National Broadcasting Co., Mr. Julian Goodman, to express the opinion that Hanford will survive NBC's incredible attack. But I have asked him how the network can justify presenting this kind of hysteria-producing doomsday material it knows is unsupportable as fact. I have asked the network executive, "Where is your public responsibility?"

SENATE—*Tuesday, February 10, 1970*

The Senate met at 9 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Let us pray, in remembrance of President Abraham Lincoln.

Almighty God, under whose sovereignty this Nation exists and by whom its leaders have ever been guided, as we stand in this place at this time to hallow the memory of Thy servant Abraham Lincoln, help us the living once more to be dedicated to the unfinished task he espoused, that we highly resolve that the battle dead of the generations "shall not have died in vain—that this Nation, under God, shall have a new birth of freedom—and that the government of the people, by the people, for the people, shall not perish from the earth."

In this spirit help us to work this day. In this spirit may we speak while we are separated. In this spirit may we return to our tasks in the days to come.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 9, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

PROGRAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may speak briefly before the distinguished Senator from Wyoming (Mr. HANSEN) is recognized, without taking away any of the time allotted to him.

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

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be at least one live quorum call today and, very, very possibly, a vote on an amendment.

I make this statement at this time so that the Senate will be informed, and any Senators who have ideas about leaving early today because of the 3-day recess beginning at the conclusion of business this afternoon will do so on their own responsibility.

I reiterate that the Senate is not going to be run for the benefit of any individual Senator, or any individual groups of Senators.

I want that to go in the RECORD so that all will be aware of the situation for the remainder of this year.

That applies to the distinguished minority leader as well as to the majority leader now speaking.

We are here to look after the people's business. The people should get first priority over everything else.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am happy to yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I agree with what the distinguished majority leader says. What he says is that we are not fooling around, that we mean business, and that we mean for the business of the Senate to be conducted.

There may be a vote today. There is no way to protect any single Senator. We wish it were otherwise, but the moment exceptions begin to be made, the system breaks down, as all of us know all too well. Therefore, we do have to adhere to a rule once it is announced or, I fear, there would be no respect for the joint leadership if we did not take that position.

Thus, with all respect for the convenience of all Members, including the majority and minority leaders, that is the way it has got to be.

Mr. MANSFIELD. Mr. President, I thank the distinguished minority leader. I am delighted that we have been able to cooperate wholeheartedly, effectively, and freely since the beginning of this session.

I am sure that this feeling of cooperation and accommodation will continue.

TRIBUTE TO SENATOR HANSEN

Mr. MANSFIELD. Mr. President, last week, the distinguished Senator from Wyoming (Mr. HANSEN) engaged in colloquy with the distinguished Senator from Georgia (Mr. TALMADGE). The question had to do with textile imports and the condition in which the textile industry in the United States finds itself today.

During the course of that colloquy, I had some remarks to make about the distinguished Senator. They were not carried correctly in the RECORD—probably through my fault.

Accordingly, I want to make those remarks again today so that they will be carried in the RECORD as I stated them at the time, and as I still feel about what I said then.

I want to say, Mr. President, that I think the distinguished Senator from Wyoming (Mr. HANSEN) is one of the outstanding Members of this body.

He is especially proficient and expert in the field of wool, in the area of oil imports, and on the question of beef imports.

I want the RECORD to show that.

Mr. President, I yield the floor.

Mr. HANSEN. Mr. President, first of all, let me say "Thank you most sincerely" to our distinguished majority leader. He has been most kind, indeed. I just hope that there may be some reason for his very complimentary remarks. I am certain that he has been overgenerous but, nevertheless, I do appreciate his very kind words.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming is recognized for not to exceed 20 minutes.

OIL IMPORT POLICY

Mr. HANSEN. Mr. President, in view of the fact that the task force recommendation on oil import policy was reportedly delivered to the President Monday, I would like to express my hope that the President will defer any decision on the recommendations until the Congress has had an opportunity to review the report, or reports, as I understand a minority report has also been submitted.

At the risk of becoming repetitious, I feel compelled to remind my colleagues of the inherent dangers and risks involved in a plan that could and most certainly would leave this country at the tender mercies of those countries that now possess or control more than 80 percent of the known oil reserves of the world.

The eminent academicians and economists selected for the task force study of the oil import problem had one common denominator: none of them had any practical experience in or knowledge of the oil and gas industry.

The President, in appointing a Cabinet member whose department is not directly concerned with petroleum affairs or legislation said he wanted an unbiased report but, in examining the backgrounds of the theoreticians who were selected to make the study, I am concerned that these professors and doctors of philosophy may not have been entirely unbiased or unprejudiced or, at least, there is a serious question of their objectivity.

In earlier remarks I made here, I pointed out some of the past opinions and writings of these gentlemen which now seem to be reflected in their recommendations.

First, I would say, is their disregard for the legal foundations of the oil import program which was predicated on U.S. trade policy legislation—the national security clause of the Trade Agreements Act, the Trade Agreements Extension

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Act, and the Trade Expansion Act in that order. The whole purpose and concept of the oil import program was based on national security.

Those who made the study and recommendations may never have read George Santayana's "Reason in Common Sense," wherein he said:

Those who cannot remember the past are condemned to repeat it.

Obviously, these gentlemen with such impeccable scholastic credentials gave little heed to the history of World Wars I and II nor to such events since as the Suez crisis of 1957 or the Middle East war of 1967. During both of these events, oil sources from the Middle East and North Africa were cut off to not only this country but to Europe where such oil was the main source of supply. Only because this country had the reserve-producing capability of reversing our own imports from those and other countries, diverting them to Europe and supplying the needs of Europe during that period, was a major economic shutdown and actual suffering avoided.

We had the capability and the oil industry had the expertise to immediately increase our domestic production to meet such a crisis.

Recent events in the Middle East—Libya for example—have not offered any hope for easing of that explosive situation and the threat it might again offer to countries dependent upon oil from that area.

Mr. President, in my continuing discussion of oil import policy and the dangers inherent in becoming dependent on foreign sources of oil, even friendly sources that seem somehow to change overnight as was the recent case in Bolivia and the experience of our copper companies in Chile and Peru, I have prepared a summary or fact sheet of U.S. oil import policy and the tariff plan proposed by the Task Force on Oil Import Controls. I would like to offer that summary in support of the practically unanimous objections that have been made by the oil and gas industry and those knowledgeable of the industry.

IMPACT OF A TARIFF SYSTEM FOR OIL IMPORTS ON THE UNITED STATES

First. The objective of any import control system is to maintain a healthy and viable domestic petroleum industry by encouraging domestic exploration and production. A tariff aimed at the reduction of domestic crude prices would defeat this objective. Without the incentives provided by the mandatory oil import program and percentage depletion, the oil industry would not have been encouraged to invest nearly $56 billion since 1958 with the result that some 40 billion barrels of oil and 207 trillion cubic feet of gas were added to our national reserves. Besides being responsible for the development of new reserves in the lower 48 States, these incentives induced the oil industry to undertake significant operations in offshore areas and on the North Slope of Alaska. Without such encouragement, there would have been no Alaskan exploration in the first place, and it is unlikely that exploration in such promising but forbidding areas as the Arctic would be pursued if prices were reduced. Indeed, because of the prospect of domestic crude price reductions, there is no assurance that the costly transportation programs needed to bring Alaskan oil to districts I–IV will be undertaken.

Second. Marginal production from stripper wells, which accounts for about 20 percent of proved U.S. reserves and 15 percent of current production, would be drastically reduced and could be permanently lost. This production could make the critical difference between self-sufficiency and the ability to meet domestic demand if foreign supplies were disrupted in an emergency.

Third. The overall effect of such a tariff on the small businessman would be catastrophic. Many of the independent producers who derive their income from stripper wells would be forced into bankruptcy. The industries servicing the oil industry would be severely affected, and the viability of small inland refiners who now participate in a quota system would be jeoparidzed.

Fourth. A tariff would be incapable of achieving the fine tuning necessary to adjust the volume of imports to any predetermined figure in face of fluctuating transportation rates, varying values of crudes, and changes in foreign oil costs.

Fifth. Any attempt to achieve this fine tuning through a tariff system would result in an administrative nightmare. Such a tariff would need constant readjustment, placing unbearable pressures both on the administrative authority and on those affected by its decisions.

Sixth. A tariff system would make it difficult, if not impossible, for the oil industry to engage in long-range facility planning. The industry would be seriously hampered in its ability to tackle the long-range logistics planning problems involved in locating refineries, pipelines, and distribution facilities which must be solved to insure the optimum economic supply of oil to U.S. markets.

Seventh. Natural gas presently accounts for 32 percent of our total energy supply. A tariff system which reduced domestic crude prices would have a severe effect on natural gas supplies and prices since a very large proportion of natural gas production is associated with the production of crude oil.

Eighth. Use of a tariff to reduce domestic oil prices would impair the continued development of the technology needed to produce oil at economic rates from shale, coal, and tar sands. The prospect that the United States would enjoy the benefit of abundant petroleum from these domestic sources could be foreclosed indefinitely by such a tariff.

Ninth. The 31 domestic oil-producing States would be affected by a decline in U.S. petroleum exploration and production. Many of these States draw a substantial part of their revenues from oil taxes and other payments. These payments would be drastically curtailed if oil prices were reduced. These losses would be compounded by a decline in employment and a consequent loss of purchasing power.

Tenth. The increase in revenue to the U.S. Government from a tariff on oil imports would be partially offset by a decline in Federal tax payments resulting from a decline in domestic oil exploration and production.

Eleventh. Use of tariffs to reduce oil prices would increase our dependence on foreign supplies to an extent that would be unacceptable from a security standpoint. Not only would vital supplies be subject to cutoff in an emergency, but the United States would become vulnerable to potential blackmail from politically unstable regimes. The global balance of power would shift away from us if the Soviet Union were to remain virtually self-sufficient in oil while our own domestic industry's viability were eroded.

Twelfth. Foreign crude prices would increase if the U.S. market were widely opened to imports as would be the case under the proposed tariff program. The major portion of foreign crude oil costs consists of royalty and tax payments to the host countries. Governments of the countries comprising the Organization of Petroleum Exporting Countries—OPEC—have already increased their unit tax receipts on oil produced by American companies to a pronounced degree, and would increase them still further if we became excessively dependent on their supplies. A tariff system would be especially likely to induce foreign governments to increase their taxes on oil since the size of the proposed U.S. tariff would be higher than any payments they now receive. The temptation to make their own charges at least equal to a U.S. tariff might well be irresistible.

Thirteenth. The consumer would no longer enjoy the present price differential between domestic and imported foreign oil which is now largely passed on to him by the oil companies. Under the tariff system, this would go to the U.S. Treasury. Also, besides having to pay more for natural gas, the consumer might have to make up in taxes the revenues lost by the States.

Fourteenth. If an influx of foreign oil to the United States resulted from the imposition of a tariff system, the U.S. balance of payments, already under serious strain, would deteriorate still further. For example, according to Chase Manhattan Bank, the effect of reducing the average price of domestic crude by 30 cents per barrel to $2.80, one of the widely reported goals of the Cabinet task force, would result in an adverse impact on the U.S. balance of payments of nearly $10 billion annually by 1980.

Mr. BYRD of West Virginia. Mr. President, under the previous unanimous-consent agreement, is the Senator from Wisconsin to be recognized at this time?

The PRESIDING OFFICER (Mr. ALLEN in the chair). Under the previous unanimous-consent agreement, the Senator from Wisconsin is recognized for 10 minutes.

WHO STOLE THE PEACE DIVIDEND?

Mr. PROXMIRE. Mr. President, when one looks beneath the vast propa-

ganda generated by the White House and the Budget Bureau about the cuts in the Defense budget for fiscal year 1971, some alarming and disquieting facts are found. The paucity of the cuts does not match the rhetoric by which they are proclaimed. In fact known cuts of about $25 billion in military spending have reduced outlays in the 1971 budget by only $5.3 billion. Somewhere along the line, even after generous allowances are made for inflation and pay raises, double counting and uncontrollable items, we lost about $10 billion. Someone stole the peace dividend.

Consider the following items:

THE $13 BILLION CUT IN VIETNAM SPENDING

On October 22, in a speech before the Overseas Writers Club, Secretary Laird announced that by the end of fiscal year 1970, or by June 30, 1970, the cost of the Vietnam war would be down from a $30 billion a year level to an annual rate of $17 billion. Secretary Laird's figures were later stamped official in testimony before Congress. They are found in the supplemental testimony of Chairman McCracken of the Council of Economic Advisers to the Joint Economic Committee on October 23, 1969. In his supplementary comment Chairman McCracken verified what we on the committee had pointed out to him; namely, that Vietnam spending was scheduled to drop by $13 billion by mid–1970. He wrote in his supplementary submission to us:

> Secretary Laird has estimated that Vietnam spending will have fallen by mid–1970 to an annual rate of about $17 billion. (*Hearings*, Subcommittee on Fiscal Policy of the Joint Economic Committee, October 23, 1969, p. 359.)

That is a reduction of $13 billion in Vietnam spending. And that is the rate of spending at which fiscal year 1970 ends and fiscal year 1971 Vietnam spending begins. It is not the average rate for fiscal year 1971 which should be even lower.

Yet the 1971 Department of Defense Budget for the Pentagon itself—excluding military assistance, atomic energy, and defense related activities—is only $5.3 billion below 1970 outlays. It is only $6.6 billion below the 1969 outlays when Defense spending and the Vietnam war were at their peaks.

CUTS IN MILITARY PERSONNEL

The administration has only recently announced that by the end of fiscal year 1971, the number of military personnel would be down by 600,000. The budget indicates that 250,000 of that reduction will be in effect by June 30, 1970. The rest is to come in 1971. But most of the savings will come in fiscal year 1971 because the 1970 reductions are end of the year figures. About 450,000 of that reduction should be in effect for the entire fiscal year.

The cost of supporting one military man for 1 year is approximately $10,000. The cost for a fighting man abroad is estimated at much more than that. Some estimates are as high as $25,000 per man per year. When units are disbanded, the cost per man is higher than in ordinary attrition. Even though a big part of the 600,000 reduction in personnel will be from soldiers in Vietnam, let us apply the more conservative $10,000 per man per year rate and apply it only to reduction of 450,000 in effect for the full year. That in itself should bring a $4.5 billion reduction in personnel costs.

CUTS IN CIVILIAN PENTAGON EMPLOYMENT

The administration simultaneously announced a reduction in civilians working at the Pentagon by June 30, 1971, of 150,000. From the budget figures it is clear that at least 100,000 of that reduction will be fully in effect throughout the fiscal year. At a modest $10,000 per man per year for pay and allowances this should bring an additional $1 billion savings during fiscal year 1971.

These three items alone total $18.5 billion.

But there are other items as well which should portend additional large savings.

ADDITIONAL VIETNAM CUTS

First, there are the additional reductions for Vietnam spending which should be made in fiscal 1971. The fiscal year 1971 budget goes into effect on July 1, 1970. Certainly there will be some further reductions in Vietnam spending during that 12-month period.

The administration refuses to tell us what Vietnam will cost. That is a great mistake and I, for one, criticize them strongly for that unnecessary and unwarranted concealment. If Secretary Laird could tell us in October of 1969 what the estimates were for June 30, 1970, the President should be able to tell us in February 1970, what the estimates are for fiscal year 1971.

Nevertheless, to our $18.5 plus billion should be added additional Vietnam savings in fiscal year 1971. Certainly these should amount to a modest $3 to $4 billion. They could be very much more.

END WASTEFUL PROCUREMENT

Second, the budget message tells us we are to provide for the procurement of "carefully selected weapons systems and for a prudent research and development program."

We all know the horrendous waste now found in both weapons systems procurement and in research and development for weapons systems. The GAO has just testified before the Subcommittee on Economy in Government that the overruns on 38 major weapons systems are at least $20.9 billion. Additional huge savings should be made here. The Pentagon should be able to save at least $2 billion in procurement by stopping wasteful practices in addition to any actual cuts in the scheduled procurement of weapons systems.

REVISED FORCE LEVELS

Third, we are told that for fiscal year 1971, there is to be a revised defense strategy. On October 16, 1969, Secretary Laird held an informal press conference at the Pentagon. He announced then that for the first time in many years the budget for fiscal year 1971 would not be based on the assumption that our military forces should be capable of waging two major land wars—one in Europe and one in Asia—and a minor brush fire war simultaneously.

Secretary Laird announced that for fiscal year 1971 he had instructed the Joint Chiefs of Staff to submit budgets that would maintain the capability of fighting one major and one minor war simultaneously.

That revised strategy, from forces capable of waging two and a half wars to a force level to meet merely one major and one minor war, should be reflected in a somewhat smaller overall defense budget. Certainly this shift should be reflected by at least a billion dollar savings in fiscal 1971.

Throughout the 11-week debate on the military authorization bill in 1969 the critics of military spending were told time and again that no meaningful reductions could be made until the two and a half war strategy was changed.

It has been changed. We should get meaningful cuts.

FEWER OVERSEAS BASES

Finally, there is at least one further major item which should result in vastly reduced expenditures. We now have 429 major and 2,972 minor bases scattered over 30 countries throughout the world. Many of them are obsolete, or the reasons they are where they are are obsolete. The Symington committee is now reviewing these, and major cuts should be made. A modest half a billion dollars in savings should be made in fiscal year 1971 by reducing the overseas bases outside Vietnam over and above the minor savings now contemplated.

Thus, in addition to the $18.5 billion-plus of direct reductions, we should add additional cuts in Vietnam spending for fiscal year 1971, savings in weapons systems procurement, savings which should result from reducing our force levels from a two and a half to a one and a half war contingency, and a reduction in some of our bases all over the world. Other savings are possible too, and this should by no means exhaust the possibility for Pentagon savings.

But let us limit ourselves to this most conservative and modest estimate.

GROSS SAVINGS ON $25 BILLION

This total of Defense cuts and reductions for Vietnam, for announced troop and civilian personnel reductions, for bases, for the revised two and a half war strategy, and for savings on weapons systems procurement, amounts to at least $25 billion.

INFLATION, PAY HIKES, ETC. REDUCE SAVINGS

This, of course, is an estimate of gross savings. The net would be smaller. One must take account of higher pay and allowances for both the military and civilian personnel still employed. Retired pay expenses are up slightly. We know that the military costs are affected by inflation, as are civilian costs.

Generous allowances are already made in the budget and in weapons system contracts for this problem. But at a 10-percent rate over and above the generous amounts already allowed, only $2.5 billion of the savings would be eaten up by inflation.

If we are generous and allow a total of $10 billion for inflation, for additional pay and allowances, for possible double counting, and for other costs, that still

leaves a net cut of about $15 billion in Defense costs which should be reflected in the fiscal year 1971 budget.

WHERE HAS $15 BILLION NET SAVINGS GONE?

But where has the $15 billion plus gone? Who gets it? Why is the Pentagon budget only $5.3 billion below last year and $6.7 billion below the peak fiscal year 1969 outlays?

The question is, who stole the peace dividend? Who usurped the military cuts? Where did $10 billion disappear?

PENTAGON HAS USURPED $10 BILLION OF THE PEACE DIVIDEND

The answer is that the Pentagon is keeping it. They are not cutting back as much as their press releases suggest. Instead of making real savings by improving the procurement of weapons systems, by using personnel more efficiently, and by cutting back on the frills and unnecessary perquisites of the Military Establishment, the Pentagon is absorbing for its own use about $10 billion of the savings. And this $10 billion should be used for other priorities.

SAVINGS EATEN UP BY NEW WEAPONS SYSTEMS

Let me say specifically where some of it is going. The Army intends to take part of it for phase II of ABM.

The Navy is absorbing vast huge dollar amounts of the savings in converting the Polaris submarines to the Poseidon system at costs which now exceed the original estimates by over $3 billion. Some of it is being eaten up in the Poseidon overrun.

OVERRUNS TAKE PEACE DIVIDEND

The Air Force is usurping its share of the fiscal or peace dividend through huge overruns on the Minuteman program. Secretary Shillito agreed before the Economy in Government Subcommittee of the Joint Economic Committee last summer that the overrun on Minuteman was in the $3 billion-plus category.

The Air Force is also moving forward with the SRAM missile for late models of the B–52's and the FB–111. The GAO said the costs of this program had gone up from an estimated $261 million at the contract definition stage to a $1.47 billion current estimate, or an increase of $1.2 billion.

The Air Force has usurped additional amounts of the peace dividend to pay for the huge AWACS over the horizon radar and airborne warning and control system. Some $18 billion has already been spent for SAGE and AWACS even though the Russians have no modern intercontinental bomber system.

These huge funds were expended to meet a nonexistent threat. Yet this is justified by the argument that the expenditure kept the Russians from developing an intercontinental bomber capability. Added funds are in the budget for AWACS.

NAVY GETS ITS SHARE

The Navy has usurped its share of the peace dividend through its $2.6 billion annual fleet modernization program, an increase of $1 billion annually over the 1967–69 Navy modernization expenditures.

The Army is doing its share in wasting funds by pushing forward with tanks which do not work and duplicate antitank weapons.

GROSS SAVINGS IDENTIFIED

The facts are that a reduction of about $25 billion in gross military costs and $15 billion in net military costs can be identified. These involve a $13 billion cut in Vietnam expenditures to be in effect by June 30, 1970, a $5.5 billion cut already announced in military and civilian personnel in fiscal 1971, plus additional savings of at least $6.5 billion which should result during fiscal year 1971 from four sources. These are: First, additional Vietnam cuts; second, the revised defense strategy; third, a reduction in overseas bases not associated with Vietnam; and fourth, savings which should come from the "prudent" management of weapons systems procurement the budget message proclaims.

An estimated $10 billion of the $25 billion will be eaten up in pay raises, inflation, and uncontrollable items, leaving a net of $15 billion.

SUM OF $10 BILLION USURPED BY MILITARY

But this "net" cut of $15 billion or more translates into a reduction of budget outlays of only $5.3 billion. The remaining $10 billion has been absorbed and usurped by the military services.

TAXPAYERS ROBBED

The Pentagon has heisted $10 billion of the peace dividend. The long-suffering taxpayers have been robbed of $10 billion in tax relief or improved domestic services or a combination of the two.

Mr. Moynihan's predictions have come true. When one examines the details of the new Nixon budget, it is clear that the peace dividend has "turned out to be evanescent, like the morning clouds around San Clemente."

The American public has been short changed. Congress should redress the imbalance and return the $10 billion to the taxpayers or to urgent priorities.

I ask unanimous consent that a table reflecting the facts I have set forth in this speech be printed in the RECORD at this point.

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

Pentagon savings

[In billions of dollars]

Announced savings:	
Cut in Vietnam expenditures at the end of fiscal year 1970 announced by Secretary Laird	13.
Announced reduction in military personnel of 600,000 by June 30, 1971	4. 5.
Announced reduction in civilian personnel by June 30, 1971 of 150,000	1.
Subtotal	18. 5.
Additional savings:	
Fiscal year 1971 Vietnam savings	3 to 4.
Savings by more efficient procurement	2.
Reductions from revised two and a half war contingency	1.
Closing of some of the 429 major and 3,972 minor bases in 30 countries throughout the world now obsolete and not included in budget	0. 5.
Total, gross savings	25 to 26.
Less:	
Allowance for pay increase, inflation, double counting, and uncontrollable items	—10.
Net savings	15 to 16.
Savings reflected in reduction of 1971 budget outlays over 1970 budget outlays	—5. 3.
Estimated savings usurped by military in 1971 budget	9. 8 to 10. 8.

PRESIDENT JOHNSON DISTORTS HISTORY

Mr. YOUNG of Ohio. Mr. President, it was with a feeling of shocked surprise that I watched and listened to Walter Cronkite's recent television interview with former President Lyndon B. Johnson. It was with sadness and astonishment that I heard a somewhat hysterical version of the various recommendations and plans he spoke of regarding our involvement in that immoral, undeclared war in Vietnam.

Also, it was startling in the extreme to hear him disavow ever having the aim and purpose to achieve a military victory by our offensive bombing of North Vietnam. In the course of his rambling remarks speaking of the North Vietnamese armed forces he said, "We were just trying to stop them at the bridge." The most astonishing of all was his statement that the Vietcong Tet lunar offensive of the last of January and early February 1968 was a victory for General Westmoreland and our forces.

Mr. President, I was in Vietnam and visited the Danang and Khesanh area 4 days before the Tet Lunar offensive of General Giap began. In the Danang and Khesanh area I did not go along in its entirety with the guided tour provided by our commanders in Vietnam for visiting Congressmen. I did follow the custom of talking with General Westmoreland. Also, General Cushman commanding the marines who were on the defensive in the Danang area honored me with a reception and, of course, I talked with him. I report that in that area I also talked with Ohio GI's and succeeded in talking privately with a marine sergeant and others making it a point to separate myself not only from my escort officer, but from Marine Corps officers.

The generals, including General Westmoreland, told me that without a doubt the Vietcong would try to overrun Khesanh during the Tet lunar holiday, and that this important outpost would be held by our marines at all costs and the North Vietnam units would be held back with great slaughter. General Westmoreland was proud of the fact that he had withdrawn 40,000 soldiers from other areas, and he and his generals told me that they had encircled the encirclers. He and his generals informed me that 40,000 fighting men had been withdrawn from the interior and central highlands and that the Vietcong were being encircled and would be annihilated when they attacked Khesanh and tried to overrun Danang as he predicted they would. I was informed by Generals Westmore-

land, Cushman, and others that Khesanh was a defense outpost of utmost importance and that the enemy would concentrate on an all-out assault but that this important outpost would be held at all costs and the enemy was in for a surprise.

In conversations with an Ohio sergeant and other GI's, after I told them I had been a private and later an officer and that I found it a lot harder to be a private than an officer, the sergeant said:

I feel there is something phony going on and they are trying to make us believe they will try to overrun Khesanh. I have placed a bet they will not attack Khesanh or Da Nang.

How right he was. General Westmoreland was completely outgeneraled by General Giap, the victor over the French at Dienbienphu in May 1954. The Vietcong attacked almost everywhere else in South Vietnam. They invaded, captured, and held these provincial capitals for days and, in fact, held Hue for 1 month. That so-called important outpost Khesanh never attacked was abandoned within a month.

What about this victory that General Westmoreland and President Johnson claim was our victory during the Tet lunar holiday? Psychiatrists have a name for General Westmoreland and others who delude themselves and really believe a bitter defeat was a victory. There was no attack on Danang or Khesanh. It was shocking enough to anyone to observe our marines on the defensive in these areas, when the facts are that they should have been in the Mekong Delta or spearheading amphibious landings. Our marines are trained for offensive combat and for spearheading amphibious landings. They are the finest, most intelligent and best trained fighting men in the world. It was astonishing that at Khesanh and Danang our marines were on the defensive. Some marine officers in the lower echelon, I refer particularly to one captain and to two sergeants, told me they wished they were permitted to take the offensive in the Mekong Delta or some other area instead of digging in and waiting around Khesanh and Danang.

There are 44 provincial capitals in South Vietnam. Instead of attacking at Khesanh, the Vietcong and North Vietnam forces overran and captured 37 of the 44 provincial capitals. In every instance their forces went for the jails and liberated all prisoners, including thousands of political prisoners who had never been tried. In Saigon they breached the fortress-like American Embassy. For 7 hours they held possession of our Embassy. Is it possible that General Westmoreland and former President Johnson claim a great victory when the capital city of the militarist regime we are supporting, Saigon, and our own Embassy were invaded? We Americans were made happy at that time that our Ambassador, Ellsworth Bunker, escaped death or capture. Perhaps General Westmoreland's claims that the Tet lunar offensive on the part of the Vietcong and our forces on the defensive throughout South Vietnam was really a great victory because our Ambassador escaped capture and we Americans regained our own Embassy following 7 hours of fighting.

It is said that more than 7,000 political and other prisoners in jail in Saigon were liberated. The Vietcong in all the provincial capitals freed prisoners from jails no doubt conscripting many thousands of men in their armed forces. This was at the height of the rice collection season, and they also seized huge quantities of rice in all of the cities they captured. True, Ambassador Bunker who fled from our Embassy was not killed or captured by the Vietcong. Is it for this reason that General Westmoreland and former President Johnson claim this was an American victory?

Hue, the ancient capital, was captured and only after 30 days of frontal assaults with great loss of life on the part of our marines was Hue regained. During that period of terror the Vietcong killed hundreds of inhabitants. They occupied the center of that beautiful city. Finally, following a month of fighting our heroic marines by sheer force of numbers and firepower killed or forced out of Hue all of the Vietcong. Throughout that 30 days of fighting our generals resorted to no encircling or flank attacks against the Vietcong held citadel at Hue. Day after day it was one frontal assault following another and our marines suffered great loss of life.

It is a hysterical statement by President Johnson to term this grave defeat and setback under the leadership of General Westmoreland as an American victory.

President Lincoln more than a hundred years ago fired his generals who were failures. To name a few, Gen. Erwin McDowell, whose forces were routed by the Confederates July 21, 1861, never commanded Union troops thereafter. Gen. John Polk, who commanded a superior force in the second battle of Manassas, or Bull Run, in late August 1862 was soundly beaten and fired. Fighting Joe Hooker at Chancellorsville May 2, 1862, commanded a Union Army far greater in number than the opposing Confederate forces of Generals Lee and Jackson. I can report accurately that as the XI Corps of Ohio soldiers on the right flank of Fighting Joe Hooker's huge army were enjoying their supper, they were attacked and routed by a lesser force of Confederates, who had marched silently around General Lee's few soldiers who were holding the line against a huge force with the fighting men standing about 6 feet apart, and took the Union Army by surprise. Fighting Joe Hooker in the confusion with the routed soldiers of the XI Corps fleeing in panic passing his headquarters neither tried to rally these men nor counterattacked with his troops who had not been in combat. President Abraham Lincoln fired him and placed Gen. George Meade in charge of the Army of the Potomac.

What did President Johnson do? Did he fire General Westmoreland? To the contrary, he promoted him to be Army Chief of Staff. The best that can be said is that President Johnson removed General Westmoreland from leadership of our troops in combat and moved him upstairs in Washington, and selected Gen. Creighton Abrams, a highly respected fighting general, probably our best, as chief commander in Vietnam and Thailand.

It was sad to observe and listen to former President Johnson in his rambling television interview arguing in a somewhat hysterical manner that we Americans won a great military victory by repulsing the enemy's Tet offensive. He did not dwell on the fact that our military leaders requested 206,000 more American fighting men. He sloughed off the fact that General Westmoreland's request for 40 percent more fighting men reflected not victory but our weakness.

President Johnson's assessment of the 1968 Tet offensive "as a disaster, a debacle, and a serious military loss" for the Vietcong ignores overwhelming evidence to the contrary. The former President took the same distorted view of other events during his administration regarding our deepening involvement in Vietnam. His severe unjustified criticism of the distinguished chairman of the Senate Committee on Foreign Relations (Mr. FULBRIGHT) and his part in the passage of the Tonkin Gulf resolution ignores completely the deceit perpetrated on the Congress and on the distinguished junior Senator from Arkansas (Mr. FULBRIGHT) by the President and members of his administration regarding the facts on the so-called attack by North Vietnamese gunboats on the destroyers *Maddox* and *Turner Joy*.

The fact is that the chairman of the Foreign Relations Committee deserves the gratitude of all Americans for his efforts in helping to make Americans aware of the futility and stupidity of our continuing to wage an immoral, undeclared war in Vietnam. Unfortunately, it appears that former President Johnson cannot accept the fact that his decision to turn the civil war in Vietnam into an American air and ground war was the most horrendous mistake ever made by any President in the history of our Republic.

Mr. Johnson himself appeared exasperated during portions of the program especially when he discussed his relations with war critics. His caustic characterization of his former senatorial colleague Senator J. WILLIAM FULBRIGHT as "this Rhodes Scholar" confirmed that the crevice of disagreement which arose between them over Vietnam has indeed widened into a canyon. Generally, this viewer was left with the impression that although the former President has made a pleasant transition from the White House to retirement at his Pedernales Ranch he remains perplexed with the public's criticism of his Vietnam policy, intransigent in his views and still mired in the mud of a major ground war in Vietnam inaugurated while he was President and Commander in Chief of our Armed Forces. On the day President John F. Kennedy was assassinated we Americans had 16,120 military advisers in Vietnam. No combat troops.

The interview with former President Lyndon Johnson televised on CBS last Friday night was very poor history. Lis-

tening to his account of the events, I did not know whether to be outraged at what I regard as his attempt to distort history, or saddened by his apparent complete self-delusion.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed now to the transaction of routine morning business.

SENATE JOINT RESOLUTION 172—INTRODUCTION OF JOINT RESOLUTION DESIGNATING FIRST FULL WEEK IN MAY OF EACH YEAR AS "CLEAN WATERS FOR AMERICA" WEEK

Mr. McCLELLAN. Mr. President, for myself and my colleague (Mr. FULBRIGHT) I introduce, for appropriate reference, a joint resolution (S.J. Res. 172) designating the first full calendar week in May of each year as Clean Waters for America Week.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 172) to authorize the President to issue annually a proclamation designating the first full calendar week in May of each year as "Clean Waters for America Week," introduced by Mr. McCLELLAN (for himself and Mr. FULBRIGHT), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, the current enthusiasm for improving environmental quality is most welcome. The breadth of concern ranges from conservation of minerals, to solid waste disposal, to considerations of natural beauty. Everyone is talking about environmental problems and they include virtually all of human activity.

The Congress has passed an impressive number of laws for action programs to do something about improving our environment. Most recently the National Environmental Policy Act—Public Law 91–190—was signed into law by the President. This act declares that it is the policy of the U.S. Government to create and maintain conditions under which man and nature can exist in productive harmony. Title I states:

> Each person should enjoy a healthful environment and has a responsibility to contribute to the preservation and enhancement of the environment.

The leadership of the Congress has been particularly strong on legislation for water quality and productivity. The Water Quality Act of 1965—Public Law 89–234—was a landmark law, establishing the Federal Water Pollution Control Administration. It called for the States to set standards based on federally promulgated criteria. After 4 years of scientific study and river basin planning, the Nation is making the hard choices and committing the funds to meet these standards. The Clean Waters Restoration Act of 1966 authorized matching funds to local governments for sewage treatment plant construction. Last year the Congress appropriated $800 million for this purpose and in fiscal year 1971, $1¼ billion is authorized. Other acts have authorized and funded the extensive works of the Corps of Engineers and the Bureau of Reclamation. Through annual authorizations, the Congress has maintained a strong research and development effort in the desalting of sea water and brines. The Water Resources Act—Public Law 89–80—established river basin commissions and the Water Resources Council. Last year Public Law 90–515 set in motion a 5-year intensive review of the entire water problem by the National Water Commission. These diverse efforts assure steady progress but there are many facets to the water resources issue and water quality is only one part of the broadening interest in the environment.

Priorities must be set and the emphasis of limited revenues and manpower placed on the most critical natural resource areas. I believe that water is at the top of the list and that we should periodically remind ourselves of the importance of water while we are recognizing and appreciating the more subtle and particular interactions of man and his surroundings. That is why it is fitting to set aside a time especially to examine the status of water resources and the quality of our streams, lakes, and reservoirs. We are well aware of the enormous requirements of a modern industrial society for water. The laws we have established implement a national policy of multiple use.

The Arkansas River is an instructive example of the many purposes of a great watershed. From the time that a trickle of rainfall or melted snow enters its upper tributaries until the full river empties into the Mississippi, the same water will serve recreation, transportation, agriculture, drinking water supply, industrial cooling, hydroelectric power production, and the esthetic pleasure of just viewing a healthy, flowing stream. Presently, the river is open to barge traffic from the Mississippi River to Fort Smith, Ark. The great complex of dams, channels, and reservoirs is not yet complete but the dream which we had in the 1930's is becoming an impressive reality. The benefits from the various uses now possible in this region of America can never adequately be described in dollars and cents. The quality of life for millions of people in the Arkansas basin has been improved by the intelligent development of this water resource.

The State of Arkansas is abundantly blessed with many lakes, rivers, and streams of clean, usable water which are free from pollution and we propose to keep them that way.

There are other success stories around the Nation, but there are also some major catastrophies in the making. Pollution must be corrected in the Great Lakes and most large river systems and estuaries of the east coast. Water supply crises are always hovering over New York City and the Pacific Southwest. The great increase in boating recreation threatens to overwhelm the recent development of inland reservoirs and lakes. Enormous growth in electric power generation produces corresponding quantities of waste heat which is largely dissipated in surface waters, changing the ecology of the river or bay.

Thus, the observation of Clean Waters for America Week should dramatize the very real accomplishments of the past, the importance of water resource planning for the future, and the urgency with which we must attack some present day pollution problems.

The Federal Government is well organized to participate in such an event. The Water Resources Council coordinates most of the agencies with responsibilities for water quality and the many uses of our rivers, lakes, and ocean areas. I call on all departments to contribute imaginative suggestions for Clean Waters for America Week activities. There should be a variety of opportunities for education of young persons. The demonstration of successful water management is important to sustain taxpayer support for the continuing programs and projects ahead.

Mr. President, the restoration and maintenance of environmental quality and productivity has become a major national issue. I submit that the joint resolution which Senator FULBRIGHT and I introduce today is an appropriate recognition of clean water as the central objective of environmental management. I urge rapid adoption of the measure so that planning can proceed for the first Clean Waters for America Week in May of this year. I invite the participation of my colleagues in the Senate and citizens everywhere in the events which will take place all over the country.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. 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 Chair recognizes the Senator from New York.

S. 3425—INTRODUCTION OF A BILL TO AMEND THE WAGNER-O'DAY ACT

Mr. JAVITS. Mr. President, I introduce for myself, the senior Senator from Washington (Mr. MAGNUSON) and the Senator from West Virginia (Mr. RANDOLPH) an amendment to the Wagner-O'Day Act—the 1938 law which for the past 32 years has given to the blind a special priority in the selling of certain products to the Federal Government.

