Indian Affairs Subcommittee:

Deed that 43,000 acres of land back to us. The U.S. Government is not going to be hurt. Taos Pueblo is not going to hurt the U.S. Government. It is going to be preserved just the way as it has been taken away from the Indian by the United States before 1906.

You believe in wilderness status. This land is going to be kept under wilderness status. It is going to be kept that way. As long as this good sun is going to give us light, it is our responsibility in our Indian way to carry on this principle of religious practice.

Can the Senate ask for more than that? Even the Forest Service has not and cannot make such a strong and unqualified commitment to the people of this country. And so I ask my colleagues the same questions that the Taos council secretary asked in the hearings:

Are we going to play the game or are we going to establish here with honesty? Which way are we going to go from here on out?

Let us be honest with ourselves. Let us be fair. Let us deal justly with the Taos Indians. We should support this amendment.

Mr. HARRIS. Mr. President, I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his very eloquent statement and for his sponsorship of the Taos Pueblo position. Particularly, Mr. President, do I find very impressive the statements of the distinguished Senator from Massachusetts in regard to the question of whether H.R. 471, as passed by the House of Representatives, would establish a precedent. I ask unanimous consent to have printed at this point in the RECORD a paper which has been prepared, entitled "Reasons Why H.R. 471 Would Not Set a Legislative Precedent."

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

REASONS WHY H.R. 471 WOULD NOT SET A LEGISLATIVE PRECEDENT

1. Taos Pueblo's claim to the Blue Lake Area is unique:

(a) No other tribe has a claim of over sixty years standing to a distinct area of land continuously used and occupied by the tribe for religious purposes after deprivation of title.

(b) This is the only instance of a claim for land which, once restored, would not be subject to commercial development.

(c) In the words of the anthropologist Dr. John J. Bodine:

"The Taos claim is unique because if Blue Lake and the surrounding lands are not returned to the tribe it will effectively destroy Taos culture. No other Indian tribe can make that claim, because no other Indian group today relies to the same degree on shrines in a restricted area for continuance of its religion." (Emphasis added.)

Claims of other tribes for land with no special religious significance or where—as in most cases—the land has been conveyed to third parties and completely inapposite. The Departments of Interior and Agriculture agree on the unique nature of the Taos claim.

(d) Taos Pueblo is not seeking return of other lands to which the Indian Claims Commission ruled the tribe held aboriginal title (a balance of 82,000 acres).

2. If any "precedent" were created by H.R. 471's restoration of title to the Pueblo, the Interior Committee substitute bill's creation of a sequestered special district within the national forest for exclusive use would set a much less desirable precedent.

3. It is cleaner and less inimical to the public interest to transfer land to be used exclusively by the Taos Indians out of the National Forests. Maintaining the fiction that exclusive-use land is a public National Forest resource serves neither the best interests of the Indians nor of the United States.

4. If it is objectionable to convey title to a tribe in lieu of cash, because other tribes may seek similar treatment, it is no less objectionable to give a tribe exclusive use to part of a National Forest. If other tribes were to want the same kind of restricted trust title granted to Taos Pueblo under H.R. 471, it follows that they would also want the same kind of exclusive use rights created by the Committee version. The Committee seems to have anticipated this point by stating in its report that its version "deals only with the specific fact situation presented by the Pueblo de Taos claim" and that it "does not, however, represent a precedent for future cases." The same disclaimers apply equally well to the House version.

5. In point of fact, because of the unique nature of the Pueblo's claim and the unique use to which it wishes to put the land, no precedent would be created by either restoring limited title to the Pueblo (as provided in H.R. 471) or providing for its exclusive use of the sacred lands (as provided in the Committee version).

6. The fact that Congress here is called upon to make a single exception to the general rule that Indian claims are to be paid in money rather than land does not require a wholesale abandonment of that general principle, unless Indians are to be treated differently from other citizens.

7. Congress transfers public land to Indian tribes in every session as routine transactions.

Mr. HARRIS. Mr. President, I want to point out that if Senators will read the communication from certain wildlife and conservation groups placed in the RECORD by the distinguished Senator from Montana (Mr. METCALF), they will find that the objections to the Taos position by those organizations is based upon the fear that, as they say in the communication, this bill will create a "dangerous precedent."

The cosponsors of the Taos position, the Senator from Michigan, the Senator from South Dakota, the Senator from Massachusetts, and myself, have just de-

molished that argument. We have made a clear legislative history here, on the part of those of us who support the Taos position, that indeed no legislative precedent will be set by the passage of H.R. 471 as passed by the House of Representatives. Therefore, I think it will be evident to Senators—and I trust to these organizations when they have read this RECORD—that their objections are no longer valid and that their fears are not justified. I am certain that they and Senators will be reassured by the legislative history that has been made here tonight; no precedent will be set by granting justice in this individual case.

Mr. McGOVERN. Mr. President, I ask unanimous consent to have printed in the RECORD, in addition to the material I already asked to be printed in the RECORD, a list of some of the principal groups that are supporting the claims of the Taos Pueblo. Those groups include the Association of American Indians; the AIO Action Council, headed by Mrs. Fred Harris, the wife of the distinguished Senator from Oklahoma; the Wilderness Society of Washington; the American Civil Liberties Union; all individual Indian tribes across the country; the National Congress of American Indians; President Nixon; the Department of the Interior; the former Secretary of the Interior, Mr. Udall; the more recent Secretary of the Interior, Mr. Hickel; all major church groups in the United States, as well as major newspapers to which I have referred.

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

SUPPORTERS OF HOUSE-PASSED BILL

Major newspapers.  
All major church groups.  
Former Secretary Udall.  
Nixon Administration.  
National Congress of American Indians.  
All individual Indian tribes.  
ACLU.  
Wilderness Society, Washington, D.C.  
AIO Action Council (Mrs. Fred Harris).  
Association of American Indians.

ORDER FOR RECOGNITION OF SENATOR HARTKE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the remarks by the able Senator from Iowa (Mr. MILLER), the distinguished Senator from Indiana (Mr. HARTKE) be recognized for not to exceed 30 minutes.

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

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, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 56 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, December 2, 1970, at 10 a.m.