This bill has two principal objectives: First, to extend the priority now reserved for the blind to the other severely handicapped, assuring, however, that the blind will have first preference; and second, to expand the category of contracts under which the blind and severely handicapped would have priority to include services as well as products, reserving to the blind first preference for

5 years after the enactment of the bill. No additional Government expenditures would be occasioned by this measure. A companion bill will be introduced in the House of Representatives by Representative CRAIG HOSMER of California, and other Members of the House.

Largely through the opportunities made possible by the Wagner-O'Day Act, there are now over 5,000 blind persons earning regular wages in 79 workshops for the blind in 35 States, turning out over 300 high-quality products. This bill would broaden their opportunities by allowing for special consideration in Government contracts for services in addition to products. Also, it would permit the severely handicapped to avail themselves of similar opportunities, without impinging on the first preference given the blind.

This measure has the support of principal organizations for the blind and the severely handicapped. These include the American Association of Workers for the Blind, the American Foundation for the Blind, the Federation of the Handicapped, the Goodwill Industries of America, International Association of Rehabilitation Facilities, National Association for Retarded Children, the National Association of Sheltered Workshops and Homebound Programs, the National Industries for the Blind, and the National Rehabilitation Association.

In Japan, nearly a third of that country's blind and partially blind are employed; in the United States no more than one-fifth of the blind are employed. As for the handicapped, a recent study indicates that up to 50 percent more disabled persons could be helped by a sheltered workshop if more work were available to them. Today, over 100,000 disabled—including blind disabled—are served each year by the 1,500 sheltered workshops in the Nation.

The proposed legislation is not a welfare measure. It is a hard-nosed proposal to help those who have no choice but to help themselves. The blind and the severely handicapped wish to be self-supporting and to be taxpayers, not tax burdens. This legislation would provide a significantly increased number of opportunities for work for those who otherwise might be relegated to institutions, to welfare programs or supported by already burdened families. After 32 years of successful operation, the Wagner-O'Day Act must now be strengthened as I propose.

In closing, I wish to state that I am particularly gratified that Senator JENNINGS RANDOLPH is a cosponsor of this bill. As a Member of the House, he was a coauthor of the Randolph-Shepherd Act which for the past 34 years has benefitted blind vendors in public buildings. Senator RANDOLPH has long been a pioneer in the effort to help the blind become productive citizens—as they are able. I think it is magnificent that he has lent himself to this effort as well.

I sent the bill to the desk for appropriate reference, and I ask unanimous consent that its text be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3425) to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for other purposes, introduced by Mr. JAVITS (for himself, Mr. MAGNUSON, and Mr. RANDOLPH), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to create a Committee on Purchase of Blind-made Products, and for other purposes", approved June 25, 1938 (52 Stat. 1196; 41 U.S.C. 46–48), is amended by striking out all after the enacting clause and inserting in lieu of the matter stricken the following: "That there is hereby created a Committee to be known as the Committee for Purchase of Products and Services of the Blind and other Severely Handicapped (hereinafter referred to as the 'Committee') to be composed of two private citizens conversant with the problems incident to the employment of blind and other severely handicapped individuals and a representative of each of the following Government Department or Agencies: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Health, Education, and Welfare, the Department of Commerce, the Department of Interior, the Department of Justice, the Department of Labor, and the General Services Administration. The members of the Committee shall be appointed by the President, shall serve without additional compensation, and shall designate one of their number to be chairman.

"SEC. 2. (a) It shall be the duty of the Committee to determine the fair market value of all brooms and mops and other suitable commodities produced and offered for sale by, and services offered by, blind and other severely handicapped individuals to the Federal Government by any nonprofit agency for the blind or other severely handicapped, organized under the laws of the United States or of any State, to revise such prices from time to time in accordance with changing market conditions; and to make such rules and regulations regarding specifications, time of delivery, authorization of a central nonprofit agency or agencies to facilitate the distribution of orders among the agencies for the blind and other severely handicapped, and other relevant matters of procedure as shall be necessary to carry out the purposes of this Act: *Provided,* That no change in price shall become effective prior to the expiration of fifteen days from the date on which such change is made by the Committee.

"(b) Rules and regulations of the Committee shall provide that, in the purchase by the Government of commodities produced and offered for sale by the blind and other severely handicapped, priority shall be accorded to such commodities produced and offered for sale by the blind, and that, in the purchase by the Government of services offered by the blind and other severely handicapped, priority shall, until the close of June 30, 1975, be accorded to services offered by the blind.

"SEC. 3. All brooms and mops and other suitable commodities and services hereafter procured in accordance with applicable Federal specifications by or for any Federal department or agency shall be procured from such nonprofit agencies for the blind or other severely handicapped in all cases where such articles or services are available within the period specified at the price determined by the Committee to be the fair market price for the article or articles or services so procured: *Provided,* That this Act shall not apply in any cases where brooms and mops and other suitable commodities and services are available for procurement from any Federal department or agency and procurement therefrom is required under the provisions of any law in effect on the date of enactment of this Act, or in cases where brooms and mops and other suitable commodities and services are procured for use outside any State.

"SEC. 4. For purposes of this Act—

"(a) the term 'severely handicapped' means an individual or class of individuals who is under a physical or mental disability which constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment; and

"(b) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 2. The amendments made by the first section of this Act shall take effect on the first day of the ninth month following the month in which this Act is enacted.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, if it is agreeable to other Members who may be waiting, I would ask the indulgence of the Chair to be recognized for 10 minutes, to make some remarks on my recent trip to Japan.

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

The Senator from New York is recognized for 10 minutes.

SENATOR JAVITS REPORTS ON HIS TRIP TO JAPAN

Mr. JAVITS. Mr. President, it is increasingly recognized that the policy and posture of the United States in post-Vietnam Asia will be determined to a very major extent by the viability and creativity of our relationship with Japan. With this in mind, I made a 4-day visit to Japan, January 25 ot 28, as the culmination of a trip to seven countries, as a member of the Foreign Relations Committee.

In Japan I met with Prime Minister Sato, Foreign Minister Aichi, Minister of International Trade and Industry Miazawa, and the leaders of Japanese business under the auspices of the Keidanren. In addition, I met with a group of militant Japanese student leaders, the foreign affairs spokesman of the opposition Komeito Party, a gathering of Japanese avant garde artists, and I was the guest at a working lunch hosted by Vice Foreign Minister Usiba. On January 26, I addressed the Japan-America Society, in which I reviewed the whole range of United States-Japan relations with particular emphasis on trade relations.

On the American side, I met with Ambassador Meyer, Minister Sneider—who was the U.S. negotiator for the

Okinawa agreement—Minister-Counseler for Economic Affairs Barger, our Consul General in Osaka William Sherman, and Ambassador Chernoff, the U.S. representative to the Expo '70 fair in Osaka. In addition, I met with the chairman and officers of the Private Investment Co. for Asia—PICA—at the PICA headquarters in Tokyo.

My discussions in Japan were focused on two broad questions: Asian security problems—and trade relations between the United States and Japan.

With respect to security issues, I found on the Japanese side a noticeably increased concern about Vietnam and Southeast Asia as well as a continuing concern about what Japan considers its own immediate defense perimeter in South Korea, Okinawa and Taiwan. In addition, there were expressions of thoughtful concern about Japan's relations with its two giant Asian neighbors, Communist China and the U.S.S.R., although the Japanese do not seem to feel that very much can be done in the near future to improve their relations with Moscow or Peking.

While I was in Japan the decision was made to sign the Nuclear Nonproliferation Treaty. I regarded this as a most significant and hopeful development which I hope will be followed up by further constructive Japanese initiatives in the nuclear arms field.

It seems clear from my conversations that Japan has derived deep satisfaction and national reassurance from the Nixon-Sato agreement on the reversion of Okinawa. Japan has begun to think of its role in Asia in new and more positive and active terms following the agreement with us on Okinawa.

Significantly in this regard, I found a comprehension by the Japanese of the relationship of the Okinawa agreement to the broader doctrine announced by President Nixon at Guam foreshadowing a new and multilateral U.S. security posture in Asia following the Vietnam war. In my judgment, this comprehension of a multilateral U.S. security role in Asia is what has prompted greater Japanese concern with Vietnam and Southeast Asian security.

In Japan as I had found in Vietnam itself, I found understanding and approval of U.S. combat withdrawal from Vietnam, and the turning over of the responsibility to the GVN—Government of South Vietnam. But I also found that Japanese leaders favor a much slower and more gradual U.S. withdrawal than I believe is the intention of the President, and certainly much slower than I believe to be essential for broader U.S. interests.

Significantly, Japanese concern over the pace of U.S. withdrawal as expressed to me, had a major, positive new dimension. This new dimension is the expressed willingness in Japan for it to assume a significant new responsibility in the economic field, perhaps in the context of a "master plan" for the reconstruction and development of Vietnam. I saw indications that Japan's efforts in this regard need not await a formal or juridical end of the Vietnam war.

It is widely recognized that Japan's new role in Asian security cannot be in the military field, or even in the field of political leadership under present conditions. But a major economic development role, even beyond Vietnam and Southeast Asia, is being contemplated. With respect to Vietnam, an expanded Japanese economic role would probably be presented in terms of an offer to assist in the development and reconstruction of both South Vietnam, and—if it accepts—North Vietnam, too.

Japanese business leaders also expressed concern about Vietnam and a certain willingness to increase private business activities there, provided better security assurances could be obtained. I believe that there is much the Japanese Government could do, through investment guarantees and other programs, to bring Japanese private enterprise into Vietnam's economic development in a significant way.

In terms of broader Asian economic development, I found a readiness on Japan's part to play a major role within some kind of consortium arrangement in which the United States would also be a major participant. The Japanese seem to be aware of the residue of distrust and fear of Japanese economic and political domination which still persists in Asia. This awareness undoubtedly contributes to the Japanese readiness to act essentially in a multilateral way in cooperation with the United States, and also such other Asian governments as those of Thailand, Malaysia, the Philippines, Indonesia, Taiwan, Republic of China, and South Korea.

Japan seems ready to act in a significant way—both governmentally and in the private sector—to accelerate economic development efforts in Asia. In this regard, Japan has already pledged $100 million to the "soft loan"—special fund—window of the Asian Development Bank. The U.S. pledge to make available an equal amount has not yet been acted upon by Congress. In my judgment, it is critical that the United States come through on its own pledge which is so necessary to give momentum to economic development in Asia as the Vietnam war winds down, and which is needed to supplement the Japanese contribution.

In addition to these broad Asian security themes, my discussions in Japan focused on the major problems which have arisen to threaten the very foundations of United States-Japan trade and economic relations. I made a public presentation of these issues as I see them in my speech before the Japan-American Society in Tokyo. The full text of this speech, is appended to my report, and I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, the trade problems which I have dealt with extensively in my Tokyo speech are the same ones which I discussed in some depth and in candor in my private meetings with Japan's Government and private business leaders.

The issue most urgently threatening the United States-Japan trade partnership is the U.S. need for a voluntary quota on the export of certain categories of Japanese textiles, which have gravely threatened the economy of our major textile producing States—the Carolinas. As one who has been in the continuing fight for a more open trading world, I made unmistakably clear to the Japanese my conviction that a restraint agreement was necessary to provide temporary relief to the regions undermined economically by the relatively sudden impact of Japanese textile imports in given categories. Without such agreement, I stated I believed that the Congress might well enact protectionist legislation, which could have far-reaching consequences and initiate a protectionist momentum throughout the world. This would be devastating to ourselves and Japan alike and to the other major trading nations of the world.

Among Japanese officials I found an awareness of the potential significance and magnitude of the problem symbolized by the textile problem, and a sincere desire to reach an agreement which would defuse the issue, and head off a broader movement in the protectionist direction. Naturally, the Japanese emphasized the difficulties of reaching an agreement from their viewpoint, including the strong feelings within the Japanese textile industry and sentiment within the Diet against a "quota agreement." Nonetheless, I was given to believe that it would be much easier for the Japanese to make an agreement under multilateral GATT auspices which also involved other such Asian producers as Korea, Taiwan, Hong Kong, India, and Singapore.

Regarding the sensitive question of Japanese textile imports to the United States, I would make the following suggestions:

First, let us get this matter off the front pages of newspapers and onto the bargaining table before unwitting damage is done to United States-Japanese relations.

Second, contrary to some allegations, my conversations with Japanese leaders have convinced me of the Japanese desire to reach a prompt and just settlement of this trade dispute. Toward this end, they have progressively modified their negotiating position. Negotiations must be a two-way proposition. As the Japanese have been delinquent in recognizing that trade must be a two-way street where one side should not enjoy a $1 billion plus surplus, perhaps U.S. negotiators have not sufficiently realized that negotiation to be fruitful must also encompass give and take. It should also be recognized that this is a problem involving textile exporting nations other than Japan; and involving as well Japanese relations with other Asian nations and probably Western Europe. It is a matter that should be treated in a multilateral context. I also question whether the entire textile and apparel industry requires protection, or only those specific areas which have sustained serious injury from the sudden impact of imports.

Third, to circumvent the developing

inpasse which could have important international ramifications and looking into the problems confronting the United States and Japan in this area, I recommend that the President convene a special presidential task force to investigate, with Tariff Commission support, the question of injury. The finding of this task force as to the injury being sustained by our textile and apparel industry through increased levels of imports could form, in my opinion, the basis of just and equitable negotiations with the Japanese. It would be useful also in providing the Japanese Government with ammunition to use against their own potent textile industry lobby. I believe that my recommendation is fully consistent with the President's desire to liberalize the escape clause provisions of the Trade Expansion Act. In his message to the Congress on his proposed trade legislation, the President stated:

> I recommend a liberalization of the escape clause to provide, for industries adversely affected by import competition, a test that will be simple and clear; relief should be available whenever increased imports are the primary cause of actual or potential injury. The increase in imports should not—as it now is—have to be related to a prior tariff reduction.

Even though this proposal is not yet law, I urge the President to apply this simple and clear test to the textile industry. Such an application could form the basis of a solution to this serious problem.

In making this recommendation, I note that the precedent of using a special task force to make a priority study for the President on an import problem has already been established in the case of the shoe industry. I have been informed that the President will have this study on shoe imports on his desk in the very near future, if it is not already there. I do not believe that the political ramifications of the textile problem exceed that of shoe imports: Have not approximately 400 Congressmen and Senators made their wishes known on shoes?

In making this recommendation, I must note that as our economy slows down and as the inflation is stemmed, our balance on the trade account improves. Our surplus on the trade account has improved over the past year, and it probably will show further improvement in 1970. If we restrict any import without reference to injury criteria, I think that we would be leaving ourselves wide open to retaliation. And the areas in which we are vulnerable to retaliation are many, such as agricultural exports, to name only one.

My visit to Japan reaffirmed by conviction that the world is at a dangerous crossroads with respect to world trade. Protectionist forces have gained strength in the United States to the point where the whole U.S. trading posture of the post-war period is being called into question. Protectionist forces within the European Common Market are as strong as in the United States, and within Japan itself—the third major free world trading entity—entrenched protectionist forces continue effectively to resist meaningful loosening of foreign investment and manufacturing restraints.

In my judgment, 1970 is likely to be a watershed year which determines whether international trade continues to increase with the momentum that characterized the 1960's or falls prey to the parochial protectionist forces in the United States, Europe, and Japan that are derived from the defects and imbalances which accompanied the expansion of the 1960's.

This is a broad theme of critical significance which I intend to pursue, I wish to underscore one vital aspect of the broader trading question.

I have no doubt but that the success of Nixon's Guam doctrine, and the security of non-Communist Asia which depends on the success of that doctrine, will be determined in a major way by the degree of success we have in resolving the very real problems that have come to the fore in our trade relationship with Japan. These problems will require statesmanship of the highest order if they are to be resolved in a creative and mutually reinforcing way. However, if we and the Japanese allow ourselves to be trapped and overwhelmed by these problems, a heavy price will be paid by both countries, as well as by the Asian nations whose security depends on our joint development efforts.

EXHIBIT 1

A SENATOR LOOKS AT UNITED STATES-JAPAN RELATIONS

(Text of an address by Senator JACOB JAVITS before a luncheon meeting of the America-Japan society Tokyo, Monday, January 26, 1970)

Relations between the United States and Japan are now entering a significant new phase. The relationship of inequality deriving from the end of World War II has now been replaced by a relationship of equality. The symbol of the new equality is the agreement on the reversion of Okinawa announced in the Nixon-Sato communique of November 21, 1969. In my judgment, this agreement will rank in history as one of the major diplomatic achievements of the century.

The extraordinary importance of the agreement on Okinawa was momentarily more immediately and widely recognized in Japan than in the United States, but Americans will soon be as appreciative of the accomplishment as are the people of Japan.

Naturally, I view with great satisfaction the high statesmanship exercised in this agreement by President Nixon who insisted at each crucial stage in the negotiations that the American position would be governed by our long-range national interest in a peaceful and enduring cooperation with Japan—even when this meant the sacrifice of immediate military requirements and convenience. A similar spirit of high statesmanship and accommodation was demonstrated on the Japanese side. Neither would have been possible without the support of our respective peoples. And I believe also that this attitude will be extended to the negotiation of the agreement regarding U.S. businesses on Okinawa which Congress will also be watching with great interest.

One of the great issues in the United States today—and also a vital international task—is the debate in the Congress over the proper role for the United States in post-Vietnam Asia. The United States is determined to bring its participation in that struggle to an end. There are some in the U.S. who argue strongly for an almost total U.S. withdrawal from Asia. But I doubt that this view will prevail. Yet, the U.S. role in Asia—particularly its military role—will undergo significant changes. There is a very strong consensus of national opinion against any new involvement of U.S. ground combat troops in Asia.

President Nixon, in what has become known as the Guam Doctrine, articulated what I believe will be the basic guidelines for the U.S. role in Asia for the next decade. It is the kind of role which I think Japan and the other nations of Asia should welcome. In the 1970's the U.S. will play a strong and active role in Pacific Asia, but it will be supportive and developmental in its accent rather than being focused on the "close-in" military containment of Communist China, as was our policy of the 1950's and 1960's.

In effect, the U.S. is acting on the assumption that the 1970's will be a decade of development in Asia—economic as well as political development. Japan's role, in cooperation with the U.S. and others, will have a crucial bearing on the outcome.

Japan needs to live up to the responsibilities of its economic power and its new political maturity. A comparison of the percentage of its GNP spent by Japan on defense with the percentage spent by the U.S. on defense—including that of Japan—shows the order of magnitude of resources available to Japan for this kind of development to which the world has a right to expect from Japan. For 1967 and 1968 these figures are respectively 9.2% for the U.S. (1969—8.5%) and .93% and .84% for Japan. Much will be expected of Japan; much will be demanded of Japan. Japan's economic genius, which has been the marvel of the industrialized world in recent years, needs now to devote more of its attention and creativity to assisting the other nations of Asia to break the cycle of poverty and stagnation. Japan is about to discover—as the U.S. has already—that it is expensive to be "rich."

Another one of the most important international tasks ahead—not just for Asia but for the whole world—is the peace reintegration of mainland China into the family of nations. Japan is uniquely positioned to play a creative and leading role in this respect. In the next three decades, I believe the United States will welcome enlightened Japanese initiative there, for while we will continue to be realists, many of the ideological fears and animosities of the past with respect to mainland China are fading in the United States. Concurrently, there is a feeling in the United States that there has been a sobering and a maturing of Japanese views regarding the difficulties of dealing meaningfully and profitably with mainland China. And, there is a growing appreciation in the United States and elsewhere that Japan not China—will be the economic giant of Asia in the 1970's and '80's. The reintegration of Japan—following the hatreds and destruction of World War II—into the world community provides an example, and even some relevant pointers, of what must be done with respect to China. Japan's incentive in this task is second to none, given the geography and history of Asia.

The deepening of tensions between the Soviet Union and Communist China focuses new attention on the nuclear equation in Asia. The world's greatest danger of nuclear war in the 1970's is war between China and the Soviet Union. There is a very real urgency to the task of building an international environment of nuclear sanity. Japan can play an important role in these efforts. With its huge economy and its world renowned technological virtuosity, Japan can no longer be content with its ostrich-like head-in-the-

sand policy of the past; such a posture based upon its memories of Hiroshima and Nagasaki will not be credible in the 1970's. The new Japan will need to chart a new course which can make more positive contributions to the cause of nuclear arms control—contributions commensurate with its advanced technology and political maturity as well as with its memories.

No one can doubt that Japan has the capacity to become a major nuclear power. But Japan's determination not to pursue this course requires new expression. Japan can play a leadership role by promptly ratifying the Non-Proliferation Treaty and by playing more active role in international arms control efforts.

The cornerstone of U.S. policy in Asia is U.S. cooperation with Japan. Hopes for a peaceful and prosperous Asia—particularly in the post-Vietnam period—will depend heavily on the closeness and viability of that cooperation over the remaining decades of this country. Neither Japan nor the United States can be fully effective in its efforts without the cooperation of the other; and this is true also not only as to the affairs of Pacific Asia but of mainland China and of the USSR.

The make-or-break touchstone of the U.S.-Japan partnership will be our trading partnerships—our agreement on questions of trade, investment and money. Serious differences have arisen in recent years which could threaten the very foundations of the U.S.-Japan trading partnership, if they are not resolved through the mutual statesmanship and forbearance shown by the Okinawa agreement. Because of the importance of these questions, I wish to examine them in some detail, as seen from the perspective of a United States Senator whose reputation at home as a devotee of an open trading world is second to no one's.

Two-way trade between our two nations was close to $8 billion in 1969 but the trade imbalance against the U.S. continued to expand. Because of this and other factors I must say in all candor that the omens for continued cordial economic relations in the 1970s are mixed and that the burden of proof for maintaining these relations mainly rests with Japan.

I was very much encouraged by the economic portions of the Joint Communique between President Richard Nixon and His Excellency Prime Minister Sato of Japan. In the communique the following was stated:

"The Prime Minister indicated the intention of the Japanese Government to accelerate rapidly the reduction of Japan's trade and capital restrictions. Specifically, he stated the intention of the Japanese Government to remove Japan's residual import quota restrictions over a broad range of products by the end of 1971 and to make maximum efforts to accelerate the liberalization of the remaining items. He added that the Japanese Government intends to make periodic reviews of its liberalization program with a view to implementing trade liberalization at a more accelerated pace than hitherto. The President and the Prime Minister agreed that their respective actions would further solidify the foundation of overall U.S.-Japan relations."

While recognizing and applauding these favorable signs, I must urge a much more accelerated timetable in implementing the good intentions spelled out in this communique. Time is short if we are to avert a trade war that could only injure our respective countries. The portents of this danger are clear and present and include:

(1) Japan's trade surplus with the United States in the first eleven months of 1969 totaled $1,344.4 million—an increase of some $200 million over the already unsustainable surplus of $1,102.6 million that Japan enjoyed in 1968.

(2) In the closing hours of the first session of the 91st Congress, the Senate attached a rider to the tax reform bill which would have given the President of the United States almost unlimited authority to impose quotas on products entering the United States. This was an expected conclusion to a year which witnessed increased public outcry over developing trade patterns with particular reference to Japan.

In all frankness I must state that this Senate action which I opposed and which fortunately did not carry in the House-Senate conference and did not become law, is directly related to the Japanese trade surplus. Senator after Senator rose to condemn rising import levels with concern over rising shoe imports and textile imports predominating. Those of us who opposed this rider found it difficult to answer some of these arguments, particularly as they related to rising Japanese imports since a billion dollar trade deficit for two years running stares us in the face. This enormous deficit makes increased levels of certain of Japan's exports to the United States particularly vulnerable since they are concentrated in highly sensitive areas such as textiles, automobiles, shoes, electronics and steel among others.

Trade, as we all know too well, is a two-way street and the continuance of a billion plus dollar surplus between the U.S. and Japan is unsustainable—both politically and economically. Japanese policy makers need to move and move now to liberalize substantially the existing complex of import restrictions. The token liberalizations of the past year are inadequate and not befitting of the great world economic power which is Japan today.

I hope that my remarks convey the sense of urgency that I feel. As you may know the Congress will consider President Nixon's trade bill early in this new session of the 91st Congress. This trade bill, I am convinced, will serve as the lightning rod for many protectionist groups in the United States and efforts to gain support for protectionist amendments are already well underway. It is also clear that such protectionist pressures will find more supporters in an election year.

As I mentioned earlier the Senate attached a quota amendment to the tax bill which was supported by the great majority of the Senate but which was subsequently eliminated by the House-Senate conference. However, the conference report indicates that it was eliminated not because of lack of sympathy with the intent of the rider, but because the rider was not germane to the tax bill. Such riders and amendments will be germane to the coming trade bill and I urge our Japanese friends to take proper cognizance of this fact. The protectionists are out in force, and Japan's trade policies over the past two years have moved the Congress towards declaring an open season. Your Government's actions between now and the time the Congress opens consideration of President Nixon's trade bill will be crucial in determining the size of the target there will be to shoot at. As you all know, the lack of an agreement on textile imports is a particularly sensitive point.

It is clear that in any impartial court of world opinion, Japan's continuing appeal for free market access to other markets of the world must be judged as seriously flawed since Japan does not accord this same free market access to its trading partners. This is particularly true since more than any other nation in the free world, Japan has erected the most severe non-tariff barriers to goods and capital. Since the war, our corporations have actively promoted U.S. sales in the Japanese markets, but have been faced with continued and, in my view, increasingly unjustified trade barriers.

For example, while even Japanese tariff schedules are relatively high and restrictive—particularly on luxury items, chemicals and machinery—the greatest discrimination continues to be the non-tariff regulations imposed or perpetuated here. The more substantive of these barriers to free trade include: First, quantitative import controls, many of which are on agricultural products; second, restrictive licensing requirements; third, sizable commodity taxes on automobiles and liquor which affect imports more severely than domestic production; fourth, a prior import deposit requirement of one per cent which can be disastrous to the importer when credit is tight or profits are slim; and fifth, the institution of "Buy Japan" policies. The impact of these restrictions varies according to the products and barriers they face, but all contribute substantially to Japan's growing trade advantage over the United States in Japan.

There is another element to this question which I believe that Japanese policy makers haven't adequately taken into consideration. The Japanese people have worked exceedingly hard over the past decade and the economic progress of Japan continues to be the wonder of the world. However, wouldn't the Japanese wage-earner—the individual Japanese consumer—welcome the product diversification, the quality competition, and lower prices which would result from trade liberalization? West Germany, the other major surplus nation of the 1960's, moved toward this end through the courageous recent revaluation of the mark which made imports cheaper for the consumer. This step was taken immediately after the West German elections. The West German revaluation killed two birds with one stone rewarding the efforts of its citizens and coming to grips with its international accounts surplus position. Could not Japan partially accomplish the same result by prompt and meaningful trade liberalization now that the elections are over?

Turning briefly to the investment area and looking ahead to the 1970's, I conclude that Japan needs to come to terms with its developing status as an important capital exporting nation. While limited steps already have been taken towards this end—and I refer particularly to Japan's willingness in 1969 to give up its exemption under the U.S. Interest Equalization Tax—additional steps are needed. Again, the principle is the same—nations which increasingly hope to export capital need to allow increased capital inflows. In 1967 U.S. direct investment in Japan was approximately 8 times as large as Japanese direct investment in the United States. In 1968, because of increased flows of Japanese capital to the U.S. the ratio was slightly less than six to one. I expect 1969 comparative figures to show a further narrowing of this gap.

That fact alone makes it increasingly difficult to justify the continuing outright prohibition or severe restriction on U.S. capital investments in Japan. Millions have read Servan Schreiber's "The American Challenge" and can understand the psychological reluctance of Japan to follow an open door policy on private foreign investment. But I would suggest that the fears of Japanese industry indeed may be grossly exaggerated since in 1968 U.S. direct investment totalled only $1,048 million in a $141.9 billion Japanese economy. Again, I point to the recent judgment of the Business and Advisory Council of the OECD (BIAC) that "no other advanced industrialized country confronts the foreign investor with the sort of obstacles presented by Japan."

Acting together Japan and the U.S. have an excellent chance to help bring about basic success in Asian economic developments—and from it can follow a new chance for peace and stability. But this requires an allocation of resources for the purpose and an adaptation of Japan to this commitment which has not yet clearly materialized. I can think of no one Asian nation which can contribute more to this result than Japan and I believe millions in the U.S. await expectantly Japan's decision to do so!

THE NARKIN AFFAIR

Mr. CHURCH. Mr. President, for the past several weeks my name has been falsely linked to an effort to secure legislation to compensate survivors of the alleged massacre at Mylai.

One Paul Narkin, who claims to be an "international attorney" with residences in Idaho, Honolulu, and New York, has stated in at least two interviews that I am working with him in the drafting of this legislation. This is simply not true.

On February 5, after Mr. Narkin's claims had been distributed throughout the Pacific Northwest through an Associated Press news dispatch originating in Spokane, I issued a press release detailing Mr. Narkin's activities and the true facts of the matter.

I ask unanimous consent, Mr. President, that this news release be printed at this point in the RECORD.

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

WASHINGTON, February 5.—Senator Frank Church today denied published reports linking his name with efforts to secure legislation which—have presupposed the guilt of American servicemen in the Mylai incident—would grant $125 million compensation to survivors of the alleged massacre.

Church took the unusual step of releasing private correspondence to indicate that his name is being used without his permission by an "international attorney" who claims to represent Buddhist survivors of the Mylai incident.

Church's name has been linked to the proposed legislation by Paul Narkin, who claims to be an international attorney with residences in Idaho, Honolulu and New York.

Narkin stated in at least two interviews with newsmen in the Pacific Northwest that Church is working with him in drafting the legislation. This, Church emphasized, "is not true."

After the first interview appeared on January 14 in the Coeur d'Alene Press, Church wrote both the editor of that paper and Narkin, disavowing any connection.

In his letter to the editor of the Press, Church said that "I have been informed of Mr. Narkin's activities, but I am not working with him in any way. Nor have I seen the bill to which the article refers. Every American of good conscience is deeply troubled by the court-martial proceedings which the U.S. Army has brought against certain of our servicemen accused of criminal assault against the civilian population of Mylai. But the essential question of guilt or innocence of the accused U. S. servicemen is still unresolved. I have no intention of supporting any action in Congress that presumes guilt when the soldiers remain entitled to the presumption of innocence. That is the keystone of our American legal system."

At the same time, Church wrote directly to Narkin on the matter. The operative part of that letter read:

"Please refrain from using my name in connection with any proposal to compensate the survivors of the alleged massacre at Mylai.

"The facts concerning the incident have not been established; the men accused are entitled to a presumption of innocence until all the evidence is presented and a judgment reached in the pending court martial proceedings.

"Meanwhile, no legislative action of any kind would be appropriate, and I am giving no consideration whatever to your proposal or any other."

Since these letters were written January 19, Narkin has continued to state that Church was working with him on the legislation. On February 1, an Associated Press interview with Narkin, written in Spokane, erroneously linked Church's name with the matter. Church has since advised AP of the facts of the case and requested that a correction be issued.

The Idaho Senator said that Narkin first came to his attention when Church was in Boise for the Christmas recess. Narkin called Church long-distance and the two talked for about five minutes. Church has never met Narkin in person or received any correspondence from him on the proposed legislation.

S. 3424—INTRODUCTION OF A BILL ON MICHAUD IRRIGATION PROJECT

Mr. CHURCH. Mr. President, on behalf of myself and my colleague the junior Senator from Idaho (Mr. JORDAN), I introduce for appropriate reference a bill to amend the act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance and operation of the Michaud Flats irrigation project.

The act of August 31, 1954, authorized the construction of the Michaud Flats reclamation project and reauthorized the construction of the Michaud Division of the Fort Hall Indian Reservation. The act provided that construction of works to serve the Michaud Division shall only be undertaken after certain agreements are entered into by the Indians limiting the water supply to the lands and consenting to certain water right priorities.

Certain of the lands involved have been allotted to individual owners. The bill which I am introducing would authorize the Secretary of the Interior to execute contracts on behalf of any Indian who holds an individual interest in trust or restricted land where the contract has been signed by or on behalf of holders of a majority interest in the land. It also permits the Secretary to execute contracts on behalf of such Indians who are minors, who have been adjudicated non compos mentis, whose ownership interest has not been determined, or who cannot be located. The authority is necessary to enable all of the Indian lands in the Michaud Division at the Fort Hall Indian Reservation to participate in the benefits of the irrigation project.

Mr. President, I ask unanimous consent that the letter from the Department of the Interior, dated October 31, 1969, recommending this legislation, be printed in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 3424) to amend the Act of August 31, 1954 (68 Stat. 1026), providing for construction, maintenance, and operation of the Michaud Flats irrigation project, introduced by Mr. CHURCH (for himself and Mr. JORDAN of Idaho), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The letter, ordered to be printed in the RECORD, reads as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 31, 1969.

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

DEAR MR. PRESIDENT: There is enclosed a draft of a proposed bill "To amend the Act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats Irrigation Project."

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

The Act of August 31, 1954 (68 Stat. 1026), provides for the construction, operation, and maintenance of the Michaud Flats Project under the jurisdiction of the Bureau of Reclamation and reauthorizes the construction, operation, and maintenance of the Michaud Division of the Fort Hall Indian Reservation under the jurisdiction of the Bureau of Indian Affairs. Construction on the Indian reservation was originally authorized by the Act of February 4, 1931 (46 Stat. 1061).

Section 3 of the 1954 Act provides as follows:

"Sec. 3. (a) To aid in the development of not more than twenty-one thousand acres of irrigable land in the Michaud division of the Fort Hall Indian Reservation, as heretofore authorized by the Act of February 4, 1931 (46 Stat. 1061), and hereby reauthorized for construction, operation, and maintenance without regard to the provisions of said Act, the Secretary is authorized—

"(1) to reserve for the benefit of those lands when needed, but without prejudice to the interim use thereof for other purposes proper under reclamation laws, eighty-three thousand and nine hundred acre-feet of storage capacity in Palisades Reservoir and forty-seven thousand and seven hundred acre-feet of that portion of the storage capacity in American Falls Reservoir which was set aside for lands in the Michaud area generally by section 3 of the Act of September 30, 1950 (64 Stat. 1083); and

"(2) to account for the return of so much of the cost of said development (including the cost of the aforesaid storage space in Palisades and American Falls Reservoirs) as the Secretary finds cannot be repaid by the water users on terms substantially similar to those provided in section 2 of this Act, except for the application of the provisions of the Act of July 1, 1932 (47 Stat. 564), and the Act of March 1, 1907 (34 Stat. 1015, 1024), which are specifically made applicable to the project authorized by this section and Indian lands susceptible of irrigation under said project, by application of net power revenues of the Palisades project and any developments combined therewith for payout purposes under the provisions of the second sentence of section 2 of the Act of September 30, 1950, after payout thereof is accomplished pursuant to law.

"(b) Construction of works to serve the Michaud division lands shall be undertaken only if, in consideration thereof and of the additional benefits authorized in the preceding sentence of this section, such *appropriate arrangements as may be required in the circumstances are first made, by contract or otherwise, with respect to a water supply for said lands which, among other things*—(italics supplied)

"(1) limit that supply to the yield of the space in Palisades and American Falls Reservoirs as hereinbefore set forth and to that obtained by the pumping of ground water in an average annual amount of not more than twenty-two thousand and four hundred acre-feet; and

"(2) consent to a priority in time and right in such beneficial consumptive uses of the waters of the Snake River, and its tributaries, as are established under the laws of the State of Idaho prior to the date of this Act as against any use of the waters arising on or flowing through the Fort Hall Bottoms within the Fort Hall Indian Reservation, including, but not limited to, the intercepted flow of Ross Fork Creek, the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek, and Clear Creek, for the irrigation of the lands of the Michaud division of the Fort Hall Indian Reservation."

It will be noted from the underscored lines of the Act that prior to the undertaking of construction a contract or other arrangement must be made with respect to a water supply for the Michaud Division lands. The contract or other arrangement must be appropriate under the circumstances, and must limit the water supply for such lands and consent to certain priorities in time and use.

The requirement with respect to tribal lands has been satisfied by tribal resolution and ordinance. With respect to allotted lands, both the consent requirement and the limitation of water supply requirement call for a contractual agreement of the landowners. Contract forms have been prepared and executed by most of the landowners. In some instances, however, difficulty has been experienced in obtaining the necessary signatures of all the Indians involved in the land. The failure to obtain signatures of some of the minority interest owners in the land is preventing those Indians holding a majority interest in the land, and who have executed the contracts, from sharing in the benefits that can be derived from irrigation.

The proposed bill authorizes the Secretary to execute contracts on behalf of any Indian who holds an individual interest in trust or restricted land where the contract has been signed by or on behalf of holders of a majority interest in the land. It also permits the Secretary to execute contracts on behalf of such Indians who are minors, who have been adjudicated non compos mentis, whose ownership interest has not been determined, or who cannot be located. The authority is necessary to enable all of the Indian lands in the Michaud Division at the Fort Hall Indian Reservation to participate in the benefits of the irrigation project.

The Bureau of the Budget has advised that there is no objection to the presentation of the proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

RUSSELL E. TRAIN,
Acting Secretary of the Interior.

Mr. JORDAN of Idaho. Mr. President, the bill, which I am cosponsoring with my colleague, the senior Senator from my State of Idaho (Mr. CHURCH), is an important measure. It will authorize the Secretary of the Interior to execute certain contracts on the part of part owners of tracts of land on the Fort Hall Indian Reservation in those instances when the individuals are unavailable or unable to act for themselves.

The development of the Michaud division irrigation works offers significant potential opportunities for the economic development of Indian land on the reservation. In order for all of the lands to be included where tracts have been subdivided among many owners, it is necessary for all of the owners to agree to the provisions of the project authorization concerning water right limitations.

In some cases the agreement of all owners of divided tracts cannot be obtained. Sometimes part owners cannot even be located. This measure is necessary to clear the way for orderly progress of the development.

FINANCIAL AID TO LAW SCHOOLS

Mr. CHURCH. Mr. President, the December issue of the American Bar Association Journal contains a most informative article by Bayless Manning, dean of the Stanford Law School, concerning the need for additional funds for law schools.

I ask unanimous consent that this important article be printed here in the RECORD.

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

[From the American Bar Association Journal, December 1969]

FINANCIAL ANEMIA IN LEGAL EDUCATION: EVERYBODY'S BUSINESS

(By Bayless Manning)

(The nation's law schools are being called on to face the present and gird for the future without being furnished the financial muscle to do the job. Law schools are pitifully undernourished because most educational dollars flow into other channels. If this financial anemia is to be cured, the legal profession must learn of the problems confronting the law schools, become concerned with their solutions and provide the leadership for better financing.)

America's law schools have been notably unsuccessful in bringing their unhappy financial plight to the attention of anyone outside an immediate circle of professional legal educators and a few generous and interested lawyers. It has been observed before that lawyers take better care of other people than they do of themselves, and law schools appear to be no exception to that professional trait.

IS ANYBODY INTERESTED IN LEGAL EDUCATION?

In appearance (and in a sense in fact) the financial difficulties of legal education stem from a shortage of interested supporting constituencies.

In a modern university, the physical science departments and engineering schools are heavily supported by the National Science Foundation and federal research grants and contracts. Law schools never receive these grants and contracts.

Medical schools today operate only because of massive direct federal aid and would close their doors at once if that aid were not provided. Legal education receives no federal support.

Testimentary bequests from a wide public form a major basis of funding for many parts of the modern university, again including medicine. Bequests rarely come to law schools and almost never from anyone but lawyers.

University programs for religion, music, the fine arts and the performing arts are able to rely in considerable measure on their own special constituencies of enthusiasts. Law schools have no such outside constituency.

The social sciences have been major beneficiaries of the development of the large-scale, professionally staffed foundations. Except in the one area of international legal studies, in which the Ford Foundation has been helpful, law schools have received little foundation support.

Business schools and engineering schools are able to draw on major sources of corporate giving. Law schools so far have been almost wholly unsuccessful in appealing to the board room.

The disinterest of nonlawyers in the problems of our law schools is neither surprising nor a ground for fair criticism. Nonlawyers assume that the Bar, as a learned profession, is interested in its own education, is generally well-to-do, is able to look after its own and presumably is doing so.

But the fact is that the Bar by and large provides almost no financial support for legal education, has only the remotest idea of what is happening inside the law schools, is unaware that they are in financial trouble and does not know why. Much of the blame for this widespread unawareness lies with me and my fellow deans. I believe that we have done an execrable job of projecting the situation and of communicating to our fellow lawyers why there is a problem—and why the key to solution rests with the Bar itself.

The biggest stumbling block to an understanding of the law schools' financial problems is the peculiar, slow-paced history of American legal education. All American lawyers alive today are products of that history and have difficulty conceiving of today's law school as differing from a norm that has prevailed since the turn of the century.

In the nineteenth century, American lawyers were trained through apprenticeship. If the neophyte was gifted and the tutoring lawyer was accomplished and committed to his responsibilities, apprenticeship produced a superb new lawyer. But these matches were rare, and most of the product of the system was not of a high order. Inevitably, legal education moved from the practitioner's office to the university classroom. Before the end of the nineteenth century Harvard had emerged as the major national law school, and in the 1890's legal education in university form sprang up nationwide.

The nation's new network of law schools was patterned on the model of the nation's leader, Harvard. The outlines of that 1905 model are familiar to all lawyers. The length of the law school's curriculum was set, almost fortuitously, at three years. The primary educational objective was to acquaint the law student with substantive doctrinal categories. Jurisprudentially, the model was built upon the cherished dream that somehow there was, and is, in the common law a great, beautiful, coherent, rational unity. The curriculum, therefore, was a compulsory, three-year guided tour across what was assumed to be the entire panorama of the legal system. The curriculum adopted, substantially intact, the categories set out by Blackstone in the survey lectures he delivered at Oxford beginning in 1753. The great innovation of the American law school was its emphasis on reading appellate judicial opinions. Occasionally and grudgingly a statute might be admitted to attention if, like the Statute De Donis or the Statute of Frauds, it was sufficiently old and English. But the distinctive teaching tool was the casebook—1,000 pages of glued-together snippets from 500 years of judicial utterances in England and in the United States.

The turn of the century model dominated legal education absolutely for at least two generations, and its influence is still widely felt. Most of us still asume that there is a single unitary thing called "law school", that it will always look very much as it did in our own law school days, and that all of the nation's law schools must have essentially the same curriculum, taught by the same pedagogy from the same textbooks.

Most of us in the legal profession also assume that law school is inherently inexpensive to operate. The classical model of law school had large classes of tuition-paying students, tiny faculties and no major library needs for students or even faculty. New courses and materials were developed glacially. The school was inexpensive to operate; in some cases it even made money.

THE LAWYER HAS A PERSISTENT ILLUSION

This educational and fiscal image of law school persists in the minds of most members of the legal profession. The persistence of that image, more than any other factor,

explains why law schools are today victims of financial anemia—and why almost nobody seems interested in doing much about it.

The fact is that law schools have changed significantly in recent years and are on the brink of much greater change in the next few years. The forces bringing about these changes, most of them external to the law schools, combine to require for the modern law school a much larger and more diversified faculty and staff and a much bigger library and funding base than the 1905 model had.

Let us look first at some of the external forces that have brought change.

1. Entire new areas of law have sprung forth, full bloom. Any modern law curriculum must include many courses that were unimagined in the classical law school curriculum. Obvious examples include income taxation, administrative law, labor law, welfare law, government regulation of business, air law, telecommunications, and socialist legal systems.

2. Apart from the emergence of new topical categories of legal inquiry, American law has undergone major subproliferation within the traditional Blackstonean categories. "Property" has splintered into a dozen courses dealing with zoning, land use controls, urban renewal problems, real estate financing, water resources, conservation, oil and gas, and a good many others. This proliferation has its counterparts in torts, contracts, constitutional law, and the other classical areas.

3. Some long-standing but long-ignored subjects of the law have come in for new and focused attention in the modern law curriculum. Domestic relations and criminal procedure are examples. The impact of law on lower income groups is another.

4. Much of law teaching has become interdisciplinary. Intellectual progress in the social sciences has brought their work product to a level of practical utility to the legal scholar and student. No one today would try to talk about antitrust law seriously without a context of oligopolistic price theory. Instruction in criminal law is no longer thinkable without reference to what penologists, psychiatrists and sociologists have learned about deviant social behavior. The law student of today is being trained to be the law man of tomorrow. He insists on and will have at least a nodding acquaintance with computer uses and contemporary social science methodology, and with their applications to the legal process.

5. In sheer quantity, there is far more law being generated today, the outpouring from a nation of 200 million people in a more complex world who litigate more, who are more regulated, who have more tribunals that insist on printing everything, more governing agencies and more legislatures that no longer are reluctant to legislate. For a law professor to remain on top of his field today requires an investment of time, an intensity of attention, a variety of inquiry and a degree of specialization unknown in the law school world of yesterday.

In addition to these external forces of change, there have been internal developments in our law schools.

1. A series of factors have tended to make the large class unsatisfactory and to breed more small group instruction. The rising academic quality of entering students, the experimental character and novelty of many law courses, the necessity for using statutory and regulatory material and background contextual reading, and the increasingly recognized pedagogical advantage of having students do work on their own rather than sit passively like mushrooms—all have contributed to this change. Yet no law school is very far down the road to providing small-group instruction typical of other graduate education, because no law school has a faculty large enough to do the job.

2. As the law has become more extended, it has become impossible to provide the student with a panoramic survey of the law, and law school curricula have come to offer a wide diversity of optional courses and seminars. Law instruction is becoming instruction in method and in legal process. A closely related phenomenon is that the career objectives, career opportunities and intellectual interests of law students are more diverse than they were in an earlier day. Many students enter law school with specialized training that they wish to link with their legal study. Throughout the law school world, new and specialized programs have begun to appear. At Stanford today the business school and the law school jointly run a program that yields in four years both M.B.A. and J.D. degrees and a small, special graduate program in law and computers is getting under way. New on the scene are joint programs between medical schools and law schools on problems of law and medicine. The University of Washington has begun to develop a center on Chinese and Japanese law. New Mexico has turned attention to the American Indian. New York University is operating almost a separate law school dealing with taxation only. Increasing numbers of law schools provide joint programs with departments of social science producing for the student both an M.A. and a J.D.

3. Although there is a widely credited myth that law schools used to be "practical" whereas today they have become "theoretical", the fact is that much of the change in our law schools has been in the direction of greater attention to practical operational skills. The work of men like Williston, Corbin and Wigmore imposed intellectual structure where there had been chaos, taught us to distrust the abstract generalizations of commentators and provided us a major portion of the vocabulary and conceptual structure that lawyers use daily. But the early American law school had closely limited objectives. It was in a sense created by an act of withdrawal. Compared to the apprenticeship system, the turn-of-the-century law school withdrew from the courts, the practitioner, the community, the working context of the law and any effort to teach law students how to do. The American law school at the turn of the century became academic—even, some would say, theological. No student in a Willistonian contracts class got within a light year of a negotiated business deal; in contrast, the modern seminar in labor law rings true to the life of collective bargaining. Today law students spend a significant part of their time working in a full practice context in legal aid and public defender offices and, in conformance to the law of an increasing number of states, appear on behalf of clients in court. Courses in legal writing, appellate advocacy and trial presentation are commonplace. Compared to earlier law graduates, many of today's students emerge from law school significantly more familiar with the work they will be doing as lawyers.

In a modern law school both faculty and students carry out more research than was done in the classical law school. Much of this research work is familiar to the practicing lawyer; it involves library work with traditional legal materials. What is new, however, is that all students in a major law school today do library work, write memoranda and prepare publishable material of a kind that in an earlier day was attempted only by law review editors. But slowly "research" is also coming to mean something broader and far more important in the modern law school. Younger faculty and students are not content to stop their inquiry at the point of discovering the unanswerable Socratic question or the verbal formulation of what the "rule" is. Law is not words. The modern law school sees law as what happens when the organized forces of the society, acting through a legitimated process, impinge upon the lives and the property of human beings. Little by little, law students, law professors and law schools are beginning to produce useful findings about the law as it really works, subtantiated by data and grounded in the increasingly rigorous methodologies of the social sciences.

Other external and internal forces have affected our law schools in the past two generations, the most important of which are essentially jurisprudential in character. But I have outlined enough to provide an over-all sense of the changes. The old law school was a place of large classes, slow cadence, limited subject matter, verbal analytics, symmetrical theology, classroom enclosure, repetitive pedagogy and compulsory curriculum. The modern law school is, within the limits of its resources, a place of smaller classes, multidisciplinary and diversified subjects, differentiated pedagogy, factual context, in-depth study, research in field and library, operational training, professional community activity and curricular optionality.

BUT WHAT ABOUT TOMORROW'S LAW SCHOOL?

Tomorrow's law school will be even more different. Multiple curricular tracks will be opened to serve the different interests of different students. A scholarly track may lead in five years or more to something like a Ph.D. in law. A vocational-professional track may be reduced to two years. Clinical experience—something like internship experience—will become normal for students pointed toward the practice. Law schools will train not only lawyers, but paraprofessional personnel to work with and increase the work output of lawyers, as medical technicians give leverage to medical doctors. A much closer interaction and relation between the law school and the Bar is in the offing, with the practitioner acting both as teacher and student.

LAW SCHOOLS WILL SPECIALIZE

Some law schools will specialize—either in a field of law or in the constituency of students they train. Instruction in the law will flow from the law schools to undergraduates, journalists, public administrators, foreign service personnel and scholars from other disciplines. Large-scale, interdisciplinary sociolegal research will be as normal as activity in a law school as similar research is today in the physical sciences and in other disciplines dealing with human behavior.

This may sound radical. And surely it is different from the 1905 model. But when added together, are these changes in fact remarkable? I think not. Seen as a whole, the pattern of change is substantially the same as that which has happened in the last fifty years to every other professional school and discipline in the modern university. What is remarkable is that change has taken so long to reach the law schools. But then, ours always has been a conservative profession.

As change has come to legal education, it has brought basic financial dislocation. The law school of a modern university is typically its lowest budget operation. Outside of law, graduate education is usually characterized by a low student-faculty ratio, an extensive fellowship structure, sophisticated equipment and major research funding. As yet, our law schools have no comparable ambition.

CAN'T MAKE A NEW MODEL WITH AN OLD BUDGET

But the operations of a modern law school cannot be conducted on the budgetary scale of the turn-of-the-century law school. Specialization and diversity of curriculum require a larger faculty than the earlier model, and the movement toward small-group instruction reinforces that trend. Modern legal research requires faculty time, thus adding to the need for larger faculties. Faculties must be increased to bring student-faculty ratios in law schools from their present level

of about 25 to 1 to the 10 or 12 to 1 that is a typical average for the balance of the university. Legal research requires special funding, some of it (like the recent Kalvern study of jury behavior) on a large scale. At present, most law schools have literally no research funds whatever.

The old-fashioned law library containing nothing but statutes and appellate decisions is manifestly inadequate; in a modern law school's research library, the scope of relevant material has widened dramatically. Expenditures for book acquisitions by the law library of a modern law school have soared in recent years.

Space in most of America's law schools is a major problem. The library explosion, increase in the size of faculty and student body, increase in the use of the library by students and increments to law school staffs for supporting services have jammed the inhabitants of law schools to the walls. It is no accident that within the last eight years new construction has had to be added at Pennsylvania, Harvard and California, to name but a few, and that whole new buildings have been erected at Columbia, Chicago, Utah and many other places.

Two more factors must be added to set in full perspective the scale of the financial dislocation confronting the nation's law schools today.

The first is inflation. The impact of inflation on privately financed education is particularly severe. Prices of books, supplies, binding, duplicating equipment and the like are immediately responsive to inflationary pressures, and the schools must pay them at once. Income to the school from tuition charges, annual giving and endowment responds to inflationary pressures more slowly and often to a lesser degree. The purchasing power of some law schools may not be improving, but slowly eroding.

Second, there is the matter of the level of starting salaries for young lawyers of high academic qualification. Some major law firms have moved to a starting salary of $15,000 a year; instances are known this year of starting salaries of $17,000. There is more at work here than inflation. Our law schools are not turning out enough people of high capability and sophisticated legal education to supply the demands of an increasingly complex and regulated society of 200 million people. Neither government offices nor corporate law offices nor law firms are able to hire enough young people of this quality to do the work that must be done. So salaries go up and will go up again.

Law schools, too, must engage in the competition for young lawyers of the highest academic qualification. But law schools have neither the resources to pay at the new levels nor available resorts for passing along the cost. The faculty salary situation at our law schools has now become wholly untenable. Current structures at the highest paying law schools tend range between $12,000 a year for the neophyte to $25,000 a year for a senior scholar of national rank. Some full professors with years of teaching experience in good law schools earn just about what a top student can command the day he steps out of law school. Law schools do not have to be competitive, dollar for dollar, with the world of law practice, but they must be able at least to match the outside market at the time a young lawyer leaves practice for teaching, and the salary scale of the more senior law faculty soon will have to be adjusted upward accordingly.

Unknown to the Bar and the general public, the nation's law schools as a body increasingly find themselves in an impossible position. Faculties must be increased in size, salaries raised, space provided, libraries expanded, more intensive teaching methods introduced, new programs begun, new research undertaken, and advanced study fellowships established—all at the same time. But the budgets and funding patterns of the law schools continue to be those inherited from an earlier day, based on the image of the 1905 model.

Caught up in a period of increased demand for a superior product and a compelling need to overhaul and modernize their operations, the law schools have, at a time of national inflation, come face to face with the inevitable consequence of at least two generations of underinvestment.

WHAT IS TO BE DONE FOR FINANCIAL ANEMIA?

Tuition is the largest single source of income for privately financed law schools, and it has been pushed rapidly upward in recent years. In Stanford's case it has quadrupled in twenty years to $2,145 in 1969–1970. Tuition is now at an altitude beyond the reach of many families, and each tuition increase adds to the number of students who require scholarship aid. Tuition charges do not, in any case, match the cost of education. A reasonable estimate is that the actual cost of a year of legal education for a student at a top ranking law school today is more than $4,000, and the usual three-year schooling in law, at present levels of cost and program development, represents an investment of about $13,000. Tax-supported schools tend to have low or no tuition income. Their costs remain commensurate with those in privately financed schools, however, and pressures for additional financing at state-supported schools are strong.

There is little reason to think that tuition can become a major source for the investment increment that legal education requires today.

The key to solving the critical financial problems facing legal education lies in the legal profession itself. If the Bar and especially its leadership are not knowledgeable and concerned about their own training institutions, then I have no hope that other elements of the community can be brought to have a concern.

If every graduate of a law school were to take it upon himself, when and as his economic circumstances enable him to do so, to pay into his law school an amount equal to the difference between the cost of educating one law student and the tuition rate—and thereby make it possible for a student to receive a legal education as someone made it possible for him to receive a legal education—that step alone would go far to meet the financial problems facing our law schools. Most members of the Bar now have no sense of this responsibility or commitment, either to their schools or to the profession.

1. Making the subsidy revolve.—Today, as in the past, law students are subsidized from endowments, typically established years ago, from the relatively small income contributed annually by a fraction of law school alumni, from the depressed salary structure of law teachers and law school staff, and at the further price of creeping institutional obsolescence. The present situation is outrageously unjustifiable; more to the point, perhaps, it cannot be sustained.

2. Employers of law graduates.—Among the major beneficiaries of the present system of financing legal education are the law firms and corporations that regularly, year after year, hire young law graduates. These employers are in the business of providing legal services, and they cannot perform without a flow of young lawyers entering at the bottom. It is singular that almost none of these employers ever considers the simple reality that each young man it hires today represents a valuable asset in which somebody has invested at least $7,000 over and above tuition. That asset will not only be converted over time into high income for the man involved, but it will also generate income for the employer.

It would be a strange businessman who believes he should be subsidized by having his sales inventory provided free. It does not seem to be thought strange that law schools should subsidize the lawyer inventory of profitmaking companies and firms.

3. Major gifts from lawyers.—Some lawyers will be in a position to make substantial gifts to their law schools over and above payment of the cost of their own education. Occasionally, such gifts are made, and without them privately financed legal education would long since have disappeared. But they are extraordinarily rare. And it is a mark of the poor job the law schools have done in projecting their financial plight to their most immediate constituency that so few lawyers have ever made law schools a significant beneficiary of their philanthropy.

4. Gifts from nonlawyers.—Apart from the personal economic position of lawyers, the legal profession is well placed in its own community and has close contact with clients. Not infrequently, clients need and request guidance from their lawyers on an appropriate disposition of their estates. It is often ethically possible for a lawyer to suggest to a client a charitable institution as a beneficiary. Every major university regularly receives a flow of gifts, usually testamentary, resulting from suggestions made by lawyers friendly to that institution. Astonishingly, however, virtually none of this funding is addressed to the needs of the law schools, a result partly attributable to the lawyer's reticence to talk about his own corner of the university, but mainly attributable to the Bar's general lack of awareness of the financial problems facing law schools.

5. Corporate giving.—Lawyers are in close contact with many business clients. So far, law schools have been almost wholly unsuccessful in their efforts to bring business management to an awareness of the importance of legal education and of its current difficulties. No one has a greater stake in the preservation of a smoothly functioning legal order than the business community. No one has a greater stake in the improvement of the practices of administrative agencies, the fairness and efficiency of taxing and regulatory systems, the stability of contractual arrangements, and the rationality and objectivity of judges and public administrators.

Business daily places its name and fortune in the hands of lawyers. One would think that the businessman, as client, would prefer that his own counselor be as well trained as possible. And the corporate world draws heavily for its executive manpower on men whose graduate education was in the law. The arguments that support corporate help for executive training in business schools have as strong an application to law schools.

The modern law school embraces within the reach of its teaching and research almost the entire range of economic and social activity. It is involved in training men who will become major participants in those activities. The business community cannot be unconcerned with such a school.

Finally, there is the matter of general public leadership. A large percentage of America's leaders in federal, state and local government and in general civic and community activities always have been lawyers. There is no indication that the pattern will change. Is it not odd that an enlightened corporate community that supports the fine arts, museums, music, literature and the humanities—as well as medical research, engineering, and business administration—finds no basis for helping the schools that more than any other produce the political and governmental leadership of the Republic?

6. Federal support.—As in virtually all other areas of education and research in the United States, federal support of some sort will probably prove necessary for law schools. The subject is, however, peculiarly sensitive, and the need for maintaining absolute freedom from political intrusion is probably nowhere so great as in the field of law. Members of the Bar, both as private citizens and as legislators, will in time be in a position to

help design and support or plan for various kinds of financial aid to law schools.

7. Foundations.—The nation's law schools stand badly in need of a substantial, privately funded foundation for legal education and research. No foundation could ever be large enough to contribute significantly toward the operating cost of law schools. But a new foundation could be invaluable (1) in providing pilot funding for innovations in legal education, (2) in supporting legal research and (3) in serving the function of clearinghouse and intelligence gathered in matters relating to legal education and the legal process. Incredible as it may seem, there is now only one foundation devoted specifically to legal education, and that foundation is both small and self-liquidating. Small support grants for law faculty research programs are almost impossible to obtain today. Few foundations make such grants at all. There is no intelligence center where faculty members or deans can go for information on where to apply. And none of the large foundations has a budgeted program for legal education or an infrastaff matched to the needs and experience of law schools.

LEGAL PROFESSION'S LEADERSHIP IS ESSENTIAL

Law schools—even tomorrow's modernized law schools—are cheap. They have no expensive equipment or instrumentation; they are small; there are only about 2,000 full-time law teachers in the country. An increased national investment in legal education of $100 million from our $800 billion national income would double the present aggregated budgets of all our law schools.

Investment in legal education is not only cheap—it has a high pay off. Through their training function, law schools produce our single most fungible national resource of professional problem solvers. Law schools have enormous leverage in their impact on the political life of the Republic. In their research function, law schools could tell us much about where the trouble spots are in our social order and what could be done to mitigate them.

What would it have been worth to have had clear demonstrations of the growing alienation of much of the black community from white law and white policemen? Is not support of sociolegal research at least cheaper—to say nothing of humanity's claims—than waiting for riots to give us warning signals? Is it not at least as worthwhile to spend a few thousand dollars to learn how children's courts are administered as to spend millions on market surveys to discover the best toothpaste flavors?

Is it not at least as worthwhile to spend thousands of dollars to train the leadership of the next generation in the traditions of law and the functioning of democratic government as to pour millions into a hole in the ocean and fire off billions to the moon? Is it a defensible scale of values that would invest unlimited treasure in research into and improvement of hardware but concern itself only trivially with research into and improvement of the functioning of the society's institutions of governance, the efficiency of its administrative apparatus and the ethical product of its legal order?

Our law schools are everybody's business. But financing legal education will continue to be nobody's business until the legal profession itself assumes a role of active, concerned leadership.

NATIONAL RESOLVE—THE BRITISH AND ENVIRONMENTAL POLLUTION

Mr. CHURCH. Mr. President, in the Thursday, February 5, 1970, Washington Post there appeared an article written by Alfred Friendly of the Post's foreign service division.

The article tells of the remarkable success of the British people in their fight against the contamination of the environment. The battle is far from won, but the success to date indicates that the process of pollution is not irreversible when a nation resolves that the air, the water and the land shall no longer be desecrated by the thoughtless actions of those who control its current stewardship.

The famous Thames River had been without fish for nearly a century but now, as a result of a strong national antipollution campaign, it sports 40 varieties. Such a program is neither easy nor cheap. Residents of London and other areas in England have forgone the luxury of a log-fed fire in their fireplaces, high standards have been imposed on sewage disposal practices and other stringent regulations imposed. Now a special Royal Commission on Environmental Pollution has been authorized. In England, the story notes, recommendations of commissions are listened to and implemented, not stored in the Archives and forgotten.

England should be commended for its actions, our Nation should study them for their success in this battle is what we seek in our country. The article expresses the sentiments of a large portion of the American public when it says:

Unless you want to submit, cursing but helpless, to the offal of industrial progress—or alternatively revert to a peasant economy—there is no option but to pay up.

The time has come for us to show our resolve in the battle against pollution and put our resources where our good intentions are. The United Kingdom has proved what beneficial effects such an action can produce.

I ask unanimous consent that the article entitled "British Stand Fast in Battle Against Pollution of Environment" be printed in the RECORD.

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

BRITISH STAND FAST IN BATTLE AGAINST POLLUTION OF ENVIRONMENT

(By Alfred Friendly)

LONDON, February 4.—Britain is holding its own in the war against pollution. In the long term, it may even win—or come as close to winning as the facts of a crowded and industrialized society permit.

The explanation for what would appear as an achievement and a hope unique in the Western world is that Britain has gritted its collective teeth, has begun to pay some of the inescapable costs and seems resolved to keep doing so, up to or beyond the limits of its strained pocketbook.

Its fight against contamination of the environment is in every way tougher than an equivalent one would be in the United States. Britain is basically much poorer, per capita and in the absolute; it is proportionately more dependent on the kind of industry and transport that pollutes; it puts 12 times more pressure of people on every acre than in America and its problem has been festering much longer. British rivers, for example, have been polluted for a century while in America they began to grow foul only a couple of decades ago.

Yet there seems to be here, as there seems not yet to be in other advanced nations, Sweden excepted, a national resolve, no longer subject to challenge, to pay the money and submit to the tough restrictions necessary for decent living.

Some 360 authorities, London included, prohibit the burning of anything but smokeless fuel—with the government defraying the individual costs of householders switching or modifying their heating equipment.

This has meant the end of lovely log fires or chunks of crackling coal on the roaring hearth, and in their place the much less inspiring glow of electric heaters or, at best, coke briquets on the grate. But it has also meant the end of the black fogs.

To be sure, nature is no less malign and still sends rolling clouds of fog tumbling now and then over this winter city. But the choking opaque clouds that American visitors remember are things of the past.

The Thames has been without fish for a century. But by 1968 some 40 different varieties had come back to the river.

In the battle for the environment, Britain is advantaged by a—relatively—unified command. By law and by the possession of the money bags, the central government exerts far more power and control than in the United States. When the Ministry of Housing decrees that no new dwelling may be built without sewage facilities of such and such standard, there is no argument.

The central government also carries out the provisions of a national law 107 years old, the Alkali Act, which now covers 56 separate industrial processes. It requires every factory in those industries to use "the best practicable means" to prevent the emission of grit, fumes, smoke and gasses, and to render harmless and inoffensive those emissions that are unavoidable.

In all, there are thousands of regulations of some 12 cabinet departments and hundreds of lesser authorities aimed against pollution and contaminants.

Smoke and grime still belch over the Midlands, harbors remain foul and many a river stays rancid and algae-covered. Trash dumps and auto graveyards still mark the landscape. The horrible and dangerous coal tipples blight the mining areas. And so on.

But, with the possible exception of oil and tar on the beaches, the situation is getting no worse. That is the appraisal of Lord Kennet, who, as parliamentary secretary of the Ministry of Housing and coordinator of department of programs, is the nearest thing there is to an antipollution boss.

His thesis is that, with rare and usually quickly solved exceptions, there is no contaminating factor in the environment, including noise, that defies a technical solution. All it takes is money.

"Like the diffuse pluralistic beehive that it is," Kennet declares, "the British body politic [is] renewing and adjusting itself to the problem of pollution."

Since the Labor government came to power, it has put through 11 national laws of far-reaching impact on clean air, fisheries, mines, rivers, sewage, medicines, farm chemicals and nuclear installations. It has seen to it that public authorities spend a quarter of a billion dollars a year on sewerage and sewage disposal. It has made industries covered by the Alkali Act spend half that again in the past 10 years on capital expenditures and close to three-quarters of a million on running costs to keep down pollution. It requires clean exhausts on all trucks (although it has not yet got around to California-style regulations for passenger cars).

The picture that emerges is of a nation armed with many controls against pollution and able to enact most of the rest it needs without the harrowing political struggle that would ensue in the United States. But it faces a wall of economic difficulties.

The obstacles to a clean environment are neither technological nor legal, but simply economic. On whom do you saddle the costs?

You cannot make cement without dust, or steel without fumes. You raise the price of both, whatever the mechanics of the economic arrangements, when you require a catchment of the dust and fumes. If you want milk minus the antibiotics fed to cows,

the farmer's efficiency declines and the milk cost rises. If you force the packer to give up tin cans and plastic wrappers, or install equipment to dispose of them, you can do it by subsidizing the industry or paying more for municipal services. Either way, any way, the consumer-tax payer pays in the end.

There is no escaping the imperative: "Pollution control equals short-term economic disadvantage," Kennet points out.

So, unless you want to submit, cursing but helpless, to the offal of industrial progress—or alternatively, revert to a peasant economy—there is no option but to pay up.

The path to a better quality of life, in terms of quiet, cleanliness, beauty and natural amenities, will be painful and rugged and costly indeed, but this nation seems to have set its foot on it.

As a token of intent, the government has authorized the creation of a Royal Commission on Environmental Pollution. It is the first such body created by the present government that is to be permanent, its life and functions continuing indefinitely.

No government, Labor or Tory, likes to let recommendations of a Royal Commission lie around untended to. Accordingly, the new body has a chance to strike powerful blows in service of a new social objective.

OPPOSITION TO SUGGESTION FOR LICENSING OF NEWSPAPER REPORTERS

Mr. MANSFIELD. Mr. President, I was extremely distressed to read in the Montana newspaper that Dr. Walter Menninger, who was, I believe, a member of the Eisenhower Commission, suggests that reporters be licensed.

I think this is a direct infringement on the first amendment. It certainly is an infringement on the freedom of speech guaranteed in the first amendment and the Bill of Rights. And I would hope that this suggestion would not become anything more than a suggestion, because if it has any validity, I intend to do everything in my power to see that such a suggestion does not become a fact.

I do not believe that reporters should be licensed. I think that their freedom should be maintained within the concepts of the first amendment. I certainly hope that this misconception, as I view it, under which Dr. Walter Menninger, a very well-known doctor of medicine and psychiatry, has made this suggestion, will not materialize.

I just want to make this statement to observe that I will watch this matter very closely and to express the hope that it will not become more than a suggestion.

MONTANA HAS LOST 31,400 FARMS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled, "Troublesome Trend—Montana Has Lost 31,400 Farms," published in the Great Falls Tribune on January 21, 1970.

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

TROUBLESOME TREND: MONTANA HAS LOST 31,400 FARMS

Montana has lost 31,400 farms in the last 50 years.

The trend toward fewer farms is expected to continue.

The Montana Crop and Livestock Reporting Service estimates that the state will have 26,300 farms during this year. That's a drop of 400 from 1969.

Montana had 57,700 farms in 1920—a record high.

The state will have an estimated 67.1 million acres in farm operations this year—the same level recorded during the last four years.

The average size of farms for 1970 is estimated at 2,551 acres, a slight decrease from 1969.

It seems almost inevitable that the trend to fewer farms will continue. Another trend also is continuing; that's the increase in corporate farming. The Upper Midwest Research and Development Council reported last summer that Montana had 764 corporation farms with a total of 8,770,000 acres in 1968. Corporate farm acreage represented 15.15 per cent of all the land in commercial farming in the state for 1968.

Some authorities contend the answer to farmers who do not want to be squeezed off their farms is better management.

Lloyd Rixe, president of Technology in Action Is Progress (TAP), believes that management is an absolute necessity, not a luxury farmers can have if they can afford it.

Speaking at Billings last week at a Montana State Rural Areas Development meeting, Rixe said farmers will need more capital to run their operations and keep costs down and production up. To do that successfully, he said, better management is a must.

Montana farmers, especially marginal ones, will have to conquer cruel odds if they are to survive—distance from markets, unfavorable freight rates, high cost of equipment and labor and low prices for their farm products.

Even with sound management and a strong national farm program, it appears virtually certain that the trend to fewer farms will continue.

Mr. MANSFIELD. Mr. President, Montana has lost 31,400 farms in the last 50 years. The trend is continuing. It is a bad trend. In my judgment it is not healthy for the country to divert to corporate farming solely and to end the middle-sized family-type farm.

May I say, incidentally, that I think the American population is becoming entirely too congested in the cities. It is moving far too rapidly to the urban areas.

The trend is continuing, and with that trend we will have nothing but more trouble and greater problems in the future.

Mr. President, I express the hope that the trend could be reversed and that the migration to the urban centers, which in turn will create more congested metropolises covering many States, will be turned in the opposite direction so that more people would go back into the country, into the green spaces, into the small towns, and the small cities. I would hope that industry likewise would become a part of this reverse migration. I would hope that a better equilibrium would thus be achieved and perhaps at the same time a diminution of our problems including especially a decrease in the crime problem and the other grave matters which are becoming endemic as far as the cities are concerned.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION TO EXPAND HEADQUARTERS OF THE UNITED NATIONS IN NEW YORK

A letter from the Secretary of State, transmitting a draft of proposed legislation authorizing a grant to defray a portion of the cost of expanding the United Nations Headquarters in the United States (with an accompanying paper); to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on Observations on United States Assistance to Guatemala (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the audit of cetain banks of the farm credit system supervised by the Farm Credit Administration, for fiscal year 1969, dated February 9, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION WITH RESPECT TO SPECIALIZED OR TECHNICAL SERVICES PROVIDED TO STATE OR LOCAL GOVERNMENTS

A letter from the National Aeronautics and Space Administration transmitting, pursuant to law, a report of the Administration with respect to the scope of specialized or technical services provided to State or local governments by the Administration during the calendar year 1969 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION TO AMEND THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON EMPLOYEE PERSONAL PROPERTY CLAIMS SETTLED

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report of the Administration on employee personal property claims settled during calendar year 1969 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE POSTMASTER GENERAL

A letter from the Postmaster General, transmitting, pursuant to law, the annual report of the Post Office Department for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION TO ESTABLISH AN ENVIRONMENTAL FINANCING AUTHORITY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to establish an Environmental Financing Authority to assist in the financing of waste treatment facilities, and for other purposes (with accompanying papers); to the Committee on Public Works.

PROPOSED LEGISLATION TO AMEND THE CLEAN AIR ACT

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Clean Air Act so as to extend its duration, provide for national standards of ambient air quality, expedite enforcement of air pollution control standards, authorize regulation of fuels and fuel additives, provide for improved controls over motor vehicle emissions, establish standards applicable to dangerous

emissions from stationary sources, and for other purposes (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION TO EXTEND THE PROVISIONS OF THE SOLID WASTE DISPOSAL ACT

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to authorize the Council on Environmental Quality to conduct studies and make recommendations respecting the reclamation and recycling of material from solid wastes, to extend the provisions of the Solid Waste Disposal Act, and for other purposes (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, FOR RESEARCH AND TRAINING

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act, as amended (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, FOR CONSTRUCTION OF WASTE TREATMENT FACILITIES

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act, as amended, to provide financial assistance for the construction of waste treatment facilities, and for other purposes (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, FOR ENFORCEMENT OF CONTROL MEASURES

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act, as amended (with an accompanying paper); to the Committee on Public Works.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

Seven resolutions of the Commonwealth of Massachusetts; to the Committee on Finance:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO INCLUDE A COST-OF-LIVING INDEX FORMULA IN SOCIAL SECURITY BENEFIT PAYMENTS

Whereas, Under the present regulations persons receiving social security benefits are limited to a fixed income; and

Whereas, Many persons receiving such payments are totally dependent upon them for their living expenses; and

Whereas, The cost of living has increased continually from year to year; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation providing that there be a cost of living index formula included in the method of computing payments under the social security law; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 20, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 22, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING FOR A FEDERAL WELFARE SYSTEM

Whereas, There exists an urgent need for a federal welfare system with the federal government assuming the full control and cost of said system; now, therefore, be it

Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing for a federal welfare system supported and managed by the federal government; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the State Secretary to the President of the United States, to the presiding officer of each branch of the Congress and to the members thereof from the Commonwealth.

Senate, adopted, January 14, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 19, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION EXPANDING THE MEDICARE PROGRAM TO INCLUDE PERSONS WHO ARE RECIPIENTS OF AID TO THE PERMANENTLY AND TOTALLY DISABLED UNDER THE SOCIAL SECURITY PROGRAM

Whereas, There are numerous persons who receive assistance under the social security program because of permanent and total disability but who do not receive the benefits derived under the Medicare program; now, therefore, be it

Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation expanding the Medicare program to include persons who are recipients of aid to the permanently and totally disabled under the social security program; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the State Secretary to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 20, 1970.

NORMAN P. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 22, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING FOR AN INCREASE IN SOCIAL SECURITY BENEFITS

Whereas, Social Security recipients are in great need of an increase in benefits to meet the rising cost of living and to maintain a decent standard of living; now, therefore, be it

Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing for an increase in social security benefits of twenty per cent in the year nineteen hundred and seventy, twenty per cent in the year nineteen hundred and seventy-one and ten per cent in the year nineteen hundred and seventy-two; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the State Secretary to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 21, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 26, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION INCREASING RETIREMENT ALLOWANCES TO CERTAIN WIDOWS UNDER THE SOCIAL SECURITY ACT

Whereas, The cost of living has greatly increased and the current monthly amounts payable under the Social Security Act to the widows of retired workers are greatly reduced in value and are thus inadequate for the proper support and maintenance of such widows; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact such legislation as may be necessary to increase the amount of benefits payable under the Social Security Act to widows of retired workers to an amount equal to one hundred per cent of the benefits payable to the worker at the time of his death; and be it further

Resolved, That the Secretary of the Commonwealth transmit forthwith copies of these resolutions to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 21, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 26, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING THAT THE FEDERAL OLD-AGE ASSISTANCE PROGRAM BE ADMINISTERED BY THE FEDERAL DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE THROUGH THE SOCIAL SECURITY SYSTEM

Whereas, There exists an urgent need to consolidate governmental assistance programs for needy and elderly persons, particularly those less fortunate receiving old age assistance; now, therefore, be it

Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing that the federal old-age assistance program be administered by the Department of Health, Education, and Welfare through the social security system; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the State Secretary to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 21, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 26, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN, *Secretary of the Commonwealth.*

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION MAKING ALL PERSONS ELIGIBLE FOR MEDICARE COVERAGE UPON REACHING AGE 65

Whereas, The Medicare program has failed to provide its benefits for many citizens; and

Whereas, Many such citizens are unable to meet the heavy medical expenses which are attendant upon old age because they are not covered by the Medicare program due to inability to meet certain eligibility requirements of said program; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation providing that all citizens shall upon attaining age sixty-five be eligible for Medicare coverage; and be it further

Resolved, That the Secretary of the Commonwealth transmit forthwith copies of these resolutions to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 20, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 22, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN,
Secretary of the Commonwealth.

Resolutions of the Commonwealth of Massachusetts; to the Committee on Interior and Insular Affairs:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION ESTABLISHING A NATIONAL CEMETERY IN THE COMMONWEALTH

Whereas, It is the right of every veteran to be accorded the honor of a burial in a national place of honor; and

Whereas, Out of the ninety-eight national cemeteries in the United States, there is none in the New England area; and

Whereas, The saturation point of these cemeteries is rapidly being reached and the need for new land is pressing; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact such legislation as may be necessary to establish a national cemetery in the commonwealth of Massachusetts; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 20, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 22, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN,
Secretary of the Commonwealth.

Resolution of the Commonwealth of Massachusetts; to the Committee on Labor and Public Welfare:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO DIRECT THE OFFICE OF ECONOMIC OPPORTUNITY TO DOUBLE THE FOSTER GRANDPARENTS PROGRAM

Whereas, The foster grandparents program of the Office of Economic Opporutnity has been so successful in providing the means whereby older persons may demonstrate their love for mentally retarded and disturbed childen thoughout the nation; and

Whereas, The facilities and funds necessary to fulfill the needs of said program have proven inadequate; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation directing the Office of Economic Opportunity to double the foster grandparents program; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, January 21, 1970.

NORMAN L. PIDGEON, *Clerk.*

House of Representatives, adopted in concurrence, January 26, 1970.

WALLACE C. MILLS, *Clerk.*

Attest:

JOHN F. X. DAVOREN,
Secretary of the Commonwealth.

A concurrent resolution of the Legislature of the State of Oklahoma; to the Committee on Agriculture and Forestry:

CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO TAKE POSITIVE ACTION TO INSURE PASSAGE OF LEGISLATION TO PROVIDE ADEQUATE FUNDS TO IMPLEMENT CHILD FEEDING PROGRAMS; AND DIRECTING DISTRIBUTION

Whereas, in 1946 the Congress of the United States passed an act to make the national School Lunch Program permanent; and

Whereas, the basic objectives of this program were stated in the following Declaration of Policy: "It is hereby declared to be the of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs"; and

Whereas, this program has been acknowledged at all levels of government as an exemplary cooperative local, state and federal endeavor; and

Whereas, surveys have found that hunger and malnutrition exist in all areas of our country and at all economic levels; and

Whereas, educators and health and nutrition specialists have found that well nourished children are easier to discipline and learn more rapidly than hungry children; and

Whereas, these surveys and evaluations have caused great interest in relieving hunger and malnutrition, new child feeding programs have been established and funded through the same channels; and

Whereas, in school districts which have made a maximum effort to implement the nutrition programs and include nutrition education in the school and community, and other districts which have made a maximum effort to include all those children financially unable to pay the full cost of their meals, there has been great expansion in participation and, at the same time, program emphasis has changed from "consumption of nutritious agricultural commodities" to "safeguard the health and well-being of the Nation's children"; and

Whereas, local communities and states, nationwide, have been greatly handicapped in the ability to fully implement these programs because the need is greater than funds will afford; and

Whereas, the State of Oklahoma, operating with the allocations made from the regular U.S. Department of Agriculture Congressional appropriations and projecting program obligations to participating schools, will exhaust all available funds sometime in March, 1970; and since the schools will have no resources from which to supplement the programs, the result will be that food service to children unable to pay the full price of the meal will be withdrawn; and

Whereas, it is mandatory that every participating school system must have an approved policy which declares that meals will be provided to those unable to pay the full cost, they cannot legally remain in the program and, thus, their total program will be in jeopardy; and

Whereas, in some areas the meal provided through the School Lunch Program to needy children is the only substantial meal eaten by such children each day.

Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 32nd Oklahoma Legislature, the Senate concurring therein:

Section 1. That the Congress of the United States be and hereby respectfully is urged to take positive action immediately to insure passage of pending legislation which will provide an appropriation of funds adequate to insure that all states will be in position to reach every child with nutritionally sound meals; most specifically to provide assistance in supplying free and/or reduced price meals for very needy children.

Section 2. That duly authenticated copies hereof be forwarded to the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, to each member of the Oklahoma Delegation in Congress and to the presiding officers of the legislative bodies in the several states.

Adopted by the House of Representatives the 26th day of January, 1970.

REX PRIVETT,
Speaker of the House of Representatives.

Adopted by the Senate the 28th day of January, 1970.

GEORGE NIGH,
President of the Senate.

A letter, in the nature of a petition, from Mrs. T. R. Bynum, of Vian, Okla., praying for the enactment of legislation relating to proper treatment of prisoners of war; to the Committee on Foreign Relations.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

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

H.R. 14789. An act to amend title VIII of the Foreign Service Act of 1946, as amended, relating to the Foreign Service Retirement and Disability System, and for other purposes (Rept. No. 91–701).

EXECUTIVE REPORTS OF A COMMITTEE

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

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

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to Ceylon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of Maldives; and

Jerome H. Holland, of Virginia, to be Ambassador Extraordinary and Plenipotentiary to Sweden.

Mr. FULBRIGHT. Mr. President, from the Committee on Foreign Relations, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of any Senator.

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

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

Keith E. Adamson, of Nevada, and sundry other persons, for promotion in the Foreign Service; and

Harry G. Barnes, Jr., of Maryland, and sundry other persons, for promotion in the Foreign Service.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. CHURCH (for himself and Mr. JORDAN of Idaho):

S. 3424. A bill to amend the Act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats irrigation project; to the Committee on Interior and Insular Affairs.

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

By Mr. JAVITS (for himself, Mr. MAGNUSON, and Mr. RANDOLPH):

S. 3425. A bill to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for other purposes; to the Committee on Commerce.

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

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

S. 3426. A bill to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes; and

S. 3427. A bill to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

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

By Mr. JORDAN of Idaho (for himself and Mr. CHURCH):

S. 3428. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the East Greenacres unit, Rathdrum Prairie project, Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. FULBRIGHT (by request):

S. 3429. A bill to amend the Foreign Military Sales Act; and

S. 3430. A bill to amend further the Peace Corps Act (75 Stat. 612), as amended; to the Committee on Foreign Relations.

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

By Mr. WILLIAMS of New Jersey (for himself and Mr. BROOKE):

S.3431. A bill to extend the coverage of sections 13(d), 14(d), and 14(e) of the Securities Exchange Act of 1934 in order to provide additional protection for investors; to the Committee on Banking and Currency.

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

By Mr. WILLIAMS of New Jersey:

S. 3432. A bill to amend the Act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization; to the Committee on the Judiciary.

By Mr. HARRIS (for himself, Mr. BAYH, Mr. GRAVEL, Mr. INOUYE, Mr. MONDALE, Mr. MONTOYA, Mr. RANDOLPH, and Mr. YOUNG of Ohio):

S. 3433. A bill to amend the Social Security Act to provide for a national program of basic income benefits to individuals and families in need thereof; to the Committee on Finance.

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

By Mr. KENNEDY:

S. 3434. A bill to amend title 8, United States Code, to provide for the establishment of a Public Counsel Corporation to insure full participation by and on behalf of unrepresented citizens in administrative rulemaking proceedings; to the Committee on the Judiciary.

By Mr. McCLELLAN (for himself and Mr. FULBRIGHT):

S.J. Res. 172. Joint resolution to authorize the President to issue annually a proclamation designating the first full calendar week in May of each year as "Clean Waters for America Week"; to the Committee on the Judiciary.

(The remarks of Mr. McCLELLAN when he introduced the joint resolution appear earlier in the RECORD under the appropriate heading.)

S. 3426—INTRODUCTION OF A BILL TO AUTHORIZE APPROPRIATIONS FOR THE SALINE WATER CONVERSION PROGRAM

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, for myself and the Senator from Colorado (Mr. ALLOTT), the ranking minority member of the Senate Interior and Insular Affairs Committee, a bill to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes. This proposed legislation is recommended by the Department of the Interior.

Mr. President, I ask unanimous consent that the executive communication accompanying this proposal be printed in the RECORD at this point in my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the communication will be printed in the RECORD.

The bill (S. 3426) to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes, introduced by Mr. JACKSON (for himself and Mr. ALLOTT), by request, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The communication, presented by Mr. JACKSON, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 3, 1970.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To authorize appropriations for the Saline Water Conversion Program for fiscal year 1971, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The saline water conversion program conducted by the Office of Saline Water of this Department has made excellent progress in the development of practical, low-cost methods for producing fresh water from saline, brackish, and other mineralized or chemically-charged waters, for potential use in meeting present and future municipal, industrial, and agricultural needs. The program has fostered the development of desalting technology and has encouraged the growth of a significant and viable desalting industry to meet future water requirements of the United States and other nations.

The Act of July 3, 1952, as amended (42 U.S.C. 1951 *et seq.*), authorizes "to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization acts." In order to meet fiscal year 1971 program requirements, we propose an appropriation of $29,373,000 to enable the Department to conduct a research and development program to meet the program goals in the following four major activities:

I. Research and development operating expenses, $16,650,000;

II. Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities, $5,000,000;

III. Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, $5,345,000; and

IV. Administration and coordination, $2,378,000.

Included in our authorization request for Category III, Design, Construction, Acquisition, Modification, and Maintenance of Saline Water Conversion Modules, are funds amounting to $4,345,000 for construction of a Vertical Tube Evaporator/Multi-stage Flash (VTE/MSF) module and for one additional field position. Funds for three additional positions and related administrative costs are included in Category IV, Administration and Coordination.

The advancement of large-scale desalting technology now could prevent serious water shortages in areas in this country where desalting appears to be the only economically feasible solution. The Office of Saline Water is continuing research on such other new and promising concepts as pressure dialysis, biomembranes and reverse osmosis. However, these processes have not been developed to the point where large-scale testing is warranted. The VTE/MSF technology has arrived at the point where large-scale testing is the next logical step. Therefore, it is essential that this process be developed now for future commercial application.

Feasibility studies on the combined VTE and MSF plants clearly indicate significant cost savings over the present conventional MSF plants. In a study completed in January 1969 by the Fluor Corporation, it was concluded that a VTE/MSF plant would obtain very meaningful reductions in product water costs. For a 250 MGPD plant, the estimates included a 30% capital cost reduction with a 15% water cost reduction over present known distillation processes. The VTE/MSF process is the only one now available that can yield cost reductions of this size for large-scale plants.

The development of the VTE process has progressed to the stage where the design, construction, and operation of a large module that will stimulate the performance of a full-size plant is mandatory to fully establish large component technology and the economics of the process. Heat transfer in a VTE plant with enhanced tubes is double that of an MSF plant. This cuts surface requirements by half and reduces the physical size of the shell and, consequently, of the plant. The larger temperature differences or thermal driving forces of the VTE process result in direct economies in heat transfer requirements. The proposed module incorporates a highly efficient process which utilizes MSF preheating coupled with VTE evap-

orators and results in high product recovery per pound of sea water feed. The VTE/MSF process combines in one system the process and cost advantages of each, while minimizing the disadvantages.

In addition to the appropriation authorization for fiscal year 1971, the proposal would amend the Act, first, to broaden the authority of the Department to have research performed by foreign individuals, universities, and research institutions, and second, to delete the references in section 8 of the basic Act to the duration of the program for a specified term of years.

The Act of April 29, 1968 (82 Stat. 110), which authorized appropriations for the saline water conversion program, also amended section 8 of the basic Saline Water Conversion Act to prohibit, effectively July 1, 1968, any new commitments under the latter Act for cooperation with public or private agencies in foreign countries which require expenditures of funds under the Act. We understand that this legislation, together with the legisltive history in the 90th Congress and in the 91st Congress (e.g., H.R. Rept. No. 1247, 90th Cong., 1st sess. 3 (1968) and H.R. Rept. No. 208, 91st Cong., 1st sess. 3 (1969)) permits the Department to conduct on-site inspection of foreign projects, foster and participate in international conferences relating to saline water conversion and exchange technical information with foreign entities, but does not authorize new agreements with agencies in foreign countries for research.

We have, in the past, supported a very limited amount of foreign research under this program. Nevertheless, over the past 2 years the results from grants in existence before July 1, 1968, have been excellent. For example, they have resulted in: (a) development of a new process for preparing reverse osmosis membranes which has been patented and assigned to the U.S. Government (Pat. No. 3,412,184); (b) the discovery of a new desalting process known as pressure dialysis; (c) the development of membranes potentially capable of discriminating between sodium and potassium ions; (d) definition of the requirements for a pressure dialysis process; and (e) a much better understanding of the liquid state and of the factors repsonsible for the fouling of electrodialysis membranes.

Without the authority to conduct foreign research, the desalting program would have lost to the benefits of these valuable research accomplishments. The foreign research activity has therefore been beneficial to the desalting program and of considerable advantage to the U.S. Government. Furthermore, research costs generally are lower in foreign countries and it frequently is possible to obtain more talent and time for the dollar.

We have noted with concern that the Office of Saline Water received no unsolicited research proposals from foreign sources during the past year. The foreign scientific community has become aware of the foreign restriction and is turning its attention to other problem areas. In the past years, OSW received from 10 to 15 unsolicited foreign research proposals per year. Although it is difficult to measure in absolute terms, this drying up of sources of new ideas is very disturbing and can only be detrimental to the desalting program.

While the proposed legislation would recognize limited authority to award research grants and contracts to foreign individuals, universities, and research institutions, it would preserve the ban on other foreign activities not specifically authorized by the Congress.

In view of the current requirement that appropriations "be specified in the annual appropriation authorization acts," and the opportunity for review that requirement affords, we propose to delete the reference in section 8 to the duration of the authorization for a specified term of years. Originally, the intent of this provision was to authorize the conduct of the desalination program for a specified term of years. At the end of that term Congress was to review the progress of the program in the relation to the capability of industry in the field. Subsequently, under the provisions of the Act of April 29, 1968, the program was placed on an annual authorization basis. This change has provided for an annual review by the Congress and makes the termination dates in section 8 of the Act unnecessary. Accordingly, the revised section 8 in the draft bill omits the language limiting the program to a fixed term of years.

The Bureau of the Budget has advised that this proposed legislation is in accord with the program of the President.

Sincerely yours,

CARL L. KLEIN,
Assistant Secretary of the Interior.

S. 3427—INTRODUCTION OF A BILL TO INCREASE THE AUTHORIZATION FOR APPROPRIATION FOR CONTINUING WORK IN THE MISSOURI RIVER BASIN

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, for myself and the Senator from Colorado (Mr. ALLOTT), the ranking minority member of the Senate Interior and Insular Affairs Committee, a bill to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior. This proposed measure is recommended by the Department of the Interior and would increase by $32 million the appropriation authorization for the portion of the Missouri River Basin project for which the Secretary of the Interior is responsible.

Mr. President, I ask unanimous consent that the executive communication from the Department of the Interior accompanying this proposal be printed in the RECORD at this point in my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the communication will be printed in the RECORD.

The bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior, introduced by Mr. JACKSON (for himself and Mr. ALLOTT), by request, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The communication, presented by Mr. JACKSON, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 3, 1970.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The bill would increase by $32.0 million the appropriation authorization for the portion of the Missouri River Basin project for which the Secretary of the Interior is responsible. This authorization is for appropriations to carry out the comprehensive plan of development on the project for fiscal years 1971 and 1972.

The Missouri River Basin project was begun with the passage of the Flood Control Act of 1944 (58 Stat. 887), section 9(e) of which authorized the appropriation of $200 million for partial accomplishment of the works to be undertaken. Subsequent Acts, most recently the Act of May 24, 1968 (82 Stat. 129), which authorized appropriations of $59 million for fiscal years 1969 and 1970, have increased the funds authorized to be appropriated to carry out the comprehensive plan for the project. (A table of these authorization Acts is enclosed.)

Since the current appropriation authorization will expire on June 30, 1970, the additional authorization provided by this bill will be required early in this session of Congress to support the Administration's request for appropriations for fiscal year 1971.

The bill continues the provision of previous Missouri River Basin project appropriation authorization Acts, beginning with the Act of August 14, 1964 (78 Stat. 446), that no new construction of any unit be initiated under this authorization. Excluded from the additional appropriation authorization provided in the bill are the Garrison Diversion unit, Nebraska Mid-State division, and the Oahe unit of the Missouri River Basin project, which have been authorized with separate appropriation limitations.

The estimated program obligations for fiscal years 1971 and 1972 are shown in the enclosed tables.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

JAMES R. SMITH,
Assistant Secretary of the Interior.

S. 3428—INTRODUCTION OF A BILL TO AUTHORIZE EAST GREENACRES UNIT OF THE RATHDRUM PRAIRIE RECLAMATION PROJECT IN IDAHO

Mr. JORDAN of Idaho. Mr. President, I introduce, for appropriate reference, a bill to authorize construction, operation, and maintenance of the East Greenacres unit of the Rathdrum Prairie reclamation project. My colleague (Mr. CHURCH) joins me in cosponsoring this bill.

The proposed East Greenacres unit is a multipurpose water resource development located in northwestern Idaho. It will provide supplemental irrigation water to 1,770 acres which now have inadequate supplies, and it will serve 3,500 acres which are not now irrigated. It also will provide domestic and stock water to the area and benefit fish and wildlife conservation and public recreation.

The Bureau of Reclamation has found the project to be engineeringly feasible and economically justified, and the Department of the Interior recommends that construction of the project be authorized by the Congress.

The State of Idaho has reviewed the proposal, and the Governor of Idaho has expressed his support for early authorization.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3428) to authorize the Secretary of the Interior to construct, op-

erate, and maintain the East Greenacres unit, Rathdrum Prairie project, Idaho, and for other purposes, introduced by Mr. JORDAN of Idaho (for himself and Mr. CHURCH), was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, I am pleased to join with my colleague (Mr. JORDAN of Idaho) in introducing this bill on a matter of importance to our State of Idaho.

The potential East Greenacres unit of the Rathdrum Prairie project offers an opportunity to provide outstanding multiple-purpose benefits to the project area in northern Idaho. It will provide irrigation water to more than 5,000 acres, about 1,800 acres of which are presently irrigated but with insufficient supplies. Water will also be provided for domestic use and livestock, and the development of the project will also stabilize the existing Twin Lakes Reservoir with significant benefit to recreation and fish and wildlife conservation.

I wish to emphasize that the East Greenacres unit has been evaluated using the very rigorous current procedures and it is engineeringly feasible and economically justified.

S. 3429—INTRODUCTION OF A BILL TO AMEND THE FOREIGN MILITARY SALES ACT

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the Foreign Military Sales Act—82 Statute 1320.

The proposed bill has been requested by the Secretary of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Secretary of State to the Vice President dated February 2, 1970.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 3429) to amend the Foreign Military Sales Act, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Foreign Military Sales Act (82 Stat. 1320) is amended as follows:

SECTION 1. Section 31(a) is amended by deleting the period at the end of the first sentence and inserting in lieu thereof, "and not to exceed $272,500,000 for the fiscal year 1971."

SEC. 2. Section 31(b) is amended by deleting the period at the end of the subsection, and inserting in lieu thereof, "and during the fiscal year 1971 shall not exceed $385,000,000."

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

THE SECRETARY OF STATE,
Washington, February 2, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: I enclose a draft of legislation to amend the Foreign Military Sales Act (82 Statute 1320).

PURPOSE OF THE LEGISLATION

On October 22, 1968 the Congress enacted the Foreign Military Sales Act which consolidated and revised into a single act legislation to authorize sales by the United States Government of defense articles and services to friendly countries and international organizations. There is now pending before the Senate S. 2640, a bill to amend the Foreign Military Sales Act for FY 1970. The purpose of the proposed legislation which this letter transmits is to amend Section 31 of the Act to provide that not to exceed $272.5 million is authorized to be appropriated to carry out the Act in FY 1971 and to provide that the aggregate total of credits extended and guaranties issued shall not exceed $385 million in FY 1971.

COST AND BUDGET DATA

The President's budget for FY 1971 will request new obligational authority (NOA) of $272.5 million under the Foreign Military Sales Act to finance up to $385 million of credit sales made in FY 1971 through the extension of credits and the issuance of guaranties of credit.

The $385 million figure represents the proposed ceiling on the aggregate total of credits and guaranties of credit to be extended under the bill by the Department of Defense during FY 1971.

One hundred percent of the face value of credits extended is charged against NOA and twenty-five percent of the face value of guaranties issued is so charged. Thus, the full $385 million credit program authorized would be funded by $150 million of guaranteed private credit, using $37.5 million of NOA for the guaranty reserve; and $235 million of direct credit, using $235 million of NOA, for a total of $272.5 of NOA. Should a higher level of guaranteed private credit be extended in place of direct credit, a lesser amount of NOA would be obligated.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation and that its enactment would be in accord with the program of the President.

Sincerely yours,

WILLIAM P. ROGERS.

S. 3430—INTRODUCTION OF A BILL TO AMEND FURTHER THE PEACE CORPS ACT

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to amend further the Peace Corps Act (75 Stat. 612) as amended.

The proposed bill has been requested by the Acting Director of the Peace Corps and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Director of the Peace Corps to the Vice President dated February 2, 1970 and the section-by-section analysis of the proposed legislation.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, letter, and analysis will be printed in the RECORD.

The bill (S. 3430) to amend further the Peace Corps Act (75 Stat. 612), as amended, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act, as amended, which authorizes appropriations to carry out the purposes of that Act, is amended (1) by striking out "1970" and "$98,450,000" and substituting "1971" and "$98,800,000", respectively, and (2) by striking out the last sentence thereof.

SEC. 2. Section 5 of the Peace Corps Act, as amended, which related to Peace Corps Volunteers, is amended as follows:

(a) Subsection (c) is amended by: (1) Striking out the period at the end of the first sentence, substituting a colon therefor and adding the following: *"Provided, however,* That in the cases of volunteers who have one or more minor children at the time of their entering a period of pre-enrollment training, one parent shall be entitled to receive a readjustment allowance at a rate not to exceed $125 for each month of satisfactory service as determined by the President"; and (2) by striking out "section 61f" and substituting therefor "section 5582(b)."

(b) By adding a new subsection, as follows: "(m) The minor children of a volunteer living with the volunteer may receive (A) such living, travel, education and leave allowances, such housing, transportation, subsistence and essential special items of clothing, as the President may determine; (B) such health care, including health care following the volunteer's service for illness or injury incurred during such service and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in section 5(e) of this Act, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in section 5(e); (C) such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine; (D) the benefits of subsection (1) of this section on the same basis as volunteers."

SEC. 3. Section 6 of the Peace Corps Act, as amended, which relates to Peace Corps Volunteer Leaders, is amended at clause (3) by striking out ", and a married volunteer's child if born during the volunteer's service,".

SEC. 4. Section 7 of the Peace Corps Act, as amended, which relates to Peace Corps employees is amended at subsection (a), paragraph (3) to read as follows:

"(3) The President may specify what additional allowance authorized by section 5941 of title 5, United States Code, and which of the allowances and differentials authorized by sections 5923 through 5925 of that title may be granted to any person employed, appointed or assigned under this subsection (a) and may determine the rates thereof not to exceed those otherwise granted to employees under those sections."

SEC. 5. Section 13 of the Peace Corps Act, as amended, which relates to experts and consultants, is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "section 15 of the Act of August 2, 1946, as amended (5 U.S.C. 55a)" and substituting therefor "section 3109 of title 5, United States Code"; and

(B) by striking the words "$75 per diem" and substituting therefor "the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code".

(2) Subsection (b) is amended by striking out "section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263)" and "section 201 of the Dual Compensation Act" and substituting therefor "sections 3323(b) and 8344 of title 5, United States Code" and "section 5332 of title 5, United States Code," respectively.

SEC. 6. Section 14 of the Peace Corps Act, as amended, which relates to detailing personnel to foreign governments and international organizations, is amended at subsection (b) by striking out "section 1765 of the Revised Statutes (5 U.S.C. 70)" and substituting therefor "section 5536 of title 5, United States Code."

SEC. 7. Section 301 of the Peace Corps Act, as amended, which relates to the encouragement of voluntary service programs, is amended as follows:

(1) Subsection (a) is amended by striking out everything following "and participation in," in clause 3 and substituting the following: "international voluntary service programs and activities."

(2) Subsection (b), paragraph (2) is amended to read as follows:

"(2) Not more than $300,000 may be used in fiscal year 1971 to carry out the provisions of clause (3) of subsection (a) of this section. Such funds may be contributed to educational institutions, private voluntary organizations, international organizations and foreign governments or agencies thereof, to pay a fair and proportionate share of the costs of encouraging the development of, and participation in, international voluntary programs and activities."

The letter and analysis, presented by Mr. FULBRIGHT, are as follows:

PEACE CORPS,
Washington, February 2, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: Mr. Blatchford is currently out of the country and in his absence I am forwarding for your consideration the enclosed draft legislation which will enable the Peace Corps to continue to strengthen its work on behalf of world peace and understanding.

This legislation will authorize the appropriation of $98.8 million for the Peace Corps in fiscal 1971. This authorization is $350,000 more than the amount authorized and appropriated for 1970. The authorization will enable the Peace Corps to train an estimated 7,000 Volunteer applicants in the coming year, 500 more than this year. The total estimated number of Volunteers and trainees serving at the end of the Peace Corps Program Year, August 31, 1971, will be about 10,000, approximately 500 less than the estimated number on August 31, 1970.

One of the more significant amendments would enable the Peace Corps to recruit, train and assign Volunteers who have minor dependent children. Despite the fact that such people frequently have high skill qualifications, in the past they have been prevented, in the practical sense, from becoming Volunteers. This legislation will authorize an increase in the monthly readjustment allowance from $75 to $125 for one Volunteer parent per family and authorize the provision of various items of support which would help to make Peace Corps Volunteer service a realistic opportunity for dedicated people with dependent children.

The legislation would also authorize the Peace Corps to encourage international voluntary service programs and activities on a limited basis by permitting the Peace Corps to contribute not more than $300,000 in fiscal 1971 as its proportionate share of funds necessary to spur the development of selected international programs.

The Peace Corps will continue in 1971 to seek more effective and more economical ways to recruit, select, train, program and support our Volunteers. Our efforts during the past year to accomplish these goals and our plans for further improvements in 1971 will be presented to the appropriate committees.

The Bureau of the Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

THOMAS J. HOUSER,
Acting Director.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED ACT TO AMEND FURTHER THE PEACE CORPS ACT

The proposed act ("the bill") to amend further the Peace Corps Act, as amended ("the act"), has three purposes. First, it authorizes appropriations for fiscal year 1970 under the general authority in the act for appropriations to carry out programs in furtherance of the purposes of the act. The bill would accomplish this by striking out the amount and the reference to the fiscal year in that general authorization and substituting the new amount and the new fiscal year. Deletion of the amount and year in the general authorization has, of course, no effect on prior appropriations thereunder to carry out the provisions of the act. Second, the bill would effect other amendments to the act, which are of a substantive nature designed to promote more effective operation of the Peace Corps. Third, the bill would effect technical amendments to the act to reflect codification of title 5, United States Code, into positive law by Public Law 89–554.

Section 1.—Amends section 3(b) of the act, which relates to authorizations, (1) to authorize the appropriation of $98,800,000 for fiscal year 1971 and (2) to delete the last sentence which was added by Public Law 91–99.

The last sentence of section 3(b) prohibits the Peace Corps from using its funds to operate the Volunteers to America Program (VTA) "or any similar program involving the service or training of foreign nationals in the United States." Since the Peace Corps will not be conducting VTA, this sentence is not essential. In addition, the prohibition against "similar" programs in which foreign nationals are trained or serve in the United States seems to conflict to some extent with the existing authority in sections 9 and 301 of the act.

Developing countries themselves have persons with the talent and inclination to become engaged in the development and conduct of domestic and international voluntary projects in their countries. These individuals, and consequently voluntary service programs in their countries, could benefit from the experience and training which the Peace Corps could provide more effectively and efficiently in the United States than overseas. The Peace Corps therefore intends to provide training to foreign nationals in the United States under the existing authority contained in section 301 and in accordance with the applicable provisions of section 9 of the act. That training would involve limited experience in certain Peace Corps functions in Washington and regional offices in the United States. Therefore, to eliminate any uncertainty as to the authority of the Peace Corps under sections 9 and 301 to engage in this type of effort, the last sentence of section 3(b) of the act should be deleted.

Section 2.—Amends section 5 of the act to enable the Peace Corps to enroll and assign Volunteers with families by making provision for the care, subsistence and education of Volunteers' children, by authorizing (1) a $50 per month increase in the readjustment allowance for one Volunteer per family; (2) for Volunteers' minor children, the payment of allowances and provision of support items previously provided only to Volunteers, Volunteer Leaders, or the spouses and minor children of Volunteer Leaders; and (3) the payment of education allowances for Volunteers' minor children.

The Peace Corps is currently conducting a pilot project involving the assignment of not more than 200 Volunteers with families under the Volunteer Leader authority of section 6 of the act. Through the use of that authority, the Peace Corps is able to pay living, travel and similar expenses of the spouses and minor children of the pilot project Volunteers despite the fact that they are not Volunteer Leaders in the originally intended meaning of that term. From the experience gained in the pilot project, it has become obvious that the authorities requested in this section of the bill are necessary for the Peace Corps to engage in a major effort to place and retain Volunteers with families in assignments overseas.

The amendment of section 5(c) authorizes an increase of $50 in the monthly readjustment allowance for one Volunteer per family with children at the time of entering training. This increase, which is modest in terms of the costs of maintaining a household, will make it more feasible for individuals with families to serve as Volunteers by providing an additional sum which will help them to defray continuing obligations, such as life insurance premiums and household goods storage costs, during service as well as living expenses upon their return to the United States. The increased readjustment allowance would not be available to Volunteers who do not have minor children when they report to training because the objective is to make it possible for individuals with children to enter the Peace Corps, not to encourage Volunteers without children to begin having them.

The new subsection 5(m) would authorize the Peace Corps to provide Volunteer's minor children with (A) allowances and items necessary for them to accompany the Volunteer in training and in service, which at the present time Volunteers may be paid and provided only for purposes of their own support; (B) health care during and after the Volunteer's training and service for injuries and illnesses incurred while living with the Volunteer during training and service; (C) orientation and training necessary for the entire family to function overseas within the philosophical framework of Peace Corps Volunteer service; and (D) counsel fees, court costs and related expenses for their defense in foreign judicial and administrative proceedings.

Some of these benefits and allowances for Volunteers' children do not require further comment because they are now specifically authorized for the children of Volunteer Leaders under section 6 of the act. This amendment would therefore merely extend them to Volunteers' children. The following comments are thus generally limited to benefits and allowances not specifically authorized for the children of Volunteer Leaders.

First, the new subsection 5(m), at clause (A), would authorize the provision of education allowances for Volunteers' minor children. Payments of such allowances would not exceed the amounts prescribed for the children of Government employees under the *Standard Regulations (Government Civilians, Foreign Areas)*.

Second, clause (B) would authorize the provision of health care to Volunteers' children regardless whether they were born prior

to or during the Volunteers' service. Under section 6, clause (3), health care has been provided married Volunteers' children only if they were born during the Volunteers' service. Clause (B) would also authorize for Volunteers' minor children who live with their parents during training and service, the provision of health care following such service, either directly or through the purchase of insurance.

The post-service health care so provided would generally be identical to that available to Volunteers under the Federal Employees' Compensation Act, except that disability and death compensation payments would not be made. Provision of this care to the minor children of Volunteers is considered highly desirable because there is no practical alternative to relieve a Volunteer from what could be a crushing financial burden arising out of the injury or illness of a member of his family during his training or service. Although every attempt will be made to assign Volunteers with families to locations where health facilities are available, the Peace Corps cannot deny that Volunteers' children may be subjected to a greater likelihood of serious illness or injury than they would be in the United States. Nor would it be sufficient for the Peace Corps to provide health care for the children during the Volunteers' service. For example, it is foreseeable that an injury or illness may be so serious as to require the family's return to the United States in order for the stricken family member to receive the best possible care; or the illness or injury may have such long-term consequences as to require treatment beyond the normal tour of Volunteer service. In these kinds of cases, this authority would authorize the provision of care to the extent needed.

Moreover, given the small amount of the readjustment allowance and the limitations and cost of private health insurance, it would not be practical or fair to place on the Volunteers the cost of such coverage or the risk that coverage would be inadequate.

If adequate insurance can be developed, a determination will be made whether payment of the costs of coverage by the Peace Corps would be more economical than the direct provision of care. If such insurance would be less costly, taking into account the administrative effort involved in providing care, the Peace Corps would probably arrange for insurance coverage in place of direct care.

Third, clause (D) would permit the Peace Corps to employ counsel and pay the counsel fees, court costs, bail, and other expenses incident to the defense of a Volunteer's child in a foreign judicial or administrative proceeding to which he has been made a party. This benefit was authorized for Volunteers under section 5(1) of the act by Public Law 89–572 in 1966. The justification for this benefit for Volunteers and the circumstances for which it was intended were set forth in H. Rep. No. 1778, 89th Cong., 2d sess. 4–5 (1966). The same general considerations, the Volunteer's inability to pay for expenses incident to a legal proceeding when he is accused or sued, would also apply in the cases of Volunteers' children.

Finally, section 2(a)(2) of the bill would effect a technical amendment to reflect the 1966 recodification of title 5, United States Code.

Section 3.—Amends section 6 of the act to delete the authorization to provide health care to children born to a married Volunteer during his service because health care of Volunteers' children is to be provided under the new subsection 5(m).

Section 4.—Amends subsection 7(a)(3) of the act to reflect the 1966 recodification of title 5, United States Code.

Section 5.—Amends section 13 of the act to remove the $75 per day limitation on the amount which the Peace Corps may pay experts and consultants as compensation and to substitute the limitation applicable to most federal government agencies. The $75 per day limitation dates back to 1961 and has become a restrictive, and at times hindering, limitation in that it precludes the Peace Corps from compensating experts and consultants at a rate approximating their normal earning capacity.

Removal of a specific dollar limitation should enable the Peace Corps, as other Government agencies, to keep pace with the private economy in compensating experts and consultants without the need to seek periodic upward adjustments to the ceiling.

The other amendments merely reflect the 1966 recodification of title 5, United States Code.

Section 6.—Amends subsection 14(b) of the act to reflect the 1966 recodification of title 5, United States Code.

Section 7.—Prior to enactment of Public Law 91–99, Title III, section 301(a), of the act stated that it is the policy of the United States (1) to encourage other countries to establish voluntary programs like the Peace Corps to help less developed countries and (2) to encourage less developed countries to establish their own voluntary programs. Public Law 91–99 added that it is also the purpose of the United States "(3) to encourage the development of, and participation in, any *international register* which seeks to provide volunteers to serve in less developed countries or areas, training or other assistance in order to help such countries or areas to meet their needs for trained manpower." (Italic added.)

The use of funds for purposes (1) and (2) of Title III was not affected. For the new purpose (3), however, the Peace Corps was authorized to use up to $300,000 in fiscal year 1970 and to make contributions of such funds. The new authority under purpose (3) to expend and contribute funds in the development of international registers does not enable the Peace Corps to make significant contributions to the advancement of multi-national voluntary efforts.

In the last six years since the enactment of Title III, there has been a virtual explosion in voluntary service programs of both the export and domestic variety. For example, forty countries now send Volunteers abroad, and the number of Volunteers involved has risen to 24,937. Twenty-two voluntary domestic programs and 69,176 volunteers are now involved in national development projects. In addition, the International Secretariat for Voluntary Service (ISVS) which was created in 1963, has grown to a total membership of 52 countries, 15 of which countribute to the organization's support. Eight of these 15 are from the developing world. The ISVS has played a very valuable role in the dissemination of knowledge and skills relating to the selection, training and programming of volunteer manpower.

This growing interest in the possibilities of international and multinational volunteer programs is reflected in the unanimous adoption by the United Nations General Assembly of the resolution presented by the Government of Iran for a feasibility study of an international corps of Volunteers. The Economic and Social Council of the UN subsequently supported this resolution by a vote of 23–0 and the study is now being prepared. Its recommendations are expected to be presented to the General Assembly in the fall of 1970. Simultaneously, there is a movement towards the multinational programming of Volunteers which would involve having Volunteers from two or more export or domestic programs working as a unified team on a specific development project under the supervision of either the host government, one of the volunteer organizations, or perhaps an international body. The expected advantages of such programming are not only that the various Volunteer agencies may, due to the nature of their personnel, be able to complement each other in the effort to achieve a developmental objective, but also that the movement away from bilateralism may make Volunteer service more acceptable to countries which are concerned with real or perceived political entanglements. There is also the clear possibility that the cooperative features of such programs would further enhance the search for world peace and understanding while we are striving to meet the needs of receiving countries for middle-level manpower.

Section 5(1) of the bill would amend purpose (3) of Title III to authorize the Peace Corps to encourage international voluntary service programs.

In order for the proposed amendment to be meaningful, the Peace Corps must have greater flexibility in the forms its support of this objective can take. If there is to be creative experimentation in the area of international and multinational programming of Volunteers, some authority for funding must be available. Thus, section 301(b)(2), as amended, would authorize the expenditure of up to $300,000 during FY 1971 to carry out the amended purpose (3) of section 301(a) and permit contributions of such funds directly in support of pilot programs designed to achieve that purpose and in proportion to the contributions of others. Under this authority, the Peace Corps could provide seed money for the development of a program whereby a domestic Volunteer program might integrate export Volunteers from one or more countries into its efforts. It might also make a grant to a host country agency or an international body, such as ISVS, to defer the costs incident to the development of a program whereby a number of export Volunteer agencies would join in a unified effort to provide Volunteers to a receiving country for a specific project of that country. Such endeavors would be based on the proposition that manpower development is crucial in the developing world and that these efforts can help enable host country peoples to assume responsibility for the work currently being done by Volunteers and development assistance organizations from other countries. Thus by providing "seed capital" for the creation of international programs with host country participation, the Peace Corps would be further able to contribute to this objective.

S. 3431—INTRODUCTION OF A BILL RELATING TO INVESTOR PROTECTION IN CORPORATE TAKE-OVER BIDS

Mr. WILLIAMS of New Jersey. Mr. President, legislation regulating corporate tender offers—Public Law 90–439—which I sponsored was enacted on July 29, 1968. The purpose of this legislation was to close a significant gap in our Nation's securities acts—to bring about full disclosure in corporate tender offers.

Under Public Law 90–439 all pertinent facts concerning the identity and background of the person or group making a tender offer must be disclosed. Stockholders must also be informed as to—

The size of the holdings of the person or group involved;

The source of the funds to be used to acquire the shares being tendered;

Any financing arrangements made for these funds and how these arrangements will be liquidated;

The purpose of the tender offer; and

The plans of the offeror concerning the company if he wins control.

All persons soliciting tenders are now required to answer these questions. Indeed, anyone acquiring more than 10 percent of a class of an equity security

registered under the Securities and Exchange Act is required to disclose similar information.

While this legislation has worked well in lifting the veil of secrecy that had previously surrounded tender offers, certain adjustments are now necessary in light of current developments.

Under the proposed legislation which I am introducing today, anyone acquiring as much as 5 percent of a company's stock must comply with the disclosure requirements of the Corporate Takeover Act.

Recently, many large corporations have been the subject of takeover bids. For example, between 1946 and 1966 only five companies with assets exceeding $250 million were acquired in this manner. However, in 1967, six such acquisitions took place. In 1968, this number doubled. As we all know, 10 percent of the stock in companies of this size—indeed even 5 percent—can add up to a large sum of money, often in excess of $40 million. Stock holdings of between 5 and 10 percent in such companies are in many instances a controlling interest. Here the need for the full disclosure requirements of the Securities Exchange Act are necessary for adequate investor protection.

In addition, a recent trend has developed where individuals contemplating stock acquisitions terminate their purchases at 9 percent of the companies stock in order to avoid full disclosure. This legislation would discourage such tactics.

The bill would also extend the protection of Public Law 90–439 to shareholders of publicly held insurance companies. Under current law, insurance company shareholders are excluded from the full disclosure protections of the Corporate Takeover Act. This is due to the fact that the securities of most insurance companies are exempt from the registration provision of the Securities Exchange Act. Since tender offer legislation applies only to securities registered under that act and to closed-end investment companies insurance company shareholders are at the mercy of the secret takeover bid. This disparity in investor protection is unwarranted and should no longer be tolerated.

The third change which this proposed legislation would make in existing law would be to give the Securities and Exchange Commission rulemaking power with respect to fraudulent, deceptive, and manipulative activities made in connection with a tender offer.

This provision is of the utmost necessity. The techniques used in corporate takeovers and tender offers have become increasingly sophisticated and change rapidly. This is particularly true in situations where the takeover is resisted by incumbent management—industrial warfare develops. Claims and counterclaims, charges and countercharges are hurled back and forth. Efforts are often made to influence the price of the securities involved. The Commission must be given full rulemaking powers in order to deal with these rapidly changing problems.

Mr. President, the Securities and Exchange Commission has informed me that Public Law 90–439 is a valuable and important tool in the arsenal of investor protection. The Commission also agrees that modifications and improvements are necessary in light of the current wave of corporate takeovers and tender offers. This bill will accomplish that objective.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3431) to extend the coverage of sections 13(d), 14(d), and 14(e) of the Securities Exchange Act of 1934 in order to provide additional protection for investors, introduced by Mr. WILLIAMS of New Jersey (for himself and Mr. BROOKE), was received, read twice by its title, and referred to the Committee on Banking and Currency.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

S. 3118

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Rhode Island (Mr. PELL) I ask unanimous consent that at the next printing, the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of S. 3118, to amend the National Sea Grant College and Program Act of 1966 in order to authorize coastal zone laboratory programs.

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

S. 3355

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Texas (Mr. YARBOROUGH) I ask unanimous consent that, at the next printing, the names of the Senator from Indiana (Mr. HARTKE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. TYDINGS) be added as cosponsors of S. 3355, the Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970.

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

SENATE JOINT RESOLUTION 147

Mr. BYRD of West Virginia. Mr. President, on behalf of my colleague from West Virginia (Mr. RANDOLPH), I ask unanimous consent that, at the next printing, the name of the Senator from Illinois (Mr. SMITH) be added as a cosponsor of Senate Joint Resolution 147, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

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

ASSISTANCE TO PERSONS IN OVERCOMING OBSTACLES TO SUITABLE EMPLOYMENT—AMENDMENTS

AMENDMENT NO. 487

Mr. CRANSTON submitted amendments, intended to be proposed by him, to the bill (S. 2838) to establish a comprehensive manpower development program to assist persons in overcoming obstacles to suitable employment, and for other purposes, which were referred to the Committee on Labor and Public Welfare and ordered to be printed.

IMPROVEMENT OF THE AIRWAY SYSTEM—AMENDMENT

AMENDMENT NO. 488

Mr. WILLIAMS of New Jersey submitted an amendment, intended to be proposed by him, to the bill (S. 3108) to provide additional Federal assistance in connection with the construction, alteration, or improvement of the airway system, air carrier and general purpose airports, airport terminals, and related facilities, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT TO UNEMPLOYMENT COMPENSATION BILL SETTING MINIMUM BENEFIT REQUIREMENTS

AMENDMENT NO. 489

Mr. McCARTHY. Mr. President, on February 5, the Committee on Finance began its hearings on H.R. 14705, a House-passed bill to improve the Federal-State unemployment compensation program. The bill makes a number of constructive changes in the Federal-State unempolyment insurance system, but, it does not deal, in my judgment, with the central change needed to improve the State unemployment compensation programs: to set forth minimum benefit requirements in the Federal law that established the State programs.

The Senate was faced by a similar situation in 1966. The House had passed an unemployment compensation bill which did not provide minimum Federal benefit requirements, and the Senate amended the House bill to add benefit requirements. Unfortunately, we could not reach agreement in the conference committee before the session ended.

I am introducing today an amendment to the House-passed bill which is almost identical, except for dates, to standards recommended by the Finance Committee and approved by the Senate in 1966.

The first standard deals with eligibility of workers. It provides a reasonable test to establish that a worker has been a regular member of the labor force.

Under the amendment, a State would have to consider eligible for benefits any worker who has had either 20 weeks of employment in the 1-year base period or its equivalent in terms of wages. Any State which wishes to qualify workers who have worked for less than 20 weeks may continue to do so.

It is also necessary to provide that the size of the weekly unemployment benefit meet a minimum level of adequacy. Ever since the unemployment compensation program was adopted, the goal has been to provide an unemployed worker with at least half the weekly wages he earned before his unemployment, or if his income was relatively high, at least half the average weekly wages in his State. Today most States meet this test for low-wage workers, but not for workers at average wage levels because of limitations on benefits imposed by State law. This amendment provides first, that each eligible individual who earned the State average weekly wage or less must be entitled to a weekly benefit representing at least half of his average weekly wage, and second,

that the maximum weekly benefit could be no less than 50 percent of the average wage in the State.

The final criteria for measuring the adequacy of unemployment compensation benefits is the length of the period in which benefits may be received. The amendment would require the States to entitle to 26 weeks of benefits persons who have had 39 or more weeks of work in the base year. States who permit workers to become eligible for benefits based on less than 39 weeks of work could provide this group of workers with a shorter period of benefits.

A State would be able to participate in the Federal-State program even if it did not meet these requirements. A State which did not meet the benefit requirements would continue to receive Federal grants for administrative purposes. Employers in the State would receive some tax credit for their State taxes, but the credit would be limited to the actual cost, over a 4-year period, of the benefits paid. For example, if a State's benefit costs averaged 2 percent, the credit allowed employers in that State would be limited to 2 percent, compared to the 2.7 percent credit which would be allowed if the State met the minimum benefit requirements of my amendment.

Mr. President, the Senate acted in 1966 to assure workers that the Federal-State program would provide minimally adequate unemployment insurance benefits. The amendment I am submitting will assure the same goal.

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

The PRESIDING OFFICER. The amendment will be received and appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 489) was referred to the Committee on Finance, as follows:

AMENDMENT NO. 489

On page 6, line 9, strike out "3311" and insert in lieu thereof "3312".

On page 10, line 7, strike out "3311" and insert in lieu thereof "3312".

On page 32, between lines 20 and 21, insert the following:

"PART E—BENEFIT REQUIREMENTS

"Sec. 151. CERTIFICATION AND REQUIREMENTS.

"(a) Chapter 23 of the Internal Revenue Code of 1954 is amended by inserting after section 3310 (added by section 131(b)(1) of this Act) the following new section:

"'Sec. 3311. BENEFIT REQUIREMENTS.

"'(a) CERTIFICATION.—On October 31, 1972, and October 31 of each calendar year thereafter, the Secretary of Labor shall certify to the Secretary each State whose law he finds is in accord with the requirements of subsection (c) and has been in accord with such requirements for substantially all of the 12-month period ending on such October 31 and that there has been substantial compliance with such State law requirements during such period. The Secretary of Labor shall not withhold his certification to the Secretary unless, after reasonable notice and opportunity for hearing to the State agency, he finds that the State law is not in accord with the requirements of subsection (c) or has not been in accord with such requirements for substantially all of the 12-month period ending on such October 31 or that there has been a failure to comply substantially with such State law requirements during such period. For any State which is not certified under this subsection on any October 31, the Secretary of Labor shall within 10 days thereafter notify the Secretary of the reduction in the credit allowable to taxpayers subject to the unemployment compensation law of such State pursuant to section 3302(c)(4).

"'(b) NOTICE TO GOVERNOR OF NONCERTIFICATION.—If at any time the Secretary of Labor has reason to believe that a State may not be certified under subsection (a) he shall promptly notify the Governor of such State.

"'(c) REQUIREMENTS.—

"'(1) With respect to benefit years beginning on or after November 1, 1971—

"'(A) the State law shall not require that an individual have more than 20 weeks of employment (or the equivalent as provided in subsection (4)) in the base period to qualify for unemployment compensation;

"'(B) the State law shall provide that the weekly benefit amount of any eligible individual for a week of total unemployment shall be (i) an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency, or (ii) the State maximum weekly benefit amount (exclusive of allowances with respect to dependents) payable with respect to such week under such law, whichever is the lesser;

"'(C) the State law shall provide for an individual with 39 weeks of employment (or the equivalent) in the base period, benefits in a benefit year equal to at least 26 times his weekly benefit amount.

Any weekly benefit amount payable under a State law may be rounded to an even dollar amount in accordance with such State law.

"'(2) The State maximum weekly benefit amount (exclusive of allowances with respect to dependents) shall be no less than 50 percent of the Statewide average weekly wage most recently computed before the beginning of any benefit year which begins after October 31, 1971.

"'(3) In determining whether an individual has 20 weeks of employment, there must be counted as a week, any week in which the individual earned at least 25 percent of the Statewide average weekly wage.

"'(4) For the purpose of subsections (c)(1)(A) and (C), the equivalent of 20 weeks of employment in a State which uses high-quarter wages is total base period wages equal to five times the Statewide average weekly wage, and either one and one-half times the individual's high-quarter earnings or forty times his weekly benefit amount, whichever is appropriate under State law.

"'(d) Definitions.—

"'(1) "benefit year" means a period as defined in State law except that it shall not exceed one year beginning subsequent to the end of an individual's base period.

"'(2) "base period" means a period as defined in State law but it shall be fifty-two consecutive weeks, one year, or four consecutive calendar quarters ending not earlier than six months prior to the beginning of an individual's benefit year.

"'(3) "high-quarter wages" means the amount of wages for services performed in employment covered under the State law paid to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.

"'(4) "individual's average weekly wage" means an amount computed equal to (A) one-thirteenth of an individual's high-quarter wages, in a State which bases eligibility on high-quarter wages paid in the base period or (B) in any other State, the amount obtained by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contributions under the State law) paid to such individual during his base period by the number of weeks in which he performed services in employment covered under such law during such period.

"'(5) "Statewide average weekly wage" means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period which includes the twelfth day of each month during the same four calendar quarters, as reported by such employers.'

"(b) The table of sections for chapter 23 of such Code is amended by adding after the item relating to section 3310 (added by section 131(b)(1) of this Act) the following:

"'Sec. 3311. Benefit requirements.'

"Sec. 152. LIMITATION ON CREDIT AGAINST TAX.

"(a) Section 3302(c) of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new paragraph (4) as follows:

"'(4) If the unemployment compensation law of a State has not been certified for a twelve-month period ending on October 31 pursuant to Section 3311(a), then the total credits (after applying subsections (a) and (b) and paragraphs (1), (2), and (3) of this subsection) otherwise allowable under this section for the taxable year in which such October 31 occurs in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced by the amount by which 2.7 percent exceeds the four-year benefit cost rate applicable to such State for such taxable year in accordance with the notification of the Secretary of Labor pursuant to section 3311(a).'

"(b) Subsection (c)(3)(C)(i) of section 3302 of such Code is amended by substituting the term "4-year" for the term "5-year".

"(c) Section 3302(d)(5) of such Code is amended to read as follows:

"'(5) 4-Year Benefit Cost Rate.—For purposes of subsection (c)(4) and subparagraph (C) of subsection (c)(3), the 4-year benefit cost rate applicable to any State for any taxable year is that percentage obtained by dividing—

"'(A) One-fourth of the total compensation paid under the State unemployment compensation law during the four-year period ending at the close of the first calendar year preceding such taxable year, by

"'(B) The total of the remuneration subject to contributions under the State unemployment compensation law with respect to the first calendar year preceding such taxable year. "Remuneration" for the purpose of this subparagraph shall include the amount of wages for services covered under the State law irrespective of the limitation of the amount of wages subject to contributions under such State law paid to an individual by an employer during any calendar year beginning with 1972, up to $4,200; for States for which it is necessary, the Secretary of Labor shall estimate the remuneration with respect to the calendar year preceding the taxable year.'"

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969—AMENDMENT

AMENDMENT NO. 490

SCHOOL DESEGREGATION

Mr. MONDALE. Mr. President, I rise today to address myself again to the issues raised by amendment No. 463 concerning school desegregation policies

which may be offered to the Elementary and Secondary Education Act.

I wish to reaffirm my strong support for equal application of the civil rights laws in all sections of this country. I believe very deeply that it is our responsibility to insure that the laws of this land provide equal educational opportunity for all children—regardless of their color, race, or national origin.

I further recognize that racially segregated schools exist in all parts of our country.

As I indicated yesterday, the problems surrounding school desegregation involve some of the most fundamental issues facing our Nation. The amendment proposed by the Senator from Mississippi (Mr. STENNIS) raises legitimate and important questions, but provides no answers.

Amendment No. 463 is ambiguous at best. It may be meaningless or it may be mischievous. What, for example, is the legal consequence of the "policy declaration" used in this amendment? How would the term "segregation" be construed? What test of "desegregation" would be used in a situation of de facto segregation since existing guidelines simply require the disassembling of the dual school system? Would this amendment require that racial percentages be established in the guidelines? Would the amendment require more vigorous enforcement of the open housing law? Would it apply only to core cities or metropolitan areas? Why does it refer only to "race" and not "color" or "national origin"?

Most importantly, how would this amendment relate to existing law in this field, such as the provisions which limit the authority of HEW to deal with situations of "racial imbalance." While the apparent intent of the amendment is to break down the established distinction between de facto and de jure segregation, there is serious question about whether its effect would be to require movement against de facto segregation or restrict movement against de jure segregation.

The Commissioner of Education states that the intent of this amendment is unclear, many of the important terms in it are undefined, and its legal consequences are uncertain.

I do not believe that the serious problems associated with racial isolation and de facto segregation can be resolved responsibly by acting on this ambiguous amendment on the basis of floor debate alone. Senators on both sides of the aisle, and administration spokesmen, have expressed similar reservations about action at this time, and have urged that this amendment and others dealing with these problems be referred to committee for thorough review and recommendation.

I accept the challenge to develop a responsible approach to these problems.

I am, therefore, submitting at this point a substitute amendment for amendment No. 463 which would create a Select Committee on Equal Educational Opportunity to be charged with the responsibility to study and make recommendations concerning the problems related to de facto segregation of the schools. In order to develop a reasonable recommendation concerning these problems, it is my belief that this select committee would have to consider among others, the following questions:

Would new policies need to be adopted concerning residential living patterns and the enforcement of fair housing legislation?

Would new policies need be adopted to encourage more low-income housing, more widely dispersed?

Is a new policy regarding busing as a means for eliminating or reducing racial isolation in public schools necessary?

Is a new policy insuring equal employment opportunity necessary to reduce racial isolation? Do we need a national program of public service employment?

Do we need a new program to insure excellence in education in all schools so that children will have equal access to employment and housing opportunities?

Would existing provisions in existing laws such as in the Civil Rights Act of 1964 and the Elementary and Secondary Education Act with respect to racial imbalance need to be modified or repealed?

Should programs of Federal assistance be established to enforce or encourage a new national policy relating to racial isolation in the schools?

This select committee would be composed of members of the Committee on Labor and Public Welfare, the Committee on the Judiciary, and Members of the Senate at large.

The select committee would be required to submit an interim report with recommendations to the Senate no later than August 1, 1970, and submit its final report no later than January 31, 1971.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 10, 1970, he presented to the President of the United States the enrolled bill (S. 2214) to exempt potatoes for processing from marketing orders.

NOTICE OF HEARINGS ON S. 1530

Mr. BIBLE. Mr. President, I wish to announce that hearings on S. 1530, a bill to authorize the appropriation of additional funds necessary for the purchase of private lands at the Point Reyes National Seashore, Marin County, Calif., will be held by the Subcommittee on Parks and Recreation of the Interior Committee, on Thursday, February 26.

This hearing will begin at 10 a.m. in room 3110, New Senate Office Building.

Members of Congress or others wishing to participate in this hearing should notify the Interior Committee staff promptly.

FOR MILLIONS THERE IS A RECESSION NOW, A NEW ANTI-INFLATION STRATEGY IS NEEDED

Mr. PELL. Mr. President, when the present administration took office a year ago, it announced its intention to halt inflation and prevent a recession. This goal was to be accomplished by a reduction of Federal spending and by a reduction in the Nation's money supply.

The anti-inflation effort of the administration was supposed to be one of the major differences which distinguished it from the previous administration.

I would like to suggest, as I mentioned once before, following the President's anti-inflation veto of the HEW appropriations bill, that the present emphasis on monetary policy and domestic cutbacks is no more likely to end inflation and stop a recession than unfunded domestic programs were likely to end poverty.

I would also suggest, taking the analogy one step further, that while the past democratic administration developed a credibility gap with its so-called major constituent group, the disadvantaged, the present administration is also developing a credibility gap with its inflation effort with its own self-proclaimed constituent group, the silent majority.

It is the average worker, the small businessman, and the pensioner who are suffering right now the burden of a recession, as is pointed out in a recent newspaper article written by Sylvia Porter. I ask unanimous consent that her article, published in the February 5, 1970, Providence Journal, be printed following the conclusion of my remarks.

If this administration is going to halt this recession, if it is seriously concerned about the welfare of the silent majority, I would then suggest it change its anti-inflationary strategy. Rather than veto the domestic programs designed for the less influential in our society and reduce the supply of money needed to build their homes, I think it is time for serious consideration to be given, on one hand, to the implementation of wage, price, and credit controls as a means of controlling excessive demand, and, on the other hand, to increase expenditures for those education and manpower programs serving those sectors of economy where inflation is caused by a lack of skilled manpower needed to meet the demand for services.

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

FOR MILLIONS RECESSION'S HERE

(By Sylvia Porter)

Avoidance of recession is a key goal of economic policy in 1970, the President has tried to make clear in his economic and budget messages—and in view of what a significant decline in our economy would mean to the jobs, paychecks and profits of millions of voters, you wouldn't expect any other statement from so masterful a politician as Richard Nixon.

But who's kidding whom? For millions of us—and the number is mounting by the week—recession is already here and now. What's more, as I'll document below, for millions recession has been here for a startlingly prolonged period.

I'm not writing in this column in the technical baffle-gab which defines a national recession as two calendar quarters of decline in real Gross National Product (the dollar total of our output adjusted to eliminate price increases). I'm writing in terms of you and me—and in these terms, a recession is what the dictionary says it is.

It's a "retreat." It's a moving or sliding

back in our buying power, our assets, our living standards. Specifically:

(1) If you're a typical U.S. worker, you have been sliding back since the start of the Vietnam war escalation in 1965! You have been in a recession longer than any worker since before World War II—a whole generation!!! This hasn't been a one-year phenomenon; "since 1965" means for more than five years.

The weekly spendable earnings (take-home pay after deduction of federal income and social security taxes) of the typical factory worker with a wife and two children totaled $99.99 in 1969, up 4.9 per cent over 1968.

On the surface, that seems progress, but the real weekly spendable earnings of this worker (take-home pay after allowance for price increases) are down to $78.30—0.4 per cent below 1968, also below 1966 and below 1965 too!

"For 1969 as a whole, increases in consumer prices eroded all of the gain in earnings," confirms the Labor Department's official report. "Over-the-year declines occurred in manufacturing, trade and finance, insurance and real estate."

Admittedly, these pay figures do not include fringe benefits—but they don't include skyrocketing state and local taxes either.

I'll wager the bite taken by state-local taxes more than offsets the contribution made by fringe benefits.

(2) If you're a small businessman, you're in an ever-deepening recession. You're a target of tight money; you rank way down for loans, way up for stiff loan charges. You are hit the hardest by pay demands and you can't resist very well. Your customers are most likely to be slow payers and, again, you're comparatively helpless. Your profits are fading fast.

The giants are now being hit too, but to nowhere near the extent that you are. They are in a slowdown; you're in a retreat.

(3) If you've heavily invested in stocks, you're hurting and hard—and no matter whether your chips are blue, white, red or polka-dot. Even if you haven't been forced to sell out, you're aware of the degree to which the crackup of 1969–70 has erased your profits and eaten into your capital. With stock prices on average back to 1963's levels—wiping out more than six years of gain—who isn't hurting?

(4) If you've been in the bond markets, it has been a "pure blood bath." All investors in bonds of all types are "bleeding"—big and small, pros and amateurs, the dealers of Wall Street, the widows of Main Street.

And if you're trying to build houses in a period of brutally tight and expensive credit . . . or trying to buy or sell a house when mortgage money is so tough to get . . . and now, of course, unemployment is on the rise, profits are perceptibly shrinking, the rise in personal incomes is leveling off. . . .

Who needs to wait for the baffiegab to confirm that millions of us are in a recession? Who's kidding whom?

THADDEUS KOSCIUSZKO—A FIGHTER FOR HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, today I wish to remember Gen. Thaddeus Kosciuszko, a Polish-American patriot who was instrumental in helping the Continental Army turn the tide of battle against the British. Trained as a military engineer, Kosciuszko arrived in Philadelphia in 1776, and was commissioned as Colonel of Engineers in the Continental Army.

He masterfully built fortifications at West Point and his brilliant choice of battlefields and erection of fortifications at Saratoga are said by many to have been a major factor in turning the tide of battle in favor of the Americans.

In recognition of his distinguished service to the cause of American independence, the Continental Congress awarded Kosciuszko a pension with land in Ohio, made him an American citizen, and gave him the rank of brigadier general.

After the War of Independence, Kosciuszko returned to Poland to lead an unsuccessful struggle for Polish independence against partition by Poland's neighbors. For his efforts the American general spent 2 years in a Russian prison.

I feel, though, that in addition to remembering Kosciuszko for his fierce dedication to independence and liberty, we must also think of him as a strong advocate of human rights. He was very much opposed to slavery and forced labor of any type and was a strong advocate of liberty for every human being.

It is Thaddeus Kosciuszko's complete and unselfish dedication to the principles of human rights and freedom for all peoples that I particularly ask the Senate to recall today. In testimony to this dedication, I wish to read a brief will which he left with his good friend Thomas Jefferson:

I, Thaddeus Kosciuszko, being just on my departure from America, do hereby declare and direct that, should I make no other testamentary disposition of my property in the United States, I hereby authorize my friend Thomas Jefferson to employ the whole thereof in purchasing Negroes from among his own or any other giving them liberty in my name; in having them instructed for their new condition in the duties of morality which may make them good neighbors, good fathers and mothers, husbands and wives, in their duty as citizens; teaching them to be defenders of their liberty and country, of the good order of society, and in whatsoever may make them happy and useful.

Let us today rededicate ourselves to the basic principles of human rights so well exemplified in the deeds and words of Thaddeus Kosciuszko.

POW CHRISTMAS CARDS DELIVERED TO NORTH VIETNAMESE PARIS DELEGATION

Mr. GRIFFIN. Mr. President, I speak again on a question of deep national concern—the plight of American prisoners of the Vietnam war.

Last Thursday, at the weekly session of the Paris meetings on Vietnam, U.S. Ambassador Philip Habib delivered some pointed remarks to the North Vietnamese and the National Liberation Front delegations on this subject.

He reminded the other side that there is a long tradition among "civilized nations" of treating captured personnel humanely in wartime. If the observance of that tradition is an important element, surely North Vietnam does not qualify today for inclusion in the world community of civilized nations.

On December 10, 1969, I spoke at some length concerning the enemy's callous disregard of the Geneva Convention in its treatment of prisoners of war. I shall not repeat today what I said then.

However, the remarks of Ambassador Habib before the recent Paris meeting provided an appropriate backdrop for the report I am able to make to the Senate today. I ask unanimous consent that the opening statement and supplementary remarks of Ambassador Habib be printed in the RECORD at the conclusion of my remarks.

Four days after Ambassador Habib's statement to the other side, on Monday, February 9, 1970, petitions from thousands of American citizens were delivered to the North Vietnamese villa outside Paris. The petitions, mostly in the form of Christmas cards and other holiday greeting messages, urged North Vietnam:

First, to make known the names of Americans held as prisoners of war;

Second, to treat them humanely in accordance with directives of the Geneva Convention, and

Third, to release them at an early date.

I have a copy of a news release issued yesterday by the U.S. Jaycees, a nonpartisan organization of patriotic, public-spirited young men. It will be recalled that the U.S. Jaycees carried out a campaign, referred to as Project Xuan Thuy, calling upon Americans to send a Christmas card to the head of the North North Vietnamese delegation.

The response from the public was gratifying. Cards were received from an estimated 125,000 Americans from all walks of life.

Mr. President, I ask unanimous consent that the Jaycees news release be printed at this point in the RECORD.

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

NEWS RELEASE

TULSA, OKLA.—Thousands of Christmas cards from United States citizens who are concerned about the welfare of American prisoners in the Vietnam war were delivered today to the North Vietnamese delegation to the Paris peace talks.

The delivery of more than 100 cartons was completed by representatives of the United States Jaycees, with assistance in Paris from a representative of Junior Chamber International.

The cards were accepted at the North Vietnamese villa outside Paris by the officer in charge. They had been addressed to the chief North Vietnamese negotiator, Xuan Thuy. All of the cartons were opened and inspected before they were received. The cartons had been opened previously by French officials and shipment into the country had been delayed for approximately ten days. Trans-World Airlines had provided shipment of the cards from Washington, D.C. to Paris.

The delivery was a result of a project begun by the Jaycees in cooperation with U.S. Senator Robert P. Griffin of Michigan. In a speech before the Senate last December 10, Griffin called on all Americans to remember the more than 1,300 prisoners of the North Vietnamese by sending a Christmas card to negotiator Thuy.

The cards asked that the names of those being held captive be released to their families in this country and that the prisoners be treated humanely in accord with the Geneva Convention. Many of the cards also asked that negotiations leading to the release of the prisoners begin immediately.

A telegram message from the president of the United States Jaycees, Andre LeTendre, accompanied the cards. The message read:

"Contained in these boxes are messages of peace and goodwill from many thousands of people in the United States. Please accept them as a good faith gesture and as a sincere

expression of genuine concern for the well-being of the American servicemen which your country holds captive."

LeTendre, in commenting on the successful delivery, said: "The North Vietnamese have accepted these petitions. Whether or not they help to generate the desired effect cannot be immediately determined. We will be watching, the American people will be watching, and the world will be watching to see how Hanoi's rulers will respond."

Mr. GRIFFIN. Mr. President, the plight of American prisoners of war is a matter that warrants the unrelenting attention not only of the American public, but of all in the world community who ascribe to basic standards of human decency concerning the handling of war captives.

The Jaycees have helped to keep this issue before the American consciousness. It should remain there until the problem is satisfactorily resolved—until each wife and mother in every State of the Union gets an answer to the question—as one young woman put it—"whether I am a wife or a widow."

One of these brave young women, Mrs. Candace Parish, recently wrote an article that was published on February 1, 1970, in the nationally syndicated Sunday supplement magazine, Family Weekly. Mrs. Parish's husband, Charles, a Navy lieutenant, took off on a mission in his Phantom jet from the carrier *America* on July 25, 1968. His aircraft was shot down over North Vietnam.

To this day Mrs. Parish does not know the fate of her husband.

I ask unanimous consent that her story, poignantly told, be printed in the RECORD at the conclusion of my remarks.

Mr. President, I wish to commend and express my gratitute to President Andre LeTendre and the staff of the U.S. Jaycees on their efforts in connection with Project Xuan Thuy.

I wish to salute all Jaycees throughout the country who worked on this project, among them, Wendell Smith, of Atlanta, Ga., Jaycees national chairman; and Richard Headlee of Rosebush, Mich., a past president of the U.S. Jaycees. In addition, a word of appreciation is due Trans World Airline and its fine personnel who cooperated in shipping the cards at no cost to Paris; and to Smith's Transfer & Storage Co., Inc., of Washington, D.C., which packed the cards and conveyed the 110 cartons free of charge to Dulles Airport for the TWA flight. Furthermore, I wish to acknowledge that the interest and attention of the news media of the country helped significantly to publicize Project Xuan Thuy.

Most important, I wish to thank Americans who took the time to send the thousands and thousands of cards and messages addressed to Minister Xuan Thuy.

Mr. President, as I noted in my December 10 speech in this Chamber, the Communists who run North Vietnam have demonstrated that they can be heartless. But I doubt that they are fools. As we have seen, they have indicated intense interest from time to time in American public opinion.

It may be a cause for some optimism that the North Vietnamese at least accepted delivering of the Christmas cards. I hope the cards will be read.

As Jaycees President LeTendre noted in his statement, we have no way of knowing immediately whether our undertaking will help to bring forth favorable results.

But as Mr. LeTendre obeserved—and I think his remarks bear repeating:

We will be watching, the American people will be watching, and the world will be watching, to see how Hanoi's rulers respond.

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

AMBASSADOR HABIB'S OPENING STATEMENT

Following is the text of the opening statement delivered by Ambassador Philip C. Habib at the Fifty-Third Plenary Session of the New Paris Meetings on Viet-Nam, February 5, 1970:

Ladies and Gentlemen: Your consistent refusal to abide by the 1949 Geneva Convention on the treatment of prisoners of war is viewed by American and world public opinion with dismay. There is a long tradition among civilized nations of treating captured personnel humanely in wartime. This principle has been codified in the Geneva Convention of 1949 to which there are over 120 signatories, including North Viet-Nam, South Viet-Nam and the United States.

Furthermore, the prisoners of war question is urgent because of the deep humanitarian concern which is aroused by your unconscionable failure to insure that prisoners of war—and the families of men who are held prisoner or who are missing in action—are treated fairly and humanely.

The 1949 Geneva Convention sets forth clearly the requirements of humanitarian treatment. First, all prisoners of war must be immediately identified so that their families and their governments will know who is alive and who is not. Second, prisoners of war must be permitted to correspond freely with their families. Third, impartial observers must be allowed to visit prisoners of war regularly to verify whether their treatment is fair. Fourth, seriously sick and wounded prisoners must be repatriated as quickly as possible. These are minimum standards that are recognized and applied by all civilized nations.

On our side prisoners of war are treated in accordance with the provisions of the 1949 Geneva Convention. The International Committee of the Red Cross has access to prisoners of war captured by our side and to the prisoners of war camps in which they are held. Every one of these prisoners of war camps is publicly identified. The Government of the Republic of Viet-Nam transmits lists of prisoners of war it holds to the International Committee of the Red Cross. It permits a free flow of mail to and from prisoners of war. It has, over and over again, sought your side's cooperation in the repatriation of seriously sick and wounded prisoners of war.

Your side still refuses to identify most of the prisoners of war you hold in North Viet-Nam. You have identified none of the prisoners you hold in South Viet-Nam. Several weeks ago we handed you a list of over 1400 missing or captured Americans. The families of these men are waiting to know whether you will provide information about their status in an official and regular manner. The piecemeal and indirect provision of information through unofficial channels does not fulfill your obligations under the Geneva Convention.

Only about 170 families have ever received a letter from a man who is missing or captured in Viet-Nam. Many of these families have only recently received their first letter. In some cases, those men have been held since 1965—that is over four years with no word to their families.

There have been recent unofficial reports that American prisoners held in North Viet-Nam could send and receive letters and could receive packages on a regular schedule. Families are acting upon that information and will be waiting to see whether such packages and letters are actually received.

At the same time, American prisoners of war held in South Viet-Nam are also entitled to regular mail privileges. These prisoners have never been permitted to write letters to their families. The families of these men also should be able to send packages and letters to them and hear from their men.

It is essential and urgent that impartial observers be permitted to visit prisoners of war held by your side both in North and South Viet-Nam in order to verify whether those prisoners are being treated humanely as you claim. We have new, shocking evidence that prisoners of war whom you hold are subject to inhumane treatment. Only recently it was discovered that your forces in South Viet-Nam had executed two American prisoners captured in 1966 after having put them on public display in several villages. This is a grave breach of the 1949 Geneva Convention and is unacceptable when measured against any standard of civilized behavior.

The representative of the Government of the Republic of Viet-Nam has recalled his government's efforts to obtain your side's agreement to the release of sick and wounded prisoners of war who wish to go to North Viet-Nam. We believe discussions with your side should begin, without delay, on arrangements for the immediate release of all seriously sick and wounded prisoners of war as well as for the early release of all other prisoners of war held on both sides.

Ladies and gentlemen, the question of prisoners of war is not only a burning humanitarian question, but also a question of your solemn legal obligation. Its solution must not await an overall settlement of the political and military issues involved here. World opinion demands no less.

We desire to engage in meaningful discussions of all prisoners of war questions with your side now. We await your serious response.

AMBASSADOR HABIB'S SUPPLEMENTARY REMARKS

Following is the text of four supplementary remarks by Ambassador Philip C. Habib at Fifty-Third Plenary Session of the New Paris Meetings on Viet-Nam, February 5, 1970.

I. We have sought from the beginning of these meetings to discuss in meaningful ways all the basic issues involved. The prisoner of war question is a basic issue in these Paris meetings. It is not a propaganda matter. It is a serious humanitarian question as well as a question of your legal obligations. It is not a question to be avoided as you have sought to avoid it today by wild charges and evasions of the basic considerations and obligations involved.

There are essentially three aspects in the prisoner of war question. First, the treatment of prisoners of war while they are detained; second, the release of sick and wounded prisoners of war; third, the release of all other prisoners of war. None of these questions needs await a resolution of the conflict.

Your side claims to treat prisoners of war humanely. Now what does "humane treatment" mean? Both in the 1949 Geneva Convention, and apart from it, the world community has demanded that humane treatment of prisoners of war include the following:

(1) Identification of and accounting for all prisoners;

(2) That all prisoners be permitted to communicate with their families on a regular basis;

(3) That seriously sick and wounded prisoners be promptly repatriated; and

(4) That impartial observers be permitted to verify that prisoners of war are being treated humanely.

Your side has not lived up to these standards of humane treatment. Your side has not even been willing to discuss the application of these standards of humane treatment. Let us take just one of these standards of humane treatment. Let us take just one of these standards at this time. That is the identification of all prisoners of war.

We have made available lists of all prisoners of war in our hands. Your side refuses to give the names of the prisoners of war you hold. The question is: are you prepared to do as we have done and provide the names of all prisoners of war that you held, without delay?

II. You claim that you treat American prisoners of war humanely. What we have been trying to do is to clarify what you mean by humane treatment and to relate it to normal international standards.

At this time you appear unwilling to discuss in any meaningful way your responsibility to supply the names of prisoners and thus fulfill your obligation in this regard. I will return to that question again. Meanwhile, let me take another standard for humane treatment of prisoners of war, namely their right to communicate regularly with their families.

The Geneva Convention provides that each prisoner shall be permitted to send at least two letters and four cards per month as a standard of humane treatment. Yet, in over five years you have allowed only 170 out of all the prisoners you hold to write even one letter to their families. Even this limited number of prisoners has only been permitted to send an average of two letters a year—far less than the accepted standard. No American prisoner of war held by your side in South Viet-Nam has ever been permitted to write a letter. The question is the following: are you willing to do as we have been doing and let regular communications between the prisoners and their families take place?

III. To make progress at these meetings, the relevant issues need to be raised and discussed. To avoid issues is to block progress. Now, as at this time you appear unwilling to discuss the question of regular communications between prisoners and their families. I will return to that another time. Meanwhile, let me take up another standard of humane treatment.

Seriously sick and wounded prisoners should be promptly repatriated. Are you willing to do what we are willing and have offered to do? That is, arrange immediate repatriation of sick and wounded prisoners?

While you consider that issue, let me take up another standard of humane treatment. Impartial observers should be permitted to have access to prisoners of war and prisoner of war camps in order to verify whether prisoners are being treated humanely. The question is, are you willing as we are doing to allow impartial observation of your prisoner of war camps?

IV. Serious indignation arises when issues are avoided rather than discussed. Serious indignation arises when prisoners of war and their families are not accorded the treatment called for by all accepted international standards. The questions of prisoners of war is an issue at these meetings. We have every right to seek for our prisoners of war the treatment which is theirs by right, by reason, and by international practice. Today you have avoided meaningful discussion of the issue of prisoners of war, an issue on which there is no logical or reasonable reason for us not to make some progress. We will return to this issue, because it is not an issue which can be left alone.

Is My Husband Dead or Alive?

(By Mrs. Candace Parish)

(Note.—It was only natural for "Candy" Engen to marry a pilot. Her father was a Navy flier, and as soon as she was old enough to be accepted, at 20, she began flying as an airline stewardess. That was in November, 1965. A few months later, she met Charles Parish, a young pilot who had just won his wings in the Navy, and they were married the following November. This is her story:)

The ordeal doesn't begin very differently for any of the women, the more than 1,335 wives and mothers whose husbands or sons are missing in Vietnam.

Mine began that hot Thursday afternoon of July 25, 1968. My husband, Lt. Charles C. Parish, U.S.N., was flying an F–4 Phantom Jet off the carrier *America* in the Tonkin Gulf. I had sublet our house at Virginia Beach and come home to be with my parents in Alexandria, Va., while our baby was born.

Hunter was a beautiful baby with golden hair and blue eyes. He was not yet three weeks old the day that our telephone began ringing.

My parents had gone out, and I was alone in the house. The calls were from Navy officers, asking for my father. He's also in the Navy, so I didn't attach any significance to it, though there were a number of calls.

I didn't know that the callers were trying to reach my father so he could break the news to me, or that one of our friends was driving around the local shopping center looking for my parents to tell them that Chuck had been shot down over North Vietnam.

My parents returned at about 4 p.m. and immediately there was another telephone call. I was feeding the baby. After I placed Hunter in his crib, Daddy came into the living room and said there was bad news.

Quietly, he told me all that was known. Chuck's plane had been hit over North Vietnam, Another flier had seen his plane going down at 6,000 feet and tried to make radio contact, but received no answer; he assumed both crewmen already had ejected. Chuck's plane was seen to crash—"impact" was the Navy word—in Communist territory. If Chuck were able to hide and make radio contact, a rescue mission might still pick him up. We would be informed.

I always knew it was possible that my husband might be shot down. It had happened to others and could happen to him. But I never really believed it. Even in peacetime the wife of any man who flies realizes that on any flight something may go wrong. But she puts the thought out of her mind, or buries it so deeply that it rarely surfaces for more than an instant.

Chuck and I knew that one day his ship would be sent to Vietnam. We knew this early in 1967, when we had been married for less than three months and the *America* sailed to join the fleet in the Mediterranean.

I flew over that February along with many of the officers' wives, and we had a wonderful time, meeting our husbands at every port the ship visited, then going swimming, sight-seeing, and shopping together. But there was a general belief among us that after this cruise, the *America's* next duty station would be Vietnam.

In August, we wives returned from Europe on a plane we had chartered. When Chuck's ship sailed into Hampton Roads, I was waiting for him, and we rented a house at Virginia Beach. Again, it was a wonderful time. The house was right on the beach, and other fliers and their wives would come over in the evenings.

We knew it was transitory. That's part of service life, and you accept it. So was Vietnam, and we accepted without words that Chuck's squadron would take its turn at combat flying. We knew this when I became pregnant, but we didn't talk about it. And I wouldn't change anything. Those were glorious months. We were incredibly happy.

When I was five-months pregnant, Chuck sailed for Vietnam. When Hunter was born on July 5 in DeWitt Army Hospital at Ft. Belvoir, Va., the fact that I was the only woman in the maternity ward whose husband was not with her didn't worry me. I had Chuck's letters and tapes to read and listen to, and I just knew I had the handsomest baby ever.

Chuck was informed by cable, and his taped reply was ecstatic. When I got home, I sent him a tape of the baby crying and told him: "Set your alarm for 2 a.m., then get up and play this. This is what it sounds like at that hour every morning in this house." Chuck never had a chance to answer.

When Daddy told me that Chuck was down, that it actually had happened, I couldn't believe it. I heard it, I knew it was true, but I couldn't accept it.

Chuck is six-foot-one, 180 pounds, alert, resourceful, and full of life. People like that don't just disappear. That first day, I kept thinking they would hear from him, pick up a radio signal to home in on, and winch him up to a helicopter and safety. It had happened before and it would happen this time. Only it never did.

That evening at about 9 o'clock a chaplain and another officer came to call. The officer was assigned to keep me posted on any information the Navy received and to help me with the financial affairs regarding Chuck's pay and allotments. An officer is assigned to every woman in my situation, and they do everything they can to help.

In spite of their best efforts and the efforts of many kind people, it's a very personal nightmare. Mine began that summer afternoon and is still going on.

I took our baby and went back to Virginia Beach, where Chuck and I had been together. We lived in a townhouse apartment, Hunter, our dachshund Sasha, and I. Two months later, the bundle containing Chuck's belongings was delivered. That was a particularly difficult time, unpacking and putting away his clothes, his toilet articles, his camera. Those first months were the worst. Sometimes a few wives of fliers would get together for dinner or a movie, but it was hard to feign cheerfulness in our position.

A news report, that Christmas, said arrangements were being made to release American fliers held by Hanoi. Later, we were told it had been an error in translation. In the beginning, I hung on every word, every story that mentioned the prisoners in North Vietnam. But there would always be that awful letdown, the realization that there wasn't going to be any list of names or free exchange of mail, at least not this time.

Some of the wives still go through this at every scrap of news or rumor that comes from the Paris talks or from pacifist groups here or abroad. I don't, not any more. I won't let myself get excited. I wait to be notified. I think I'm storing it all up inside me, and it will spill out all over some officer who one day brings me news of Chuck. That poor officer is going to have a scene on his hands.

Last September I came to Washington, D.C., with a number of wives whose husbands were missing or known to be prisoners in Vietnam. We visited the House of Representatives, and the House passed a resolution condemning North Vietnam for its refusal to abide by the Geneva Convention on treatment of prisoners by not furnishing a list of prisoners.

Afterward, there was a reception for the families, and we discussed what else we could do. We had formed the National League of Families of American Prisoners to exchange information, work together, and try to help one another. It's one organization that nobody wants to join, and new members are never welcome.

After trying so long to be patient and unobtrusive, it felt good to be making ourselves heard, to know that voices were being raised on our behalf I had thought for some time about going to Paris to ask the Communist delegates to the peace talks whether

they couldn't please give me some word of my husband. I watched the Paris trip of four women from Texas—the first of 22 relatives who would visit the North Vietnamese delegation—and when I read that they were assured by the Communists that they would receive word of their husbands, my mind was made up.

I moved home from Virginia Beach, and on Sept. 28 I flew from New York to Paris in the company of four other wives and the father-in-law of one of the missing men. We arrived on a Sunday night.

On Monday we obtained the number of the North Vietnamese delegation's headquarters and telephoned them. They promised to call back and let us know when we might be received. At 10:30 Saturday morning, Oct. 4, we were told we had a 4:30 appointment. We were there at 4:20. Four men received us and began taking information: pictures for identification, birth dates, service number, rank and branch, date shot down, and so on.

We sat in a large room that I vaguely recall was decorated with some Oriental art and were served several cups of Oriental tea accompanied by North Vietnamese candy and French cakes. I was told that Ho Chi Minh's picture was hanging just above where I sat, but I was so nervous I never saw it.

All I could think of was that these men could tell me about Chuck and deliver to him the letters and pictures of me and of the baby that I had brought all this distance.

This is the closest I've been to him since he vanished, I thought, and I was terrified that I might do or say something to ruin our chances—his and mine. Everyone was being very polite and formal during the two hours and 15 minutes we were there. The North Vietnamese spokesman was Xuan Oanh.

We were asked what instructions the Pentagon had given us, but we explained that we were acting entirely on our own, with no guidance from the Defense Department. Xuan Oanh suggested that the Pentagon was intercepting our mail and that was why we hadn't heard from our husbands.

But one woman refuted this by saying she had received eight letters and four postcards from her husband in North Vietnam in the four years since he was taken prisoner. They were addressed to her home and were delivered. We said we felt certain that if more letters were mailed from the prison camps, they would be delivered.

We sat through two films, one showing damage from napalm bombing and the other showing the release of three American prisoners in August, 1968. We had brought with us letters and pictures from relatives of other missing servicemen, which we gave to our hosts. We asked if it would be necessary for each of these women to come to Paris to learn of their men's fate, and the North Vietnamese said it would not be necessary, that relatives could just write.

When we asked whether we could do anything to help our husbands, we were told we should join Dr. Spock and Women Strike for Peace and demonstrate against the war. But I don't know of a single wife or parent of a man who is missing or captured in Vietnam who has done this.

On returning from Paris, I really thought that I would get word of Chuck. When someone makes such a direct promise, on a matter that is so important, I tend to believe him. Perhaps I believed because it meant so much to me. But with each week, I'm less confident. North Vietnam said in 1968 and again in 1969 that we could send packages to our husbands. Both times I sent Chuck medication—ointment for ringworm, body lice, infections—and vitamins, candy, letters, pictures, books, cards. But I don't know whether he received them.

I keep active, for busy days pass quicker. I went to the United Nations when Mrs. Rita Houser, America's representative to the Human Rights Commission, raised the issue of the prisoners in November. I've been interviewed on television, and I speak to church groups, women's clubs, civic groups, any assembly that is interested in hearing about the plight of the captives in North Vietnam: how they are awakened at 5:30 a.m., listen to 30 minutes of "Hanoi Hannah's" version of the news, are fed pumpkin soup at 10:30 a.m. and 4:30 p.m., the only meals of the day, and are kept isolated and idle in order to break their spirit.

To interested groups, I suggest that they write to the President of North Vietnam and ask for humane treatment for our men. We make no demands on Hanoi. We are just asking, really we are begging, for word of our husbands and sons.

Even were I to hear from Chuck before this is published, this nightmare will have lasted far too long.

FEDERAL HEALTH BUDGET ENDANGERED BY PRESIDENT NIXON'S VETO

Mr. BIBLE. Mr. President, in the wrangle over Health, Education, and Welfare appropriations for the current fiscal year, many have overlooked the fact that increases voted by Congress for education are not the only ones to suffer. Substantial additions to the Federal health budget also are endangered by President Nixon's veto.

Of particular concern are the funds of the National Institutes of Health. The Institutes, as the Appropriations Committee saw it, were shorted in the executive budget. We provided reasonable additions. Actually, the increases we wrote in were modest in comparison with other sections of the HEW budget—modest but essential.

I was happy to learn that President Nixon would be agreeable to accepting some of the NIH increases, particularly those we in the Senate wrote in for cancer and heart research. Unfortunately, other equally deserving and essential health research programs such as those in neurological disease and stroke and general medical sciences, to name a few, were not favored for increases in the compromise revision offered by the administration.

All Senators, I am sure, have received considerable correspondence on the subject of HEW appropriation increases, some for and some against. Perhaps the most effective single letter I have seen so far in support of NIH research funds—in this instance the National Cancer Institute—comes from a Florida dentist. It is addressed to the President with copies doubtlessly sent to most Members of Congress. I ask unanimous consent that it be printed in the RECORD.

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

ORLANDO, FLA.,
February 5, 1970.

President RICHARD NIXON,
Washington, D.C.

DEAR PRESIDENT NIXON: I am writing you today with grave concern for my little eleven year old daughter, Karen. But before I tell you about her, let me say how sorry I am to have read of your daughter, Tricia's, illness with both the flu and measles. I am truly sorry and I hope she hasn't been too uncomfortable.

You probably have not thought about it, but there was a time in the not too distant past that Tricia would probably have died from complications resulting from the measle virus's tendency to debilitate the body's defenses so that other disease such as pneumonia would infect and kill the patient. Thanks to medical research your daughter is today well on the way to complete and uneventful recovery. *Please ponder that.*

Karen is one of the unfortunate fifteen thousand (15,000) persons who is struck down each and every year with leukemia. Karen's illness was diagnosed at Jackson Memorial Hospital in Miami, Florida in October of 1968. The "average" life expectancy after diagnosis is approximately 2.5 years. To put it another way—she has maybe a year to live.

Of all the children being treated when Karen was first admitted only she is still alive. Karen and those like her can not do anything for themselves, but you can. You can support increased funds for Cancer Research. I just don't see how the funds for cancer research can possibly be reduced when you consider that cancer is second only to cardio vascular disease as a cause of death in America today.

A cure can be found and it will, but time is of the essence. This is something that just can not be put off. Don't you think there is some other way to balance the budget without letting so many Americans die that could be saved by medical cancer research—just as your daughter was "saved" recently.

I know your job must be an absolute "impossible" one, but please do what you can because so many helpless people that don't know it are depending on you and your good judgment on this issue.

Sincerely,

MALCOLM L. HENLEY, D.D.S.

OUTSTANDING WORK BY DR. WILLIAM MULLOY ON EASTER ISLAND

Mr. HANSEN. Mr. President, on Sunday, February 8, 1970, an article entitled "Come to Where the Action Isn't—and Dig It" was published in the Parade section of the Washington Post. The article calls attention to the outstanding work being done on Easter Island by Dr. William Mulloy, a professor of anthropology at the University of Wyoming. Dr. Mulloy spends 4 or 5 months a year on Easter Island by arrangement with the Government of Chile. This noted scholar has spent years studying the island's ancient civilization and restoring many of the huge sculptures carved by the Easter Island's unknown ancient inhabitants.

I take this opportunity to recognize the contribution which Dr. Mulloy is making to our knowledge of ancient civilizations. I know I speak for all Wyomingites when I say that I am extremely proud that a man of this caliber is a professor at the University of Wyoming and shares his wealth of knowledge with the students of that university.

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

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

COME TO WHERE THE ACTION ISN'T—AND DIG IT

(By Richard Harrington)

EASTER ISLAND.—Most of us would give a great deal for a sojourn on a South Pacific island—an idyllic dot in the blue with towering volcanic cliffs on one side, white sandy beach and booming surf on the other. Who wouldn't want to work in a place where average temperature is 70 degrees, the auto-

mobile is almost unknown and excellent fishing and lobstering is right at hand? Who wouldn't long for all this?

Young American archeological students, that's who.

For Dr. William Mulloy, the American anthropologist directing reconstruction of great stone sculptures and temples in this remote Pacific Isle, complains that he can't persuade young U.S. archeologists to come here to work on the job.

WHAT—NO TV?

"They all seem to want luxury-hotel comfort," he says. "They shy away from Easter because they'd have to live in tents and do without TV. It hurts a bit to realize that our kids put modern convenience ahead of an unlimited view across the blue ocean, ahead of the screams of sea birds, ahead of the serenity you can feel in a place where the big event of the week is the weekly feast of dancing and singing."

And so, assisted only by his crew of some 20 unskilled native men, Dr. Mulloy plugs along at the project of restoring many of the more than 1000 huge, crag-faced sculptures carved by Easter Island's unknown ancient inhabitants.

Sad to say, most of the island's permanent population of 1200 Polynesians, including Dr. Mulloy's crew of assistants, are fed up with Easter and its quiet ways. They want action. Just as American farm boys used to dream of a job in the nearest big city, the Easter Islanders would like to go to Tahiti 2500 miles to the west—the closest populous isle—and find employment.

Their chances are not bright. There's little opportunity even to earn, let alone set aside, any money here. Most of them have to barter for their clothes with men of the island's small U.S. Air Force group. There's only one ship a year. And only two planes a month, stopping off each way on a round trip between Santiago, Chile, and Tahiti. Lonesome is the word for Easter.

Since 1888 a possession of Chile, more than 2000 miles to the east, Easter is only 14 miles long with maximum width of seven miles. And scattered widely over this small area is the profusion of religious statutes carved from volcanic rock, averaging 12 to 60 feet tall, the largest weighing more than 50 tons. Some of these strange figures—most with uptilted faces, ski-slide noses and big ears—are known to be more than 1000 years old.

"But we don't know very much about the people who made them," says Dr. Mulloy, a University of Wyoming professor who spends four or five months a year here by arrangement with Chile. "We don't know where they came from originally, nor much of their religious lore and we haven't even figured out their written language which we've found on some wooden tablets."

Easter's people—nearly all live in the one village, Hangaroa—have a tragic history. In 1862 about 1000 of the best men were kidnaped to work Peru's guana islands. The few who got back brought smallpox and by 1877 only 111 were left alive. Today, they know virtually nothing of their own past history, though in their wood carving they often depict ancestral spirits.

A STATUS SYMBOL

Of late, they've come to know more of the outside world since Lindblad Travel, Inc., of New York has organized tourist groups on the occasional plane service. Many of the visitors, who bring in clothing and gadgets to barter for wood carving, are elderly Americans who've been just about every place else in the world and regard Easter as a tourist's status symbol. Dr. Mulloy happily acts as guide for the tourists who don't seem to mind living in tents for a few days.

Meanwhile, though, he continues to lament: "Here I am in one of the world's greatest archeological treasuries and I can't get the help I need to come in." And, as for the Easter Islanders—they want out.

QUESTIONS ABOUT THE DEFENSE BUDGET

Mr. PROXMIRE. Mr. President, yesterday the New York Times published an important and salient editorial on the subject of the defense budget. The Times, too, raised questions about the size of the defense budget.

Where, they asked, are the savings represented by the Guam doctrine, so eloquently put forward in the President's state of the Union message but unreflected in budget cuts?

Where are the savings which should have come from reducing our strategic planning from a two-plus-war contingency to a one-and-a-half-war contingency?

Where, they asked, are the projections for the 5-year costs of new weapons and new programs? This is crucial, for very small sums added now mean huge expenditures later.

Why, they ask, should we be building a new intercontinental air defense system against, at best, a very remote contingency? What is the justification for building a new manned supersonic bomber in an age of sophisticated missiles?

Mr. President, I ask unanimous consent that the New York Times editorial be printed in the RECORD.

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

DEFENSE BUDGET DEBATE

The Administration's $71.8-billion defense budget, viewed as a percentage of total Federal spending, promises to be the lowest in twenty years. It is $5.2 billion lower than defense expenditures during the current fiscal year. Yet it is headed into heavy weather in a Congress that is increasingly critical of military programs.

At a time when the issue of national priorities dominates budget debate, the projected cuts in defense spending reflect savings in Vietnam alone. There appears to be little or no budgetary reflection as yet of the Guam Doctrine or the reported decision to limit general purpose forces to those needed to handle one major and one minor war at a time, instead of the two major-and-one-minor-war capability that previously was official doctrine. Nor is any monetary account taken of the prospects—officially described as hopeful—for restraining the nuclear missile race with Russia through the Strategic Arms Limitation Talks (SALT).

On the contrary, a major build-up of offensive and defensive strategic weapons is under way. That buildup is getting only relatively limited amounts of "seed money" so far. But the so-called "light" Safeguard antiballistic missile (ABM) system and the two systems of MIRV multiple-warhead missiles, Poseidon and Minuteman III—which get a reported $3.3 billion in the new budget—will cost about $30 billion over the next few years and could soar to more than double that amount, as Senator Mansfield has noted.

At the same time, part of the current Vietnam saving is being devoted to modernization of the non-Vietnam general-purpose forces on the theory that these forces have been starved for several years. Here again current spending is relatively small compared to the ultimate cost of the new weapons that are being developed or put into production.

The General Accounting Office recently reported that the Defense Department is proceeding on 130 new strategic and tactical weapons systems costing $140 billion, according to present cost projections. These projections, already up more than $20 billion over original estimates, are sure to rise.

This year's Congressional debate on the defense budget will be informed by independent expert analysis of a quality rarely seen in the past. Studies by former Budget Director Charles Schultze and a team of defense experts at the Brookings Institution indicate a possibility of a 20 per cent cutback in defense spending after Vietnam. This analysis suggests that, rather than being starved in recent years, non-Vietnam forces have received funds at least equivalent to those of the early 1960's. In those years, defense funds bought "a sharp increase" in military capability, Mr. Schultze recently pointed out.

Until Secretary Laird publishes the Pentagon's annual "posture statement" later this month, the full details of the new defense budget will not be known. Even then, it has been indicated, the Nixon Administration will only outline its defense plans through June 1971. The five-year projections initiated by former Defense Secretary McNamara will only be resumed in the fiscal 1972 budget. But some of these projections—and their financial implications—are already evident in the new weapons systems now planned or under way.

Some of these weapons systems, Mr. Schultze has pointed out, are designed "to cover possible, but very remote, contingencies" of enemy threat. Plans for a new $12-billion air defense system, for large carrier and other tactical air forces for new strategic bombers costing $80 million each—all initiated before the Nixon Administration—need close examination, apart from the Safeguard ABM and the MIRV missile programs.

Weapons systems that cost billions to hedge against remote threats must be measured against urgent domestic needs if rational priorities are to govern use of the nation's resources. For the first time in decades there is a climate in the country tha would permit the Congress to participate critically in judging what is required for an adequate defense posture. It is a judgment that can no longer be evaded.

MAN'S CONCERN FOR HIS ENVIRONMENT

Mr. BOGGS. Mr. President, man's concern for his environment appears to many to have sprung just recently from our junkyards and filthy lakes. But respect for the glory of the land and its sanctity goes back thousands of years to the words of the Bible. The Bible brings to us in countless passages the message of man's stewardship for the earth and the environment in which we live.

The distinguished senior Senator from Illinois (Mr. PERCY) recently discussed, at the Senate prayer breakfast meeting in Washington, our environmental ills, as they relate to the words of the Bible. Senator PERCY's talk was eloquent, his message vital.

Senator PERCY finds that environmental respect—for reasons both of esthetics and the preservation of life—is one of the greatest and most consistent messages in the Bible:

It is our obligation as citizens of the earth to preserve for prosperity the blessings of a pollution-free environment, a fruitful and productive earth.

Mr. President, I believe that Senator PERCY's fine talk has special relevance as we enter what many have called the environmental decade. I ask unanimous consent, therefore, that his remarks be printed in the RECORD.

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

THE NECESSITY FOR ENVIRONMENTAL CONTROL: THE ETHICAL IMPLICATIONS

The vital need for environmental control—for renewed effort toward preserving a balanced ecology—has justly become one of the foremost issues confronting America and the world in the 1970's. Just last week the President enunciated our National concern with preserving—or to use a more accurate phrase, *restoring*—the quality of the natural world in which we live—of the air, land, and water without which the human race—indeed all life itself—would neither have come into being nor cannot hope to survive.

"Shall we surrender to our surroundings," asked the President, "or shall we make our peace with nature and being to make reparations for the damage we have done to our air, our land and our water?"

It is this crucial question to which we must address ourselves; it is this question to which we must find affirmative response, if we are ever to fulfill the potential for human advancement toward the good life for which men through the centuries have dared to aspire.

The enormity of the problem when we consider its implications, is truly appalling. Many of our rivers have become little better than fetid cesspools, while Lake Erie, a natural treasure, already manifests symptoms of advanced decay and terminal illness. If steps are not taken, Lake Michigan, shared by my own State of Illinois, will follow next. Our major cities inflict upon the lungs of their citizens the equivalent of two or three packs of cigarette smoke per day, and the land itself is fast yielding to the destructive encroachment of urban sprawl and the congestion of overpopulation.

Lord Ritchie-Calder, a prominent U.N. authority and student of ecology, has forcefully stated the urgency of the issue: "Pollution is a crime compounded of ignorance and avarice. The great achievements of Homo sapiens become the disaster-ridden blunders of unthinking man—poisoned rivers and dead lakes, polluted with the effluents of industries which give something called 'prosperity' at the expense of posterity."

Perhaps more graphic and immediate is the testimony of the Apollo 7 Astronauts that air pollution prevented them from catching so much as a glimpse of the southern California coast, 124 miles below their space capsule. Wally Schirra spoke for the group when he warned: "The moon is not hospitable. Venus is not hospitable. Mars is not hospitable. We'd better do what we can to clean up Earth, because this is were we're going to be."

I do not wish to belabor the magnitude of the problem which environmental pollution presents. We are, I believe, sufficiently aware that this is a cardinal issue of the '70s. It is self-evident that if we foul the earth on which we live, we stand little chance of dealing effectively with any of the other grave concerns which continue to haunt our ancient dreams of utopia.

What I do wish to suggest is the ethical imperative which our religious heritage places upon us to save our world from destruction. For I believe that, as in so many areas, the Bible has a special relevance to the issue of ecology—to man's relationship to the world in which he lives. I believe that implicit in the Bible's commands regulating human behavior is the injunction to reverance the *earth*—the heavens, the soil, the waters, the very elements by which we sustain life itself. Man was made from the earth, and to it he returns when he dies. It gives him life while he lives. Should he not therefore have respect for this substance of which he is literally a part?

I am struck by the eloquent testimony, particularly of the Old Testament, which seems to imply an affirmative answer to this question. Consider, for example, the very earliest example in the book of Genesis: the story of the Creation. Adam and Eve are portrayed as tenders of the earth, keepers of a fruitful garden, guardians of a divine trust. When they betray this trust they alienate themselves—to use a current term—from the productive environment in which they had been created and which has supported them, as it were, free of charge. Whereas man had once been the carefree recipient of benevolent abundance, he had now to earn his bread by the sweat of his brow; to make the earth fruitful, he had to plow, sow, reap, and constantly *preserve*, in order to keep the gains which had formerly been his for the asking.

In a sense, we are still the victims of this ancient alienation; we still must constantly guard against the destructive use, of the natural resources upon which we depend for our very lives. We must constantly strive to preserve and create anew the life-giving elements which so often we accept as self-perpetuating.

Thus I find of great benefit the Bible's message in regard to the stewardship which we have been given concerning our environment. For unless I greatly misread the Scriptures' intent, our responsibility to the earth, the air, and the water, is as great today as it was three thousand years ago.

Consider first, the significance of the frequent and repeated references throughout the Old Testament to the cleansing and life-sustaining quality of the land and water, and to the necessity for maintaining those qualities. And, if there is less reference to the air, I suggest that this is owing to the fact that the ancient world did not suffer the effects of industrialization which is our burden today. The air to them was naturally pure, and it was beyond the capability of man to defile it.

But the land and its waters were vulnerable. Their destruction meant starvation, thirst, and ultimate death. The ancient Hebrews were an agricultural people, living in harmony with the land and dependent upon it in a much more immediately recognizable—though no less vital—way than are we. Thus when Moses sent his scouts into Canaan, they reported back to him that "We came to the land to which you sent us; it flows with milk and honey, and this is its fruit. "[Numbers, 13:27]. If we today have lost man's primitive understanding of nature and her works, we are nevertheless equally as dependent upon our environment as were the Hebrew farmers. If we believe ourselves lords of the earth, we must not forget our obligations toward maintaining that mastery. Thus God told Moses: "You will dwell in the land securely. The land will yield its fruits, and you will eat your fill. . . . The land shall not be sold in perpetuity, for the land is mine; for you are strangers and sojourners with me." [Leviticus, 25: 18–19, 23]. Lords we are; but only in reality to a higher authority.

Similarly, the Old Testament is laden with references to water as a symbol of purification, as a source of life and sustenance. Thus, in the book of Numbers we see the Lord commanding Moses to "take the Levites from among the people of Israel, and cleanse them . . . [to] sprinkle the water of expiation upon them, [that they may] cleanse themselves . . ." [Numbers 20:27]. Psalm 78 similarly praises the wondrous life-giving power of the Lord, who "cleft rocks in the wilderness, and gave [to his people] drink abundantly as from the deep." It is the Lord, sings the Psalmist, who "made streams come out of the rock, and caused waters to flow down like rivers." [Psalm 78: 15–16]. In a similar vein, the prophet Isaiah reminds us of the words of God who proclaims: "I will open rivers on the bare heights, and fountains in the midst of the valleys: I will make the wilderness a pool of water, and the dry land springs of waters. I will put in the wilderness the cedar, the acacia, the myrtle, and the olive; I will set in the desert the cypress, the plane, and the pine together, that the hand of the Lord has done this, the Holy One of Israel has created it." [Isaiah, 41: 18–20].

Of equal importance is the Biblical injunction against the allowing the despoliation and deterioration of these vital resources. Thus the Psalmist reminds the Israelites of the great power of the Lord, who gave the earth to man, and who also can take it away. God is not obligated to do man's work for him, and if man betrays the trust placed in his keeping, God will not intervene to set things right. The responsibility is upon *us*. Thus the Lord not only makes the earth "blossom and give forth fruit," but He may also "turn . . . rivers into a desert, springs of water into thirsty ground, a fruitful land into a salty waste, and a parched land into springs . . . [Psalm 107: 35], he may also, if rejected "lay waste the earth", and render it, in the words of Isaiah, "polluted and desolate". [Isaiah, 24: 1–8]. The message does not convey that it is literally *God* who will lay waste the earth, but rather, *man himself*, by abandoning his sacred trust, by turning his back upon the stewardship which God has placed in his hands. Thus Jeremiah laments that by forsaking their trust, by abandoning their traditional role as tillers of the soil, and whoring after strange gods. The Israelites have "made my pleasant portion a desolate wilderness. They have made it a desolation . . . The whole land is made desolate [*for*] *no man lays it to heart.*" [Jeremiah 12: 11].

This it is our solemn responsibility to *lay to heart* that stewardship to which we fall heir. It is our obligation as citizens of the earth to preserve for posterity the blessing of a pollution-free environment, a fruitful and productive earth.

It is incumbent upon us, to use the means at our disposal for the purpose of improving the environment, rather than destroying it. And, quite obviously, the most promising means in our possession is the very agent of our destruction—our technology—if we will determine to use it wisely.

I think we can find guidance in the counsel of modern theologians—men concerned with using contemporary methods in living up to the responsibilities of our stewardship. Thus Rabbi Roland Gittelsohn has summarized that "if science and religion have conspired to teach me any one abiding truth, it is that man is one, the universe is one, and man and the universe together are one . . . Man is made of the same stuff as the universe. He could perhaps be perceptively defined as the stuff of the universe become conscious of itself." Thus the very agent of our destruction—our highly developed technology—is, as a human invention, an extension of man and an integral part of the universe—the stuff of life. Technology, seen by so many to augur destruction, can, if used wisely, be the agent of salvation.

The struggle is ours, if we are willing to meet the challenge. In the words of an eminent historian, John Herman Randall, "man is not alone—in this struggle. The powers he mobilizes are as 'natural' as those he is forced to oppose. In attacking disease, the physician is cooperating with the universe; he is successful in the measure in which he has *discovered the possibilities* of cure and health."

Thus to live—to devote ourselves to preserving that natural universe which we are integral part—this is to me the ultimate challenge presented to the human race. To preserve the universe is to preserve mankind; to do both is to fulfill that trust which is ours for eternity—a trust deriving from God Himself. "The earth is the Lord's," wrote the Psalmist, "and the fulness thereof; the world, and they that dwell therein." [Psalm 24].

BLUE RIBBON COMMISSION ON ORGANIZATIONAL REFORMS IN DEPARTMENT OF STATE AND RELATED AGENCIES

Mr. FULBRIGHT. Mr. President, on October 7, 1969, I reintroduced Senate Joint Resolution 157 providing for the appointment of a blue-ribbon Presidential Commission on Organizational Reforms in the Department of State, the Foreign Service, the Agency for International Development, and the U.S. Information Agency. Since then I have received letters from the presidents of some of the largest corporations in the United States, distinguished educators, and a considerable number of present and former Foreign Service officers of all ranks supporting the joint resolution.

On January 14, however, the new Deputy Under Secretary of State for Administration, the Honorable William B. Macomber, Jr., made a speech on "Management Strategy" in which he expressed his conviction that the necessary reforms in the Department of State could best be accomplished by the Department itself. Although I have been convinced for some time that these problems cannot be solved exclusively from within, I have decided not to pursue the concept of a Presidential commission, at least for the moment, given Mr. Macomber's opposition to the idea and because of the fact that there has been no indication of support from the Foreign Service Association.

My position is set forth in a letter of February 3 to Mr. Macomber. I ask unanimous consent that it be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., February 3, 1970.

Hon. WILLIAM B. MACOMBER, Jr.,
Deputy Under Secretary of State for Administration, Department of State, Washington, D.C.

DEAR BILL: I appreciated your sending me your speech of January 14 on "Management Strategy," and I see from the January 29 New York Times that you are beginning to appoint the task forces you mentioned in your January 14 remarks.

You say in your speech that "some outsiders say that we cannot do the job from within" and that you are convinced that this view is wrong. I have been convinced for some time, and I am still convinced, that the problems the Department of State and Foreign Service face cannot be solved exclusively from within, in part because many of these problems stem not from within the Department but from other government departments and agencies over which the Department of State does not have control. You have provided me with figures showing that in seven of our fifteen largest diplomatic missions, less than ten percent of those in the mission, including reimbursable staff, are from the State Department, and in fourteen of these fifteen missions the percentage is below thirty.

Both of your predecessors are in favor of the appointment of a Presidential Commission on organizational reforms in the Department of State, the Agency for International Development and the United States Information Agency, as proposed in S.J. Res. 157. As you know, Mr. Rimestad said that something of the sort was needed when he appeared before the Committee last October 7, and in a recent letter Mr. Crockett expressed his "whole-hearted support" for the concept of a Presidential Panel. There are many others who have written me or told me, or members of the Committee staff, that they are in favor of the idea, including the presidents of some of the largest corporations in the United States, distinguished educators and a considerable number of present and former Foreign Service Officers of all ranks.

Nevertheless, I have decided not to pursue the idea of a Presidential Commission, at least for the moment. You are just beginning your service as Deputy Under Secretary of State for Administration and seem to be firmly opposed to the idea. I do not want you to think that I wish to undercut your efforts to effect reform from within. I hope, however, that you will work closely with the appropriate committees in the House and the Senate, for one of the past difficulties has been that there has been little congressional participation in the organization of the agencies conducting our foreign relations, a deficiency which S.J. Res. 157 would have corrected.

I am frankly skeptical that you will, during your time in office, be successful in solving the manifold problems confronting you. My guess is that your experience will not differ from the experiences of your predecessors and that, at the end of your service as Deputy Under Secretary for Administration, or perhaps even before, you will have come to the conclusion, as they did, that S.J. Res. 157 should have been tried.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

LITHUANIAN INDEPENDENCE DAY

Mr. GRIFFIN. Mr. President, freedom-loving people everywhere should mark next Monday, February 16, well. It is the 52d anniversary of Lithuanian independence.

But people of Lithuanian descent—among them more than 1 million Americans—observe this day with sadness as well as pride.

February 16, 1918, was the birth of an independent Lithuanian state based on democratic principles. Today, it exists as a captive nation.

Nearly 30 years ago, the Soviet Union overran the young Republic of Lithuania. Since that day, the gallant people of Lithuania and their Baltic neighbors, Estonia and Latvia, have never ceased to yearn for restoration of their independence.

Such a day may be some distance in the future. In recent years, we have seen the Soviet-led invasion of Cechoslovakia snuff out, for the present at least, one small candle of freedom.

I, for one, take pride in the fact that the United States still recognizes the independent Lithuanian Government and has never recognied Russia's illegal annexation of Lithuania. We continue to maintain diplomatic relations with that former independent government, which has a legation in Washington.

Let us all observe next Monday by renewing our dedication to the democratic principles that are presently denied those in Lithuania.

Let us do so in the knowledge that no man can be totally free—if another is denied freedom.

WILLIAM E. TIMMONS, THE PRESIDENT'S ASSISTANT FOR CONGRESSIONAL RELATIONS

Mr. BAKER. Mr. President, last week the President named his new assistant for congressional relations. As we know, our friend, Bryce Harlow, who has been serving as Assistant to the President for Congressional Relations, has been named counselor to the President, a post in which the President can make even better use of his superb talents and long experience.

To succeed Mr. Harlow in the vital post of Assistant for Congressional Relations, the President, I am pleased to say, named a fellow Tennessean—William E. Timmons.

Many Senators will remember Bill Timmons when he served as an aide to the late Senator Alexander Wiley, of Wisconsin. Others, who once served in the House, knew him as administrative assistant to my colleague from Tennessee, Representative WILLIAM BROCK. Still others met him when he was active in the Young Republicans, or later, when he played a vital part in the presidential campaign of Richard M. Nixon, both before and after the 1968 convention.

Finally, many of us have known him as the President's able Deputy Assistant for Congressional Relations, with responsibility largely for the House of Representatives.

In all these various positions, Bill Timmons has shown outstanding ability. I know he will continue to perform expertly and efficiently in his new capacity.

U.S. INVOLVEMENT IN LAOS

Mr. DOLE. Mr. President, I read with interest the speech given yesterday by the senior Senator from Tennessee (Mr. GORE) concerning U.S. involvement in Laos. I particularly agree with the Senator that the "loss of confidence" many Americans have had in their Government's policy statements was not President Nixon's fault. Indeed, as the Senator pointed out, President Nixon does have an opportunity to restore confidence in our Government. Furthermore, he is restoring that confidence.

Several points did occur to me after reading the Senator's statement.

The Senator did not explain the presence of 50,000 North Vietnamese troops in Laos, even though he asserted the conflict there is a "civil war."

The Senator apparently does not oppose the concept of a neutral Laos which was formulated in the Laos negotiations and accords by Governor Harriman during the Kennedy administration. But the Senator from Tennessee ignores the repeated violations by the North Vietnamese of the 1962 accords.

VETERANS' ADMINISTRATION MEDICAL CARE

Mr. CRANSTON. Mr. President, in the February issue of the Jewish Veteran, the national executive director of the Jewish War Veterans, now beginning its 75th year, has raised some interesting and important new perspectives about the Veterans' Administration hospital and medical care system. The Veterans' Affairs Subcommittee, of which I am privileged to be the chairman, of the Committee on Labor and Public Welfare has recently concluded—on January 27—6 days of hearings on the question of the quality of care available to disabled Vietnam veterans. As a result of these hearings I plan not only to be making specific recommendations for increases in the Veterans' Administration appropriations for fiscal year 1970 and 1971, but also to introduce over the next month some major new legislative proposals designed to improve and extend VA hospital and outpatient care.

The column I referred to earlier asks some timely questions about the future direction of the VA medical program. They should be pondered by every veteran and every American concerned about maintaining the highest quality potential for caring for our disabled veterans, and I commend the column to the attention of the Senate.

Mr. President, I ask unanimous consent that the column from the February issue of the Jewish Veteran be printed in the RECORD.

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

JEWISH WAR VETERANS

For those of us who have had the opportunity to serve our country in time of war, Veterans Day is the most solemn of national holidays. Its observance provides a time for reflection as well as an opportunity to honor the memory of departed comrades.

Coming as it did during the climatic 1969 controversy over the Vietnam War, this past November 11th afforded an unparalleled opening for some publicists to dilute and demean the essence of a day of non controversial remembrance by using it to stage harangues for and against the dissenters about to come to Washington for their mass demonstration.

Instead of indulging in a display of his own strongly held views on Vietnam, on Veterans Day, Senator Alan Cranston, chairman of the Senate Veterans Subcommittee, took the Senate floor to announce hearings by his subcommittee to investigate the subject of medical treatment available to veterans. For background, he reeled off a string of questions and supporting facts that zeroed in on a prime focus of veteran concern—the availability and quality of medical care provided youngsters back from Vietnam as well as for the World War II generation of vets now beginning to feel the aches and ailments of middle age.

The alarming picture emerging from the hearings since that Veterans Day announcement and the testimony of a formidable battery of medical experts, in and out of the Veterans Administration, is both shocking and reflective of the low state of medical care prevalent through much of the country.

Having been lulled into a satisfied stupor from twenty years of repeating to ourselves that the VA hospital system is without a peer, many of us are shocked to learn that such is no longer the case. Apparently, we boosters have been wrong—and for quite a while. As the evidence turned up in the hearings indicates, the senators on the subcommittee can only surmise that the VA hospital and medical care setup is second best and in the process of spinning downhill. To reverse the trend, personnel ceilings must be raised along with a heavy infusion of funds to permit the VA hospital system to recapture its once fine reputation.

The decline of VA medical care as depicted in the Senate hearings really reflects the poor state of all health care in this country. We in the JWV recognized this appalling situation last summer when we adopted a policy paper on public health. No subject could be more basic to the national security. Indeed, last July President Nixon warned the country that the nation's health services were about to break down. Since then, while dozens of studies are under way in Washington and elsewhere in the search for a national panacea, the nation has been hobbling along with a medical delivery system in which hospital costs are increasing at three times the rate of general prices; doctor's fees are moving upwards at twice the general price rate; a severe shortage of physicians supplies fewer services as specialization increases; and medical care for impoverished minority groups is almost completely unavailable.

At one time a VA hospital patient was assured of the finest care by a corps of first rate professionals in some of our best equipped institutions We in the organized veterans community have been guarding this high privilege with a zealousness it once fully deserved. With a changed situation brought on by the crisis confronting the VA hospital system, the nature of our interest may be changing. The standard measurement for hospital care, the staff-patient ratio reveals how badly the VA system is lagging behind other hospitals. For the VA it is 1.5 staff to each patient in general medical hospitals and less than one percent in psychiatric hospitals. The national staff ratio is higher at 2.72 for each patient in general medical communities, state and local government hospitals and three staff per patient in university and teaching hospitals.

It appears that veterans organization must soon rethink the standard position of making certain that each VA bed must be used only by a veteran. This is hardly a bargain or even a benefit at the current rate of VA care. To get better care and more attention it is not inconceivable that the veteran might better benefit from a non VA hospital with more staff, better equipment and more sophisticated care.

A national policy for medical care and public health will be designed and made a reality during this new decade. If the VA hospital system is permitted to lag behind, we shall be confronted with a weird situation in which veterans will turn reluctantly to the VA care as a last desperate resort. Is this what we are carefully guarding from non veteran encroachment? What do we gain? Who are we helping? What will be best for the infirm, the lame and the broken who served for us?

HELP THY NEIGHBOR

Mr. PEARSON. Mr. President, there is thought abroad in our Nation that churches in suburban neighborhoods are hopelessly caught up in their world of fashionable Sunday clothes, covered dish dinners, expanding building projects, and money for far-off missionaries.

It is refreshing, then, Mr. President, for me to bring the attention of the Senate to one church, the Village United Presbyterian Church of suburban Johnson County, Kans., of which I am, incidentally, a member. A real human concern has been demonstrated for the problems of black men and women in the Kansas City area. They have not embarked upon a short-lived, half-hearted effort accompanied by fanfare. Rather, they have made a quiet commitment to better the lot of fellow human beings done in a spirit of humanity and morality.

Accordingly, I ask unanimous consent to have printed in the RECORD an editorial published in the Kansas City Star, explaining and praising this effort.

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

[From the Kansas City Star, Jan. 30, 1970]

A PRAIRIE VILLAGE CHURCH ACTS

The Black Motivation and Training center, scheduled to open Sunday at 1300 Chelsea trafficway, Kansas City, Kansas, promises to be an impressive operation. It is based on a unique concept.

Black men and women will set the policy of the center and run it on a $100,000 grant from the Village United Presbyterian church of suburban Johnson County. As the center develops its courses of vocational training in data processing, banking, heavy construction and printing, and as other programs emerge, members of the church with expertise will be available as advisers—but only if and when they are needed. The money comes with no strings attached.

The Prairie Village church is large, and the median income of its membership must be high. Even so, $100,000 from a single church is a lot of money. Nationwide denominations have done less (or nothing at all) in this field and some have done slightly more only after much agony. Black churches in the inner city have been carrying the load alone for years and without much recognition.

When he presented the plan to the congregation, Dr. Robert Meneilly, pastor of the Village church, said:

"I have worried at times that our . . . church has spread her mission money all across the country and even the world—you know, something like pennies from heaven—and perhaps often doing what only pennies can do. But what if we concentrated some of our dollars . . . say $100,000 in one year, in one particular place, perhaps enough Christian money power in one place to accomplish something for real in an area . . . the very place where perhaps the Kingdom of God is most challenged here and now."

Which is what the people of the Village Presbyterian church are doing: Looking at the plight of near-neighbors, deciding to do something about it, and then doing it without great fanfare and in a manner that nurtures and promotes dignity for all concerned.

In itself, the plan is an act of humanity, based on the highest principles of religious concern. It will have important practical results. Beyond that, it stands as a model and goal for other groups. The fact that what the Village church has done is so unusual is the plainest evidence that others can be doing a lot more.

NOMINATION OF JUDGE CARSWELL TO THE SUPREME COURT

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent to have printed in the RECORD a statement prepared by him relative to the nomination of Judge Carswell to the Supreme Court and also a letter from Dr. Thomas W. Matthew to Dr. John Morsell, acting director of the NAACP.

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

STATEMENT OF SENATOR GURNEY

I have received a copy of a letter addressed to Dr. John Morsell, acting director of the NAACP, by Dr. Thomas W. Matthew. Dr. Matthew is a well-known physician and surgeon who achieved national recognition because of his development of a black self-help organization, National Economic Growth and Reconstruction Organization, Inc. (NEGRO). Dr. Matthew disputes the NAACP's almost automatic opposition to the Carswell nomination, Matthew says:

"To deny Judge Carswell the chance to repudiate a past position that we all abhor is to deny the black underprivileged as a group the hope that is implied in the principle of redemption. The cry from the street that all America must hear is the cry for a second chance."

Dr. JOHN MORSELL,
Acting Director, NAACP,
New York, N.Y.:

In the interests of black unity and a consistent strategy for all our people, we of NEGRO must question the soundness of your opposition to the nomination of G. Harrold Carswell to the Supreme Court. Unless you have information not available to the general public regarding statements or behavior of Judge Carswell since his public recantation of racist views last week we must find your opposition to him ill considered and detrimental to the welfare of black America.

To insist on a national policy which precludes the concepts of rehabilitation and redemption of the individual is to close the door forever on our black brothers who, because they have been the victims of the very bigotry you decry, are today chronic welfare recipients, drug addicts, alcoholics, and convicted criminals. To deny a Judge Carswell the chance to repudiate a past position that we all abhor is to deny the black underprivileged as a group the hope that is implied in the principle of redemption. The cry from the street that all America must hear is the cry for a second chance.

We must encourage such second chance programs as enlightened parole measures for redeemed law offenders. We must promote progressive economic methods to help the poor start a new life of self support. Drug addicts must be assured that they can change and be accepted back by society. The national attitude must eventually extend forgiveness to those citizens who have exiled themselves because of moral principles involving war.

As an organization which devotes itself to the needs of the black masses we of NEGRO are particularly concerned that the press has taken your position on the Carswell nomination to be a reflection of the view of all black people. As a lifelong supporter of the aims of the NAACP and deeply grateful for the gains it has achieved primarily for the black middle class, I am certain that it was not your purpose either that your opinion be considered totally representative of our people or to do damage to the aspirations of the black masses.

We of NEGRO do respectfully urge that you reconsider your position so that it not be contrary to the American ideals the NAACP has devoted itself to making a reality, and not risk being detrimental to the interests of the least of our people who must struggle to overcome the handicaps we all, no matter how successful we may be, share as Negroes in America. It is our fervent hope that your position will be faithful to the above principles showing the concern for the truly underprivileged black masses that will enable us to work together in unity.

THOMAS W. MATTHEW, M.D.,
President, NEGRO.

ACTION URGED TO OFFSET IMPACT OF IMPORTS AND RESTRICTIVE MONETARY POLICY UPON CERAMIC TILE INDUSTRY

Mr. WILLIAMS of New Jersey. Mr. President, I am today joining seven distinguished Senators—SPARKMAN, SCOTT, ALLEN, EASTLAND, ERVIN, BENNETT, and MURPHY—in cosponsoring Senate Concurrent Resolution 41, which urges the executive branch to take steps to secure the voluntary reduction of ceramic tile imports during periods of housing market contraction based upon our Nation's monetary policies.

As Senators well know, 1969 was an extremely critical year for a number of U.S. industries which depend for their very existence upon the well-being of our housing industry. Manufacturers of ceramic tile, for example, whose products are used principally in new residential construction, have been particularly hard hit by the precipitous decline in new housing starts which characterized 1969. The three tile manufacturers in New Jersey, and their 440 employees, were no exception.

In this connection, recently published figures from the Department of Commerce indicate that the rate of new housing starts in November was 1.28 million units, down from 1.9 million in January of 1969. The 6-month average ending in November was 13 percent below the preceding 6-month average and 10 percent below the corresponding period in 1968. The situation speaks poorly on the subject of our progress under the Housing and Urban Development Act of 1968, which established a national housing goal of nearly 3 million units per year for the next 10 years.

Perhaps even more disturbing is the fact that there are no signs of noticeable improvement in the foreseeable future.

With the passage of S. 2577, which included a provision for substantially increased home loan funds, the Congress has recently recognized the basic inequity of a situation wherein one segment of our economy is forced to bear the principal burden of our fight against inflation. Even so, I think we must all recognize that immediate assistance to many facets of the building industry will be negligible and unnoticeable.

The domestic ceramic tile industry, to which I have previously referred, is an excellent case in point. The extreme shortage of available long-term credit has severely contracted the housing market, reducing at the same time, the demand for ceramic tile. This restrictive monetary policy has also had another very significant impact in the housing market as it relates to this industry.

Apartment-type construction—for the first time in history—now accounts for over 50 percent of housing construction. Because the consumer does not participate in materials selection for this construction, the historic preference for domestic ceramic tile in home construction has been, to that extent, eliminated as a factor in the marketplace.

Why should foreign manufacturers receive a competitive advantage as a result of our monetary policies? The domestic manufacturers, most of them small business concerns, justifiably ask that the foreign manufacturer share the burdens of America's anti-inflation efforts. With this I wholeheartedly concur.

New Jersey is fifth in terms of value of shipments among the States in which ceramic tile is produced. Of the slightly more than 2 dozen domestic firms, three of them are located in my State. Their combined payrolls approximate $6,300,000. The housing collapse of 1966 closed the doors of 13 similar plants—and only a few weeks ago the Tariff Commission received an Adjustment Assistance Act petition filed on behalf of the employees of an Ohio manufacturer forced to let 600 of his 700 employees go.

Senate Concurrent Resolution 41 would call upon the President to secure voluntary reductions in imports of ceramic tile during periods when the U.S. housing market is contracted due to restrictive monetary policies. Only equity is sought—and equity we should be willing to insure.

THE FEDERAL GOVERNMENT AND THE SCIENTIST

Mr. MCINTYRE. Mr. President, much has been written and discussed about the environmental crisis we find ourselves in today, and much more talk will go on before we solve this most important crisis.

There is a great deal of talk of the role of science and technology in bringing the crisis to the brink of catastrophe. There is a multiplicity of reasons for the deterioration of the environment as well as a wide variety of means to pay off our debt to nature and begin to learn to live in peace with the environment. As surely as an undisciplined use of science and technology has been a major contributor to environmental degradation, man's wise use of these tools must also be a contributing factor in solving the crisis. One of the tragedies of the situation is that, in many cases, scientists knew of the impending crisis long before the people of the Nation and their elected public officials.

The Senator from Wisconsin (Mr. NELSON), long a spokesman for the wise utilization of our natural resources, addressed himself to this problem in an address before the annual meeting of the Federation of American Societies for Experimental Biology in Atlantic City.

I ask unanimous consent that Senator NELSON's remarks be printed in the RECORD.

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

THE FEDERAL GOVERNMENT AND THE SCIENTIST [1]

(By the Honorable GAYLORD NELSON)

I speak to you as a politician who strongly believes there is inadequate liaison between the political community and the scientific community. The blame rests equally on both of us. I believe that decision makers at all

[1] Special Address at the Annual Meeting of the Federation of American Societies for Experimental Biology, Atlantic City, N.J., April 17, 1969.

political levels are in critical need of more scientific information. The casual, unformalized consultation with scientists that we now have is simply not adequate to meet the constant and increasing need for political leadership to have an understanding of the scientific implications of what it does, as well as having scientific advice in making social decisions.

If you think about it, every significant social decision involves some aspect of one or more of the natural or social science disciplines. You could recite many more than I can.

You cannot even build a highway without having important ecological effects. We build them, of course, all the way across this country. We spent $50 billion creating an interstate, limited access, defense, commerce highway system that will be completed in a few years. We tore through hillsides. We could not bother to make a bend in the road so we could avoid destroying a lovely marsh which was the habitat for wildlife.

One of our great failures as a people is that we have not brought the two necessary factors—science and politics—together so that an adequate dialogue continues between them, so that both sides benefit from it, so that, of course, we make better social decisions. We need much more scientific research—not less. And, we need more involvement of science in political decision making—not less.

We have many major social problems. You are as aware of them as I am. We also have the know-how to resolve most of them reasonably. The issue is how we join together the knowledge of the scientific community with those who are responsible ultimately for the political action.

Now we have put together a number of times in our history the necessary combination to meet dramatically and effectively some very complicated and tough problems. We were able to put millions of men and women in uniform very rapidly, and mobilize the whole scientific community and the whole industrial community, and win World War II.

We have demonstrated that we were able to put together industry and science in the political world to develop the awesome nuclear bombs and their incredibly sophisticated delivery systems.

And we have demonstrated that we were able to put all this combination together again, to make the probes into space and manned flights around the moon that no one except Buck Rogers thought possible 25 years ago.

We did all this, yet we cannot get food to hungry children in a nation that has too much to eat. We cannot get downtown in the morning because of a clogged transportation system. We cannot get adequate medical care to the ghetto, to the elderly, or to the poor in rural America. With all of our lavish spending, we cannot even create an educational system that capitalizes on one of the strongest drives a child has—the desire to learn. And, in a nation more abundantly endowed than any other, we cannot quite yet get organized for a truly effective massive effort to protect the air we breathe, the water we drink, or the beauty of our countrysides.

How could we organize the scientist, industry, the people, and the resources to win a big war, create a fantastic nuclear weapons system, and rocket men to the moon, and then fall so far short of our historic goals—the creation of a social structure founded on quality instead of quantity and on moral might instead of military might?

It is not because our intentions were bad. We are not a military people. We believe in the dignity of man and the sanctity of individual rights.

At the risk of oversimplification and certainly at the risk of offending a lot of people, let me say that we went wrong in at least one fundamental way. We assumed too much. Everything was progressing so well, and at a rapidly accelerating pace in this glorious 20th century. Abundance was pouring from the fields, our factories, and our great academies of knowledge. The standard of living was rising at an unprecedented pace. We felt there were no problems that would not just automatically dissolve and disappear in the face of this mighty growth and development. We did not believe social planning was necessary. Or, in any event we assumed that whatever social planning was needed could better be done by private enterprise. We assumed, in fact, that private enterprise could do many things that by its very nature it never was and never will be equipped to do. If it could turn out more automobiles, airplanes, and freight cars than all the rest of the world combined, somehow, we knew, it would create a transportation system that would work. If we are the greatest builders in the world, we need not worry about our poor and we need not worry about the planning and the building of our cities; private enterprise will manage that just fine for us.

Ironically, while the social system, through its colleges and government-funded research, developed the finest medical community on the earth, we assumed that the whole system of the delivery of medical services could be left to private enterprise. And, I might say, after having conducted hearings on prescription drugs for 2 years and hearing viewpoints of some in the medical profession, I conclude there are quite a few left, even the AMA, who still think so.

In short, we assumed that if private enterprise could be such a spectacular success in the production of goods and services, it could do our social planning for us too, set our national priorities, shape our social system and even establish our moral standards for us. I am sure most of you will remember the famous words of Charles Wilson back in the mid-50's when he said, "What's good for General Motors, is good for America."

The social problems we faced then mushroomed upon us from the blind side. We got where we are by default, rather than by design. What was missing was the unity of purpose, forged out of a threat to our national health or security or prestige that so often seems to be seen only in war.

But there is now, I think, a great awakening underway. We have begun to recognize that our security again is threatened—not from the outside, but from the inside. Not by our enemies, but by ourselves. As Pogo quaintly put it, "We have met the enemy and they is us."

The challenges to our society are open and obvious for all of us to see. I shall not detail them or even list all of them. You know them as well as I. They are the deteriorating cities, the degradation of the environment, the relevance of our system of education, equal rights and opportunities, the hungry, the poor. Perhaps most important of all, there is the very serious challenge to our whole value system, a challenge that says under this system there is far too much emphasis on quantity and too little on quality, that the measure of success in this system is power, affluence, abundance, bigness, gross national product, and profits. It is a challenge that says any system that becomes dominated and controlled and directed by these forces is incapable of producing a society of quality.

These challenges and disturbances across the nation, both on the campus and off, are an encouraging sign of concern and conscience among our people about the status of our society. We are on the verge, I think, of galvanizing the nation to constructive action, to repair and improve the social and political fabric of this country. We can and we will.

To achieve our goal of quality, we need to utilize the finest scientific and political talent in this country.

As an aside let me say, the scientific community needs to communicate more directly in a political way to the political leaders and to the people of this nation. By that I do not mean scientific organizations should get into partisan political debates. And, I do not mean that as organized groups they should necessarily get into very specific political decision making, although as individuals you ought to. What I mean is that you must translate effectively your knowledge of the implications of what we are doing in terms of our society in the broader sense of the word. That has been a missing link in the whole process of the development and growth of our social institutions and in our problem-solving efforts in this country.

For example, the scientific community knew very well 30, 40, 50 years ago what was happening to the waters of America. It understood very well that any body of water can handle just a certain amount depending upon its size and capacity of biodegradable waste. The scientific community understood very well the implications. Why is it that the public has just become excited now when you had all that knowledge so many years ago? Where did we fall down? Where did we fail? Or, where did you fail? The failure was in not translating this alarm to the public and to the political leadership of America, a function in which the scientific community must take leadership.

Biologists, biochemists, entomologists, specialists in all the scientific disciplines have been telling us for years and years that we are involved in an environmental crisis that has been growing day by day and now approaching catastrophic proportions. We are on our way to polluting the air so badly that if we continue doing so for another half century a scientific report to the President 5 years ago said we may alter the climate of the earth.

The scientific community knows very well what kind of ecological imbalances we are creating by introducing slow, degrading pesticides—DDT, dieldrin, and all the rest—into the atmosphere. Why is it that somehow, some way, the scientific community could not convince the public and political leadership of impending disaster? There is something wrong with our communications system when we have the knowledge and do not use it.

But finally, we are being alerted, and finally we are beginning to move. And, I think the public is far ahead of the political leadership in this country on this.

We know what we are doing in research and development. You know what you are doing in all your biomedical fields. Let me just mention, though, three good examples of how critical it is to have scientific expertise involved in decision making.

In 1962, after a long fight, Senator Kefauver got through part of his bill which provided that all drugs sold in the market place must be demonstrated to be efficacious.

Under that law, the National Academy of Sciences and the National Research Council have established a whole series of panels and are reviewing old drugs developed from 1938 to 1962 to find out whether or not they are efficacious. They have listed a number of widely used fixed combination drugs and said that they should be taken off the market. If it were not for the eminence of the National Academy of Sciences and the National Research Council, and of the panels that gave the advice on the drugs and if it were not for that distinguished scientific

backup, the Food and Drug Administration would not last a day with its recommendations to remove these drugs from the marketplace. This is true because politically, the drug companies would whip FDA overnight. But, they cannot lick it with the backing of the scientists' recommendations.

As another example, recently we had hearings before the Interior Committee. We had three bills pending there. One of them is mine, one is Senator Jackson's and one is Senator Tydings'. In the total environmental picture, all three bills have roughly the same objective. They provide, at this late date in history, for the creation of a high-level Presidential Council on Environmental Quality, composed of distinguished scientists from the appropriate disciplines, with the responsibility of evaluating the environmental activities in this country, privately and in government.

My bill creates also a Joint Committee on Environmental Quality composed of Senators and members of the House of Representatives, and requires the President to make an annual report on these matters to Congress and to the Committee.

If this legislation passes, it will give visibility for the first time to the environmental problems that we face. The Council itself will have the kind of prestige that will be recognized and respected. And, the annual report will get the kind of publicity which helps formulate the public understanding and political support for action to reverse the trend of degrading our environment.

I will conclude with one other example of critical importance to the scientist and to political decision makers. Since World War II, and particularly in the past 10 or 12 years, the public and the Congress have accepted without critical evaluation practically all the recommendations of the military-industrial complex about what is needed for the defense of this country.

Now for the first time, you are seeing a real debate over whether this country should deploy an antiballistic missile system. In my judgment, this could not have happened 2 years ago.

But now, the public and Congress have decided, partly on the basis of the Vietnam War, that the military-industrial complex is not infallible after all.

After four scientific advisors to the last three Presidents advised against the deployment of an antiballistic missile system on the grounds that we do not have the sophisticated technology to make it work against an all-out attack by Russia, we are questioning the ABM—scientists are, the people are, Congress is.

The problem here is that for the first time in 20 years the two great powers are reasonably balanced. We would not dare attack them because, after our first strike—no matter what it was—they could retaliate and impose unacceptable losses on us. And they are in the same situation. Why not leave it there? They have a count on everything we have—we have a count on everything they have. We know what they have underwater—and they know what we have underwater. And if we deploy the ABM to protect our offensive missile sites, which is the argument of the Administration, what about those 700 missiles we have cruising in submarines under the seas, an arsenal large enough to destroy any country in the world anywhere? So why deploy ABM? Why in heaven's name does the military-industrial complex insist upon it?

Well, I think it is because their function is military affairs. They will buy all the systems with all the money that you can furnish them.

Last year, we had 14 votes in the Senate against ABM. Since then, we have had overwhelming scientific evidence presented to us in many forms. And now, finally—a year later—the hard questions about ABM are being asked by Senators and Congressmen who more than ever before know the merits and demerits of the case, in large part because of the dialogue with the scientists.

The ABM has been another case demonstrating the critical need for the scientific community to supply resources and information so that there can be a valid, honest debate on critically important questions.

The next issue is MIRV, a multiple independently targeted reentry vehicle. If we deploy MIRV and the Russians deploy a similar system, we each will have spent billions of dollars. And, when it is all over, we will stand again in the same relative position in terms of military power vis-a-vis each other as we were before we started.

This is the issue at stake. Until this country and Russia place a little more energy in the direction of deescalating the arms race instead of escalating it, and allocating our resources to the problems of our social structure at home and the underdeveloped countries around the world, we cannot have peace and security on earth.

But in achieving our social goals, I repeat again, the scientific community is a critical factor.

THE BOXCAR SHORTAGE

Mr. PEARSON. Mr. President, again I invite the attention of the Senate to the grave national problem caused by the shortage of boxcars. In the Western States, grain is overflowing the elevators and, in some instances, spoiling on the ground.

Unfortunately, the situation is growing worse. Not only is more grain being produced annually, but the number of available boxcars is gradually decreasing. At present, an insufficient number of new cars are being built, and an alarming number of cars are being retired by the railroads. Further, the continued practice of the Eastern railroads to delay the return of cars so desperately needed in my area of the Nation has aggravated this impending crisis.

I ask unanimous consent to have printed in the RECORD an article from the Huchinson, Kans., News, which indicates the dimensions of this pressing problem.

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

BOXCAR SHORTAGE THREATENS SMALL SOUTHWEST KANSAS ELEVATORS

(By Jeanette Jackson)

Southwest Kansas, crippled by an extended railroad car shortage, is rapidly approaching a major crisis which could break many small elevators and cause tremendous monetary losses among larger cooperatives.

Co-op managers are unanimous in their stories of back logged railroad boxcars and hopper orders. Some complain that railroad cars they do receive are not fit to use, and all say the situation is critical.

The situation stems from a national railroad problem which includes Rock Island, Missouri Pacific, and Santa Fe railroads. Most railroad officials have remained noncommittal in discussing the problem with coop managers, telling them only that cars are not available.

"We're critically short," exclaimed J. L. Heacock, manager of the Minneolo Cooperative. "We haven't gotten cars we ordered back in December."

At the end of December the Coop had 244,000 bushels of wheat to move out under contract, but has been able to get only enough cars to move 125,000 bushels. The Coop has purchased about 250,000 bushels more. Today there is 350,000 bushels to move.

Allowing 2,000 bushels per boxcar, the Minneola Coop needs 175 boxcars.

"The rate we're getting boxcars, it will be fall before the wheat is moved. We could have another wheat harvest before we get it moved," Heacock added ruefully.

The Minneola Coop is served by the Rock Island and Heacock leveled sharp criticism at the railroad.

"The railroad said they don't have the cars. They've given us some, but they're in terrible condition. We've loaded all that's fit to load, but 50 per cent of them aren't fit. They are contaminated. There are holes in the car floors. Some cars don't even have doors on them.

"With $400,000 tied up in capital, our interest rate over the last three weeks has been much more than what we make out of wheat," he added. He said interest has amounted to nearly $100 per day.

Fred Eaton, of Tribune, reports the cooperative there has contracts for 340,000 bushels of cash wheat waiting for boxcars to move it.

"All we can do is sit here and sweat it out. We're desperately in need of railroad cars," he said.

The Missouri Pacific Railroad car distributor out of St. Louis, Mo., advised Eaton that the railroad was doing all it could and would ship the cars as soon as they could get them.

Last week Eaton said he had gotten only two cars.

"It has never been this bad before," he said. "We always have a problem by the end of wheat harvest, but it's much worse now than then."

The three elevators in the cooperative are averaging only six cars per week.

He said all the elevators in the area including Marienthal, Horace, and Tribune are "fighting for cars".

The Johnson Cooperative Grain Co. at Johnson is another big elevator complex which moves large quantities of grain out of Kansas into the export field.

The four elevators there have been averaging four or five cars per week and most of the wheat is going into Gulf export facilities.

"I think Santa Fe railroad has done a better job than some of the other railroads," Eugene Friesen, manager of the Johnson Co-op, said. "This has been equal to or worse than last harvest season."

Wednesday the elevator loaded 15 cars and Friesen seemed optimistic about a possible break in the situation.

So far the Johnson grain firm hasn't suffered any loss because of the boxcar shortage, Friesen said.

The car shortage at Garden City remains fairly critical with only five cars moving out this week.

Sherman Baird, manager of the Garden City Cooperative, said they were still 60 cars short of their requirements. They have had car orders backlogged since Jan. 13 and 16, and have been unable to meet their wheat contracts. This has caused some financial loss to the cooperative. It has run about a cent per bushel, amounting to about $2,000, he said.

"There's no way to protect yourself from this kind of problem," Baird said, talking about the three-week delay on shipments.

Baird blamed part of the Southwest Kansas problem on eastern railroads who are using Midwest boxcars in the east rather than returning them to their owners.

"The cars are left on foreign lines and they pay a rental fee for the cars. It's cheaper than buying enough cars for their own use. Santa Fe Railroad is innocent of this. They put on more new hopper cars than any other line in 1969," Baird said. "They have sufficient numbers of cars to take care of our needs if they could get the cars back home."

He said the last 30 to 45 days had been worse than in the fall.

Two weeks ago Southwest Kansas grain dealers complained to the Kansas Corporation Commission. Dale Saffels, KCC chairman, in turn complained to the ICC.

Tuesday, Senate Majority Leader Mike Mansfield of Montana called for cooperation by the Interstate Commerce Commission, Congress, and railroads in reducing the boxcar shortage.

The boxcar shortage is hampering grain and lumber shipping in Montana, the Northwest, and in the Midwest.

"If this goes into May or June, it could really be a bad harvest season. Farmers are in a tight squeeze right now," Heacock said. "We're in pretty good financial condition ourselves, but some elevators could be broken if this continues. It will hurt us some too."

REFUGEE PROBLEM IN EASTERN NIGERIA

Mr. HUGHES. Mr. President, nine Senators and 20 Members of the House have signed a statement expressing their concern with regard to the refugee problem in eastern Nigeria.

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

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

STATEMENT ON THE NIGERIAN CRISIS, FEBRUARY 10, 1970

We are appalled by the dimensions of the potential tragedy in the former Eastern Region of Nigeria. Initial reports from the territory liberated by the surrender are contradictory. United Nations Secretary General U Thant painted an optimistic picture, while the United Nations representative in Nigeria later gave a much more solemn reading on the relief situation. Press dispatches give very disturbing accounts, while the Nigerian government remains optimistic.

We understand from the report of Dr. Western, who recently visited the enclave, that 10,500 tons of food are needed weekly. During the Senate Subcommittee on Refugee hearings, it was stated that only 140 tons of food had gotten in during the first week and one-half after the end of the war. From our knowledge of the relief problem in the past and from the testimony of Drs. Taylor and Western, it is clear that the need for relief is immediate and desperate.

President Nixon has made an unequivocal commitment to provide aid to insure that the needs of all Nigerians are met. Nonetheless, confusion surrounds the existing relief conditions and there are indications of widespread and desperate need for food. We therefore call upon the President to use the full power of his office to insure that food be gotten into the areas of need without delay.

To this end we call upon the President to:

1. Continue the presence of expert observers in the area of need to update and present reliable information which is an indispensable basis for action.

2. Present to the Nigerian Government all the information at our disposal respecting the present situation. We feel that the information gathered by experts would be useful to the Nigerian Government.

3. Convey to the Nigerian Government our feeling that the food crisis can be eased immensely by utilizing individuals and agencies experienced in handling similar emergencies throughout the world.

4. Convey to the Nigerian Government the President's informed opinion that the best way of meeting the critics would be to open an airfield in the area of need immediately. Alternatively, supplies could be air dropped. Poor ground transportation makes an air lift essential.

5. Emphasize to General Gowan that he has a unique opportunity for promoting life and for fostering Nigerian unity. The next few days will determine whether the Nigerian Government goes down in history as one of the great humanitarian governments of the world or whether that government will carry with it for generations the stigma of having lost thousands of its citizens through insufficient action. The possibility is there too for the government to show the people of this devastated area that they are welcome members of the Nigerian community.

We realize that the Nigerian Government has full sovereignty over its territory. But the imminent tragedy is a human one, and we must do all we can to insure that the human needs of all Nigerians are met.

Birch Bayh, Frank Church, Alan Cranston, Philip A. Hart, Harold E. Hughes, Daniel K. Inouye, George McGovern, Walter F. Mondale, Joseph M. Montoya, Members of the Senate.

Joseph P. Addabbo, George E. Brown, Jr., Daniel E. Button, Shirley Chisholm, Don Edwards, Leonard Farbstein, Jacob H. Gilbert, James J. Howard, Robert L. Leggett, Abner J. Mikva, Patsy T. Mink, Richard L. Ottinger, William F. Ryan, James H. Scheuer, Frank Thompson, Jr., Charles H. Wilson, Edward I. Koch, Henry Helstoski, Phillip Burton, Augustus Hawkins, Members of Congress.

ENVIRONMENTAL DILEMMA

Mr. WILLIAMS of New Jersey. Mr. President, Sports Illustrated for February 2, 1970, includes an article which is undoubtedly one of the most discerning and cogent discussions of our environmental dilemma thus far published in the American press.

Lord Ritchie-Calder, noted British scientific author and United Nations science adviser, warns us that "mankind shares a common habitat—we have mortgaged the old homestead and nature is liable to foreclose."

I share the belief of the editors of Sports Illustrated—who reprinted the article from Foreign Affairs—that Lord Ritchie-Calder's excellent statement deserves the widest possible readership. I commend this article to Senators as a thorough overview of what has become the foremost issue of the day. 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:

MORTGAGING THE OLD HOMESTEAD

(By Lord Ritchie-Calder)

Past civilizations are buried in the graveyards of their own mistakes, but as each died of its greed, its carelessness or its effeteness another took its place. That was because such civilizations took their character from a locality or region. Today ours is a global civilization; it is not bounded by the Tigris and the Euphrates nor even the Hellespont and the Indus; it is the whole world. Its planet has shrunk to a neighborhood round which a man-made satellite can patrol 16 times a day, riding the gravitational fences of Man's family estate. It is a community so interdependent that our mistakes are exaggerated on a world scale.

For the first time in history, Man has the power of veto over the evolution of his own species through a nuclear holocaust. The overkill is enough to wipe out every man, woman and child on earth, together with our fellow lodgers, the animals, the birds and the insects, and to reduce our planet to a radioactive wilderness. Or the Doomsday Machine could be replaced by the Doomsday Bug. By gene manipulation and man-made mutations, it is possible to produce, or generate, a disease against which there would be no natural immunity; by "generate" is meant that even if the perpetrators inoculated themselves protectively, the disease in spreading round the world could assume a virulence of its own and involve them, too. When a British bacteriologist died of the bug he had invented, a distinguished scientist said, "Thank God he didn't sneeze; he could have started a pandemic against which there would have been no immunity."

Modern Man can outboast the Ancients, who in the arrogance of their material achievements built pyramids as the gravestones of their civilizations. We can blast our pyramids into space to orbit through all eternity round a planet which perished by our neglect.

A hundred years ago Claude Bernard, the famous French physiologist, enjoined his colleagues, "True science teaches us to doubt and in ignorance to refrain." What he meant was that the scientist must proceed from one tested foothold to the next (like going into a minefield with a mine detector). Today we are using the biosphere, the living space, as an experimental laboratory. When the mad scientist of fiction blows himself and his laboratory skyhigh, that is all right, but when scientists and decisionmakers act out of ignorance and pretend that it is knowledge, they are putting the whole world in hazard. Anyway, science at best is not wisdom; it is knowledge, while wisdom is knowledge tempered with judgment. Because of overspecialization, most scientists are disabled from exercising judgments beyond their own sphere.

A classic example was the atomic bomb. It was the Physicists' Bomb. When the device exploded at Alamogordo on July 16, 1945, and made a notch mark in history from which Man's future would be dated, the safebreakers had cracked the lock of the nucleus before the locksmiths knew how it worked. (The evidence of this is the billions of dollars which have been spent since 1945 on gargantuan machines to study the fundamental particles, the components of the nucleus; and they still do not know how they interrelate.)

Prime Minister Clement Attlee, who concurred with President Truman's decision to drop the bomb on Hiroshima, later said: "We knew nothing whatever at that time about the genetic effects of an atomic explosion. I knew nothing about fallout and all the rest of what emerged after Hiroshima. As far as I know, President Truman and Winston Churchill knew nothing of those things either, nor did Sir John Anderson, who coordinated research on our side. Whether the scientists directly concerned knew or guessed, I do not know. But if they did, then so far as I am aware, they said nothing of it to those who had to make the decision."

That sounds absurd, since as long before as 1927, Herman J. Muller had been studying the genetic effects of radiation, work for which he was later awarded the Nobel Prize. But it is true that in the whole documentation of the British effort, before it merged in the Manhattan Project, there is only one reference to genetic effects—a Medical Research Council minute which was not connected with the bomb they were intending to make; it concerned the possibility that the Germans might, short of the bomb, produce radioactive isotopes as a form of biological warfare. In the Franck Report, the most statesmanlike document ever produced by scientists, with its percipience of the military and political consequences of unilateral use of the bomb (presented to Secretary of War Henry L. Stimson even before the test bomb exploded), no reference is made to the

biological effects, although one would have supposed that to have been a very powerful argument. The explanation, of course, was that it was the Physicists' Bomb and military security restricted information and discussion to the bomb-makers, which excluded the biologists.

The same kind of breakdown in interdisciplinary consultation was manifest in the subsequent testing of fission and fusion bombs. Categorical assurances were given that the fallout would be confined to the testing area, but the Japanese fishing boat *Lucky Dragon* was "dusted" well outside the predicted range. Then we got the story of radiostrontium. Radiostrontium is an analog of calcium. Therefore in bone-formation an atom of nautral strontium can take the place of calcium and the radioactive version can do likewise. For all practical purposes radiostrontium did not exist in the world before 1945; it is a man-made element. Today every young person, anywhere in the world, whose bones were forming during the massive bomb-testing in the atmosphere, carries this brand mark of the Atomic Age. The radiostrontium in their bones is medically insignificant, but, if the test ban (belated recognition) had not prevented the escalation of atmospheric testing, it might not have been.

Every young person everywhere was affected, and why? Because those responsible for H-bomb testing miscalculated. They assumed that the upthrust of the H-bomb would punch a hole in the stratosphere and that the gaseous radioactivity would dissipate itself. One of those gases was radioactive krypton, which quickly decays into radiostrontium, which is a particulate. The technicians had been wrongly briefed about the nature of the troposphere, the climatic ceiling which would, they maintained, prevent the fallback. But between the equatorial troposphere and the polar troposphere there is a gap, and the radiostrontium came back through this fanlight into the climatic jet streams. It was swept all round the world to come to earth as radioactive rain, to be deposited on food crops and pastures, to be ingested by animals and to get into milk and into babies and children and adolescents whose growing bones were hungry for calcium or its equivalent strontium, in this case radioactive. Incidentally, radiostrontium was known to the biologists before it "hit the headlines." They had found it in the skin burns of animals exposed on the Nevada testing ranges and they knew its sinister nature as a "bone-seeker." But the authorities clapped security on their work, classified it as "Operation Sunshine" and cynically called the units of radiostrontium "Sunshine Units"—an instance not of ignorance but of deliberate noncommunication.

One beneficial effect of the alarm caused by all this has been that the atoms industry is, bar none, the safest in the world for those working in it. Precautions, now universal, were built into the code of practice from the beginning. Indeed it can be admitted that the safety margins in health and in working conditions are perhaps excessive in the light of experience, but no one would dare to modify them. There can, however, be accidents in which the public assumes the risk. At Windscale, the British atomic center in Cumberland, a reactor burned out. Radioactive fumes escaped from the stacks in spite of the filters. They drifted over the country. Milk was dumped into the sea because radioactive iodine had covered the dairy pastures.

There is the problem of atomic waste disposal, which persists in the peaceful uses as well as in the making of nuclear explosives. Low energy wastes, carefully monitored, can be safely disposed of. Trash, irradiated metals and laboratory waste can be embedded in concrete and dumped in the ocean deeps—although this practice raises some misgivings. But high-level wastes, some with elements the radioactivity of which can persist for hundreds of thousands of years, present prodigious difficulties. There must be "burial grounds" (or, euphemistically, "farms"), the biggest of which is at Hanford, Wash. The Hanford "farm" encloses a stretch of the Columbia River in a tract covering 575 square miles where no one is allowed to live or to trespass.

There, in the 20th-century Giza, it has cost more, much more, to bury live atoms than it cost to entomb the sun-god kings of Egypt. The capital outlay runs into hundreds of millions of dollars and the maintenance of the U.S. sepulchers is more than $6 million a year. (Add to that the buried waste of the U.S.S.R., Britain, Canada, France and China, and one can see what it costs to bury live atoms.) And they are very much alive. At Hanford they are kept in million-gallon carbon-steel tanks. Their radioactive vitality keeps the accompanying acids boiling like a witch's cauldron. A cooling system has to be maintained continuously. The vapors from the self-boiling tanks have to be condensed and "scrubbed" (radioactive atoms removed); otherwise a radioactive miasma would escape from the vents. The tanks will not endure as long as the pyramids and certainly not for the hundreds of thousands of years of the long-lived atoms. The acids and the atomic ferments erode the toughest metal, so the tanks have to be periodically decanted. Another method is to entomb them in disused salt mines. Another is to embed them in ceramics, lock them up in glass beads. Another is what is known as "hydraulic fraction": a hole is drilled into a shale formation (below the subsoil water); liquid is piped down under pressure and causes the shale to split laterally. Hence the atoms in liquid cement can be injected under enormous pressure and spread into the fissures to set like a radioactive sandwich.

This accumulating waste from fission plants will persist until the promise, still far from fulfilled, of peaceful thermonuclear power comes about. With the multiplication of power reactors, the wastes will increase. It is calculated that by the year 2000, the number of six-ton nuclear "hearses" in transit to "burial grounds" at any given time on the highways of the United States will be well over 3,000 and the amount of radioactive products will be about a billion curies, which is a mighty lot of curies to be roaming around a populated country.

The alarming possibilities were well illustrated by the incident at Palomares on the coast of Spain, when there occurred a collision of a refueling aircraft with a U.S. nuclear bomber on "live" mission. The bombs were scattered. There was no explosion, but radioactive materials broke loose and the contaminated beaches and farm soil had to be scooped up and taken to the United States for burial.

Imagine what would have happened if the *Torrey Canyon,* the giant tanker which was wrecked off the Scilly Isles, had been nuclear-powered. Some experts make comforting noises and say that the reactors would have "closed down," but the *Torrey Canyon* was a wreck and the Palomares incident showed what happens when radioactive materials break loose. All those oil-polluted beaches of southwest England and the coasts of Brittany would have had to be scooped up for nuclear burial.

The *Torrey Canyon* is a nightmarish example of progress for its own sake. The bigger the tanker, the cheaper the freightage, which is supposed to be progress. This ship was built at Newport News, Va. in 1959 for the Union Oil Company; it was a giant for the time—810 feet long and 104 feet beam—but five years later, that was not big enough. She was taken to Japan to be "stretched." The ship was cut in half amidship and a mid-body section inserted. With a new bow, this made her 974 feet long, and her beam was extended 21 feet. She could carry 850,000 barrels of oil, twice her original capacity.

Built for Union Oil, she was "owned" by the Barracuda Tanker Corporation, the head office of which is a filing cabinet in Hamilton, Bermuda. She was registered under the Liberian flag of convenience and her captain and crew were Italians recruited in Genoa. Just to complicate the international tangle, she was under charter to the British Petroleum Tanker Company to bring 118,000 tons of crude oil from Kuwait to Milford Haven in Wales, via the Cape of Good Hope. Approaching Lands End, the Italian captain was informed that if he did not reach Milford Haven by 11 p.m. Saturday night he would miss high water and would not be able to enter the harbor for another five days, which would have annoyed his employers. He took a shortcut, setting course between Seven Stones rocks and the Scilly Isles, and he finished up on Pollard Rock, in an area where no ship of that size should ever have been.

Her ruptured tanks began to vomit oil and great slicks appeared over the sea in the direction of the Cornish holiday beaches. A Dutch tug made a dash for the stranded ship, gambling on the salvage money. (Where the salvaged ship could have been taken one cannot imagine, since no place would offer harborage to a leaking tanker.) After delays and a death in the futile salvage effort, the British Government moved in with the navy, the air force and, on the beaches, the army. They tried to set fire to the floating oil which, of course, would not volatilize. They covered the slicks with detergents (supplied at a price by the oil companies), and then the bombers moved in to try to cut open the deck and, with incendiaries, to set fire to the remaining oil in the tanks. Finally the ship foundered and divers confirmed that the oil had been effectively consumed.

Nevertheless the result was havoc. All measures had to be improvised. Twelve thousand tons of detergent went into the sea. Later marine biologists found that the cure had been worse than the complaint. The oil was disastrous for seabirds, but marine organic life was destroyed by the detergents. By arduous physical efforts, with bulldozers and flamethrowers and, again, more detergents, the beaches were cleaned up for the holiday-makers. Northerly winds swept the oil slicks down Channel to the French coast with even more serious consequences, particularly to the valuable shellfish industry. With even bigger tankers being launched, this affair is a potentous warning.

Two years after *Torrey Canyon,* an offshore oil rig erupted in the Santa Barbara Channel. The disaster to wildlife in this area, which has island nature reserves and is on the migratory route of whales, seals and seabirds, was a repetition of the *Torrey Canyon* oil spill. And the operator of the lethal oil rig was Union Oil.

Another piece of stupidity shows how much we are at the mercy of ignorant men pretending to be knowledgeable. During the International Geophysical Year, 1957–58, the Van Allen Belt was discovered. This is an area of magnetic phenomena. Immediately it was decided to explode a nuclear bomb in the belt to see whether an artificial aurora could be produced. The colorful draperies and luminous skirts of the aurora borealis are caused by the drawing in of cosmic particles through the rare gases of the upper atmosphere—ionization it is called; it is like passing electrons through the vacuum tubes of our familiar fluorescent lighting. The name Rainbow Bomb was given it in anticipation of the display it was expected to produce. Every eminent scientist in the field of cosmology, radio astronomy or physics of the atmosphere protested at this irresponsible tampering with a system which we did not understand. And, typical of the casual attitude toward this kind of thing, the

Prime Minister of the day, answering protests in the House of Commons that called on him to intervene with the Americans, asked what all the fuss was about. After all, they hadn't known that the Van Allen Belt even existed a year before. This was the cosmic equivalent of Chamberlain's remark about Czechoslovakia, at the time of Munich, about that distant country of which we knew so little. They exploded the bomb. They got their pyrotechnics and we still do not know the cost we may have to pay for this artificial magnetic disturbance.

In the same way we can look with misgivings on those tracks—the white tails of the jets that are introducing into our climatic system new factors, the effects of which are immensurable. Formation of rain clouds depends upon water vapor having a nucleus on which to form. That is how artificial precipitation is introduced—the so-called rain-making. So the jets, crisscrossing the weather system, playing noughts and crosses with it, can produce a man-made change.

In the longer term we can foresee even more drastic effects from Man's unthinking operations. At the United Nations' Science and Technology Conference in Geneva in 1963 we took stock of the effects of industrialization on our total environment thus far. The atmosphere is not only the air which humans, animals and plants breathe, it is also the envelope that protects living things from harmful radiation from the sun and outer space. It is also the medium of climate, the winds and the rain. Those are inseparable from the hydrosphere—the oceans, covering seven-tenths of the globe, with their currents and extraordinary rates of evaporation; the biosphere, with its trees and their transpiration; and in terms of human activities, the minerals mined from the lothosphere, the rock crust. Millions of years ago the sun encouraged the growth of the primeval forests, which became our coal, and the plant growth of the seas, which became our oil. Those fossil fuels, locked away for eons of time, are extracted by man and put back into the atmosphere from the chimney stacks and the exhaust pipes of modern engineering. About six billion tons of carbon are mixed with the atmosphere annually. During the past century, in the process of industrialization, with its release of carbon by the burning of fossil fuels, more than 400 billion tons of carbon have been artificially introduced into the atmosphere. The concentration in the air we breathe has been increased by approximately 10%, and if all the known reserves of coal and oil were burned at once the concentration would be 10 times greater.

This is something more than a public health problem, more than a question of what goes into the lungs of an individual, more than a question of smog. The carbon cycle in nature is a self-adjusting mechanism. Carbon dioxide is, of course, indispensable for plants and is, therefore, a source of life, but there is a balance which is maintained by excess carbon being absorbed by the seas. The excess is now taxing this absorption, and it can seriously disturb the heat balance of the earth because of what is known as the "greenhouse effect." A greenhouse lets in the sun's rays but retains the heat. Carbon dioxide, as a transparent diffusion, does likewise. It keeps the heat at the surface of the earth and in excess modifies the climate.

It has been estimated that, at the present rate of increase, the mean annual temperature all over the world might increase by 3.6° centigrade in the next 40 to 50 years. The experts may argue about the time factor and even about the effects, but certain things are apparent, not only in the industrialized northern hemisphere but in the southern hemisphere also. The north-polar ice cap is thinning and shrinking. The seas, with their blanket of carbon dioxide, are changing their temperature, with the result that marine plant life is increasing and is transpiring more carbon dioxide. As a result of the combination, fish are migrating, changing even their latitudes. On land the snow line is retreating and glaciers are melting. In Scandinavia, land which was perennially under snow and ice is thawing, and arrowheads of more than 1,000 years ago, when the black soils were last exposed, have been found. The melting of sea ice will not affect the sea level, because the volume of floating ice is the same as the water it displaces, but the melting of ice caps or glaciers, in which the water is locked up, will introduce additional water to the sea and raise the level. Rivers originating in glaciers and permanent snow fields will increase their flow; and if ice dams, such as those in the Himalayas, break, the results in flooding may be catastrophic. In this process the patterns of rainfall will change, with increased precipitation in some areas and the possibility of aridity in now fertile regions. One would be well advised not to take 99-year leases on properties at present sea level.

At that same conference, there was a sobering reminder of mistakes which can be writ large, from the very best intentions. In the Indus Valley in West Pakistan, the population is increasing at the rate of 10 more mouths to be fed every five minutes. In that same five minutes in that same place, an acre of land is being lost through waterlogging and salinity. This is the largest irrigated region in the world. Twenty-three million acres are artificially watered by canals. The Indus and its tributaries, the Jhelum, the Chenab, the Ravi, the Beas and the Sutlej, created the alluvial plains of the Punjab and the Sind. In the 19th century, the British began a big program of farm development in lands which were fertile but had low rainfall. Barrages and distribution canals were constructed. One thing which, for economy's sake, was not done was to line the canals. In the early days, this genuinely did not matter. The water was being spread from the Indus into a thirsty plain and if it soaked in so much the better. The system also depended on what is called "inland delta drainage," that is to say, the water spreads out like a delta and then drains itself back into the river. After independence, Pakistan, with external aid, started vigorously to extend the Indus irrigation. The experts all said the soil was good and would produce abundantly once it got the distributed water.

There were plenty of experts, but they all overlooked one thing—the hydrological imperatives. The incline from Lahore to the Rann of Kutch—700 miles—is a foot a mile, a quite inadequate drainage gradient. So as more and more barrages and more and more lateral canals were built, the water was not draining back into the Indus. Some 40% of the water in the unlined canals seeped underground, and in a network of 40,000 miles of canals that is a lot of water. The result was that the water table rose. Low-lying areas became waterlogged, drowning the roots of the crops. In other areas the water crept upward, leaching salts that accumulated in the surface layers, poisoning the crops. At the same time the irrigation regime, which used just 1½ inches of water a year in the fields, did not sluice out those salts but added, through evaporation, its own salts. The result was tragically spectacular. In flying over large tracts of this area, one would imagine that it was an Arctic landscape because the white crust of salt glistens like snow.

The situation was deteriorating so rapidly that President Ayub appealed in person to President Kennedy, who sent out a high-powered mission which encompassed 20 disciplines. This was backed by the computers at Harvard. The answers were pretty grim. It would take 20 years and $2 billion to repair the damage—more than it cost to create the installations that did the damage. It would mean using vertical drainage to bring up the water and use it for irrigation, and also to sluice out the salt in the surface soil. If those 20 scientific disciplines had been brought together in the first instance, it would not have happened.

One more instance of the far-flung consequences of Man's localized mistakes: no insecticides or pesticides have ever been allowed into the continent of Antarctica. Yet they have been found in the fauna along the northern coasts. They have come almost certainly from the northern hemisphere, carried from the rivers of the farm states into the currents sweeping south. In November 1969, the U.S. Government decided to "phase out" the use of DDT.

Pollution is a crime compounded of ignorance and avarice. The great achievements of *Homo sapiens* become the disaster-ridden blunders of unthinking Man—poisoned rivers and dead lakes, polluted with the effluents of industries which give something called "prosperity" at the expense of posterity. Rivers are treated like sewers and lakes like cesspools. These natural systems—and they are living systems—have struggled hard. The benevolent micro-organisms which cope with reasonable amounts of organic matter have been destroyed by mineral detergents. Witness our foaming streams. Lake Erie did its best to provide the oxygen to neutralize the pickling acids of the great steelworks. But it could not contend. It lost its oxygen in the battle. Its once rich commercial fishing industry died and its revitalizing micro-organic life gave place to anaerobic organisms which do not need oxygen but give off foul smells, the mortuary smells of dead water. As one Erie industrialist retorted, "It's not our effluent; it's those damned dead fish."

We have had the Freedom from Hunger Campaign; presently we shall need a Freedom from Thirst Campaign. If the International Hydrological Decade does not bring us to our senses, we will face a desperate situation. Of course it is bound up with the increasing population, but also with the extravagances of the technologies which claim that they are serving that population. There is a competition between the water needs of the land which has to feed the increasing population and the domestic and industrial needs of that population. The theoretical minimum to sustain living standards is about 300 gallons a day per person. This is the approximate amount of water needed to produce grain for 2½ pounds of bread, but a diet of two pounds of bread and one pound of beef would require about 2,500 gallons. And that is nothing compared with the gluttonous requirements of steel-making, paper-making and the chemical industry.

Water—just H_2O—is as indispensable as food. To die of hunger one needs more than 15 days. To die of thirst one needs only three. Yet we are squandering, polluting and destroying water. In Los Angeles and neighboring Southern California, a thousand times more water is being consumed than is being precipitated in the locality. They have preempted the water of neighboring states. They are piping it from Northern California, and there is a plan to pipe it all the way from Canada's Northwest Territories, from the Mackenzie and the Liard, which flow northward to the Arctic Ocean, to turn them back into deserts.

Always and everywhere we come back to the problem of population—more people to make more mistakes, more people to be the victims of the mistakes of others, more people to suffer hell upon earth. It is appalling to hear people complacently talking about the population explosion as though it belonged to the future, or world hunger as though it were threatening, when hundreds of millions can testify that it is already here—swear it with panting breath.

We know to the exact countdown second when the nuclear explosion took place—5:30 a.m., July 16, 1945, when the first device went off in the desert of Alamogordo, N. Mex. The fuse of the population explosion had been lit 10 years earlier—February 1935. On that day a girl called Hildegarde was dying of generalized septicemia. She had pricked her finger with a sewing needle and the infection had run amok. The doctors could not save her. Her desperate father injected a red dye into her body. Her father was Gerhard Domagk. The red dye was prontosil, which he, a pharmaceutical chemist, had produced and had successfully used on mice lethally infected with streptococci, but never before on a human. Prontosil was the first of the sulfa drugs—chemotherapeutics—which could attack the germ within the living body. Thus was prepared the way for the rediscovery of penicillin—rediscovery because, although Fleming had discovered it in 1928, it had been ignored; neither he nor anybody else had seen its supreme virtue of attacking germs within the living body. That is the operative phrase, for while medical science and the medical profession had used antiseptics for surface wounds and sores, they were always labeled "Poison, not to be taken internally." The sulfa drugs had shown that it was possible to attack specific germs within the living body and had changed this attitude. So when Chain and Florey looked again at Fleming's penicillin in 1938, they were seeing it in the light of the experience of the sulfas.

A new era of disease-fighting had begun—the sulfas, the antibiotics, DDT insecticides. Doctors could now attack a whole range of invisible enemies. They could master the old killer diseases. They proved it during the war, and when the war ended there were not only stockpiles of the drugs, there were tooled-up factories to produce them. So, to prevent the spread of the deadly epidemics which follow wars, the supplies were made available to the war-ravaged countries with their displaced persons, and then to the developing countries. Their indigenous infections and contagions and insect-borne diseases were checked.

Almost symbolically, the first great clinical use of prontosil had been in dealing with puerperal sepsis, childbed fever. It had spectacularly saved mothers' lives in Queen Charlotte's Hospital, London. Now its successors took up the story. Fewer mothers died in childbirth, to live and have more babies. Fewer infants died, fewer toddlers, fewer adolescents. They lived to marry and have children. Older people were not killed off by, for instance, malaria. The average life-span increased.

Professor Kingsley Davis of the University of California at Berkeley, the authority on urban development, has presented a hair-raising picture from his survey of the world's cities. He has shown that 38% of the world's population is already living in what are defined as urban places. More than one-fifth of the world's population is living in cities of 100,000 or more. And more than one-tenth of the world's population is now living in cities of a million or more inhabitants. In 1968, 375 million people were living in million-and-over cities. The proportions are changing so quickly that on present trends it would take only 16 years for half the world's population to be living in cities and only 55 years for it to reach 100%.

Within the lifetime of a child born today, Kingsley Davis foresees, on present trends of population increase, 15 billion people to be fed and housed—nearly five times as many as now. The whole human species would be living in cities of a million and over inhabitants, and—wait for it!—the biggest city would have 1.3 billion inhabitants. That means 186 times as many as there are in Greater London.

For years the Greek architect Doxiadis has been warning us about such prospects. In his Ecumenopolis—World City—one urban area would ooze into the next, like confluent ulcers. The East Side of World City would have as its High Street the Eurasian Highway stretching from Glasgow to Bangkok, with the Channel Tunnel as its subway and a built-up area all the way. On the West Side of World City, divided not by the tracks but by the Atlantic, the pattern is already emerging, or rather, merging. Americans already talk about Boswash, the urban development of a built-up area stretching from Boston to Washington; and on the West Coast, apart from Los Angeles sprawling into the desert, the realtors are already slurring one city into another all along the Pacific Coast from the Mexican border to San Francisco. We don't need a crystal ball to foresee what Davis and Doxiadis are predicting; we can already see it through smog-covered spectacles. A blind man can smell what is coming.

The danger of prediction is that experts and men of affairs are likely to plan for the predicted trends and confirm these trends. "Prognosis" is something different from "Prediction." An intelligent doctor, having diagnosed your symptoms and examined your condition, does not say (except in novelettes), "You have six months to live." An intelligent doctor says, "Frankly, your condition is serious. Unless you do so-and-so, and I do so-and-so, it is bound to deteriorate." The operative phrase is "do so-and-so." We don't have to plan for trends; if they are socially undesirable our duty is to plan away from them, to treat the symptoms before they become malignant.

We have to do this on the local, the national and the international scale, through intergovernmental action, because there are no frontiers in present-day pollution and destruction of the biosphere. Mankind shares a common habitat. We have mortgaged the old homestead and nature is liable to foreclose.

AIR CARGO PILFERAGE AND SMALL BUSINESS

Mr. JAVITS. Mr. President, I invite attention to the excellent efforts of the Select Committee on Small Business, of which the distinguished senior Senator from Nevada (Mr. BIBLE) is the chairman, to attempt to alleviate the serious impact of crime against the small businessman. The select committee, on which I serve as ranking minority member, last December filed with the Senate two reports which detail its findings and provide specific recommendations to begin the development of preventive measures to cope with this growing problem now threatening the economic stability of many small businesses. One volume of this two-part report deals with the growing incidence of crime at U.S. airports, the wholesale theft and pilferage of goods in air commerce.

An outstanding analysis of this problem and the efforts of the committee and its chairman to develop remedial measures to curb it was published in the Los Angeles Times of December 14, 1969. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Los Angeles Times, Dec. 14, 1969]

PILFERED CARGOES—AIRPORT THEFTS: SALAMIS, WIGS AND WATCHES

(By Robert E. Dallos)

NEW YORK.—Armed guards with vicious dogs . . . special dual lens surveillance cameras . . . unmarked boxes, recognizable only by secret symbols . . . time-locked rooms . . . hidden closed-circuit TV cameras.

A scene from Mission Impossible?

No. Just a few of the precautions being instituted at the nation's airports to stifle the staggering rise in cargo thefts and pilferage.

But thus far even these means haven't made a dent in the systematic stealing of air freight. It has been estimated that 2% of all tonnage shipped to, from and within the United States by air somehow goes astray.

According to the American Institute of Marine Underwriters, an organization of more than 100 insurance companies, there were 967 claims of $1,000 or more in the first 11 months of this year. They totaled $5,816,401, compared with $3,168,572 for all of 1968.

PASSED ON TO CONSUMERS

"The thievery-pilferage plague at our major airports, especially at international ports of entry," says Sen. Alan Bible (D-Nev.) "is a major part of the biggest multibillion-dollar racket nationally today—stealing from business. To permit such thievery to continue jeopardizes many businesses who cannot stand the impact." He figures the result is higher prices for consumers as the companies seek to recover the added costs.

The Select Committee on Small Business, chaired by Bible, recently held hearings on the criminal disappearance of air cargo. It is expected to report its findings soon and to make recommendations for legislation.

A major concern of the committee is what it terms the apathetic or passive attitude of the carriers. Thieves are having a field day partly because the liability airlines have for such losses is limited by law. Hence, the loss to the lines often isn't as great as to the shippers.

Most all parties involved in shipping by air, Bible says, have been "negligent at the worst, or inattentive at the best." In surveys of major airports, the Bible committee said it found "important deficiencies in security arrangements."

These included inadequate fencing of cargo areas or no fences at all; unlimited access to cargo terminals and warehouses; general employe parking right next to cargo terminals, and warehouses and no employe identification systems to prevent entry into cargo and handling areas by unauthorized personnel.

VIEW ON REPORTING

Also, since no accurate reporting system exists, it is difficult to determine the extent of losses or at which point most take place, the committee believes.

The airlines, on the other hand, oppose any government intervention. While admitting that a serious problem exists, they deny they are lax. They contend thay are taking steps to correct the situation, that the amount stolen is minuscule in relation to the total tonnage they carry and that the crime is the result of the phenomenal growth in the air cargo business in the last few years with which they haven't been able to keep pace.

CARGO PROBLEM

"We're just getting out of our britches and into long, long pants," says Frank A. Cardman, the director of Pan American World Airways' newly created security department. "All of the airlines had paid more attention to passenger operations than they did to cargo. Cargo has become a feature in only the last seven or eight years."

Cardman says the losses of his line this year from damage and loss to cargo and baggage might reach $5 million

While cargoes have been disappearing at such terminals as Los Angeles, Chicago, Boston and Miami, the dilemma is greatest at New York's John F. Kennedy International Airport, which handles the greatest amount of cargo coming into and going out of the country.

At Kennedy in the first nine months of the year there were 448 reported cases of criminal loss of cargo, an increase of 369% over the similar nine-month period of 1968; the value of shipments lost in the first nine months of this year rose to $2,859,148, an increase of 106% over the $1,384,779 over a similar period in 1968.

The Bulova Watch Co. lost $133,000 worth of imported watches at Kennedy Airport in the first six months of this year, 5% of all its air shipments. The figure is about $100,000 over last year's first half.

WATCHES DISAPPEAR

The entire watch industry is being similarly victimized. Gerhard Ditesheim, president of the American Watch Assn., says $2.5 million worth of watches and their components have disappeared since the beginning of 1967.

"In a good year," he says, "profits for the entire watch-importing industry probably amount to only about $15 million. Such losses are of utmost seriousness to our industry."

The disapperance of a shipment often has graver consequences than just the loss of the cash value of the merchandise. Many importers and retailers have conducted costly promotions for new lines of such products as watches and apparel only to have the shipment stolen en route. Business lost in this manner, merchants say, can never be recovered and is not covered by insurance.

There's hardly a product, in fact, which the air cargo thieves ignore.

Leading the list of claims paid by the Marine Underwriters group were stolen shipments of knitwear and other wearing apparel. They accounted for 232 claims totaling more than $1 million thus far this year. The loss of watches totaled $41,631, photographic equipment accounted for $209,337 of the payouts and fur coats and stoles, $190,752.

Wigs seemed to have been in vogue in 1969 as well. The insurers paid five claims worth $33,433 for human hair and 16 for manufactured wigs worth $59,409.

Airline officials say that when the underworld is involved in a theft, entire shipments—often truckloads vanish. For example, a truck rolls up to an airline cargo loading dock, its occupants dressed in legitimate-looking uniforms. They carry fraudulent documents. They load their trucks with a shipment and drive off to dispose of it with an underworld fence.

Most observers feel that many thefts are accomplished with the help of airline or trucking employes who apprise crooks of the contents of the valuable shipments and times of arrival.

SALAMIS, TOO

In addition, employees often break open shipments and help themselves. A large importer of Italian salamis reported that in every single shipment, he loses about 10% of his sausages. The goods, he surmises, are eaten for lunch in the warehouses.

"Employes are so brazen," says one clothing importer, "they'll go home with a size 10 dress. When they find it doesn't fit their wives or the color isn't right, they'll bring it back the next day and 'exchange it'."

Pan American recently caught three employes who had driven a cargo truck loaded with watches into the employe parking lot and transferred a $14,000 shipment to an automobile.

The Bible committee hopes to spark legislation raising the amounts for which airlines are liable for shipping losses.

Current domestic air carrier tariffs provide for a limitation on the carrier's liability to 50 cents a pound on domestic shipments and $7.48 a pound on international shipments (as specified in the Warsaw Convention.)

Excess valuation above the domestic limits may be declared by the shipper at a charge generally of 10 cents per $100 of liability and shippers can insure their cargoes with private insurance companies if they wish, though with the growing loss rate, the premiums are becoming "prohibitive" to most shippers.

One spectacular example of the air carriers' limited responsibility was underscored by a theft last September of $262,000 in diamonds and cash from an air cargo terminal at Kennedy. The shipment weighed 48½ pounds making the air carrier's liability only $362.79.

Meantime, the airlines point to specific steps towards a crackdown. In New York 43 domestic and foreign airlines and various other groups recently set up the Airport Security Council. Its aim is to curtail crime at New York's airports.

POLICE DOGS

The New York council, headed by Mario T. Noto, a former high official of the U.S. Immigration Department, has spurred a number of precautionary actions.

Noto says that a photographic badge system the council instituted already covers 90% of all airline employes at Kennedy and half of all the outsiders—such as truckers—who must gain regular access to cargo areas.

At the urging of the council, the airlines have instituted or are studying numerous antitheft means.

At Swiss Air's Kennedy facilities, guards patrol with police dogs; KLM recently began using a padlocked box for watch shipments. It is locked in Europe in the presence of airline employes and unlocked when the importer shows up for his shipments on the American end. KLM hasn't lost a watch since the system was set up.

Half a dozen airlines at Kennedy have started to use a dual lens camera called a "Regiscope." It takes simultaneous photos of persons picking up shipments and the cargo's documents. A number of airlines have installed a closed-circuit TV system so guards may watch all the movements in warehouses and some airlines have strongrooms for valuable cargoes which can only be unlocked at certain times or by using special card devices available only to authorized employes.

Many importers now get shipments in unmarked crates so thieves can't identify the products inside. Watchmakers no longer put names on boxes. They use secret symbols which are changed often.

Some manufacturers ship their finished goods in pieces. A shoe manufacturer reportedly ships all left shoes in one load and the right ones in another.

But despite some protective actions, most observers believe the airlines won't be able to move quickly enough to keep pace with the expected rise in air cargo transportation.

The use of air freight is growing at about 21% a year. Nearly 3 billion tons are being shipped by air into, out of and within the limits of the United States.

With the advent of the new generation of jet aircraft (the new Boeing 747 is capable of carrying the equivalent of 100 Volkswagen automobiles) air cargo is expected to quadruple in the next decade.

RURAL DEVELOPMENT

Mr. MONDALE. Mr. President, after tracing population growth patterns in the United States for the past several decades, it is impossible to avoid the conclusion that a great many of the critical problems facing urban centers have their roots in rural depletion.

Millions of Americans have been forced, for want of suitable economic opportunity, to relocate in and around the Nation's cities, adding to the too-heavy demands already placed upon public services and institutions and contributing their share to congestion and to the pollution of the urban environment. And more of the same lies ahead. If current trends continue, says James Sundquist, of the Brookings Institution, some 77 percent of the predicted 300 million people in our population at the end of this century will be jammed onto only 11 percent of the Nation's land area. That means that we will have substantially more city residents then than the entire U.S. population today.

The need for effective measures to stop the migration—and to reserve it—is clear. Unless we begin actively seeking a balance in the economic attractiveness of rural and urban areas, the cities—no matter how much Federal technical and financial help is made available—will become unmanageable and unlivable.

President Nixon has responded to these prospects with rhetoric, such as the reference in his state of the Union address to a "national growth policy." Meanwhile, however, his administration has been gradually dismantling the few programs aimed at rural development which were in operation at the beginning of 1969.

The actions and inactions which lead to concern are listed in a letter which I and a number of other Senators today send to the President. A similar letter is being transmitted by a group from the House of Representatives.

I urge all to read this letter to note why current policy has been and is creating a negative attitude among many leaders in rural America. I ask unanimous consent that it be printed in the RECORD.

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

FEBRUARY 10, 1970.

DEAR MR. PRESIDENT: We are becoming increasingly concerned about your Administration's approach to the problems and needs of rural America.

While the rhetoric of your State of the Union Address was encouraging, it is heavily outweighed by the apparent indifference and inaction which best describe the record of your first year. We are particularly distressed by the following:

The quiet dismantling of the Agriculture Department's Rural Community Development Service.

The assignment of the now curtailed USDA rural development responsibility to the Cooperative Extension Service—an agency which does not report to the Assistant Secretary for Rural Development.

The phasing out, without Congressional notification, of USDA's rural community recreation loan program and HUD's program of advances for public works planning.

The failure to support with staff or other meaningful efforts the nonmetropolitan multi-county planning program within the Department of Housing and Urban Development.

The failure to seek meaningful improvements, aimed at strengthening family farm income, in agricultural commodity programs.

Despite Congressional directives calling for increased concentration on rural poverty, OEO rural programs are being reduced and eliminated. The Office of Rural Affairs has been abolished, and the only remaining staff unit with a broad rural function is being dismantled.

The naming of a White House Task Force to stimulate rural development has done little to produce action. The membership of this group shows it to be unrepresentative of

the cross section of the community actually concerned with rural development. Their meetings have been held in secret. Their report and recommendations are long overdue.

The appointment of a Rural Affairs Council within the Administration was accompanied with the announcement that it would not have its own coordinating executive officer.

The early-named Council on Urban Affairs immediately constituted a Subcommittee on "Internal Migration" to focus on the vital rural-urban balance question, but that group formulated no policy and died a quiet death.

These and other concerns are of extreme importance to our constituents, our communities, our States and regions. They are serious enough to have brought us together to direct this letter to your attention.

Mr. President, they are great enough that we respectfully request that you immediately begin setting forth a plan of action for rural America that will provide the leadership and resources necessary to not only avoid further economic deterioration, but to so broaden its development base and opportunities so that rural to city migration patterns will be reversed to the benefit of a restless Nation.

Sincerely,

HOWARD W. CANNON, THOMAS F. EAGLETON, J. W. FULBRIGHT, ALBERT GORE, FRED R. HARRIS, HAROLD E. HUGHES, DANIEL K. INOUYE, B. EVERETT JORDAN, GEORGE MCGOVERN, WALTER F. MONDALE, JOSEPH M. MONTOYA, FRANK E. MOSS, EDMUND S. MUSKIE, JENNINGS RANDOLPH, HARRISON WILLIAMS, RALPH YARBOROUGH.

Mr. MONDALE. Mr. President, I must also alert Senators to the fact that these distressing events will be further compounded if the administration's budget proposals for rural programs are permitted to stand.

A review of the budget shows it is requesting across-the-board reductions for the Agriculture Department's Farmers Home Administration. Certainly we will be told the reason for slashing programs to eliminate shameful living conditions in rural America is to help halt inflation. But I cannot accept this knowing full well the conditions which exist in the countryside.

The Farmers Home Administration, cut to a shell during the years of Ezra Taft Benson, had been given a new vigor by Secretary Orville Freeman. Now, in the 1971 budget, we see requested reduction of over $100 million in key grant and loan programs of the agency.

For example, the President is asking for cuts of $37.5 million for direct real estate loans, $22 million in rural water and waste disposal grants, the elimination of the direct rural loan account program, reducing rural housing insurance loans by $11 million, and cutting by 40 percent the self-help housing programs.

Hopefully, these proposed reductions will face opposition both in the Congress and by a concerned constitutency. This past weekend, the formation of a National Rural Housing Coalition was announced. More than 100 National and State leaders from the fields of rural affairs, labor, religion, education politics, business and minority-support organizations make up the initial group of directors and sponsors.

Mr. President, the purpose of the coalition is threefold:

Develop and support legislation that establishes and adequately funds low-income housing programs for rural areas and small towns.

Build at the grass roots and at the national level an awareness that six million rural American families live in houses that jeopardize their health and degrade their lives.

Provide a focal point for all who want to insure that the congressional commitment of two decades ago—a suitable living environment for every American family—is fulfilled.

Serving as honorary chairman of the coalition are Senators GEORGE MCGOVERN and CHARLES GOODELL and Congressman JOHN CONYERS, JR. I am privileged to be listed among the committee of sponsors. Mr. Clay Cochran is chairman of the board of directors.

Mr. President, I ask unanimous consent to have printed in the RECORD documents which list facts about the rural housing crisis, the National Rural Housing Coalition, its board of directors, and committee of sponsors.

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

FACTS ABOUT THE RURAL HOUSING CRISIS

One measure of the rural housing crisis is found in the 1967 Report by the President's National Advisory Commission on Rural Poverty, "People Left Behind." Using census data, the President's Commission reported the following condition of rural housing in America:

In 1960, 27 percent of occupied rural housing was classified as substandard—deteriorating or dilapidated—compared with 14 percent for urban areas.

Of the 9.2 million substandard occupied housing units in the nation, 3.9 million were in rural areas.

More than a million rural homes are dilapidated—structurally unsafe for human occupany. Many of these homes are beyond repair.

Less than 1 in 4 occupied rural farm dwellings have water piped into their homes.

About 30 percent of all rural families still use the traditional privy.

Fewer than half of all rural homes have central heating. Most rural homes are heated by kerosene-, gas-, wood-, or coal-burning stoves. The result is uneven heating and an ever-present danger of fire.

Nearly 60 percent of all rural families with incomes of less than $2,000 lived in houses that were dilapidated or lacked complete plumbing.

Another indication of the nature and scope of the rural housing crisis is found in Dr. George Rucker's paper, "Rural Housing: Need and Non-Response," published in 1969 by the Rural Housing Alliance. Dr. Rucker came up with the following facts:

Although they contain less than half the nation's households, rural areas and small towns account for more than half its low-income families and two-thirds of its bad housing.

On one part of rural America, its Indian reservations, nearly three out of four houses are either "substandard" or overcrowded or both.

Between 80% and 90% of the households occupying bad housing in rural areas and small towns will require Federal assistance to secure adequate housing.

Less than 15% of the low-income housing produced by HUD programs goes to the 60% of the low-income families which live in rural areas and small towns.

To properly house low-income rural and smalltown families approximately 7 million homes will have to be built or rehabilitated with Federal assistance during the next decade.

At current levels of federal activity it will take nearly 100 years to meet what should be our 10-year goal.

NATIONAL RURAL HOUSING COALITION

The Rural Housing Coalition is—

A group of people and organizations across the nation determined to wipe out rural shacks and replace them with decent homes.

A non-profit, non-partisan organization financed by contributions from its members.

The Rural Housing Coalition was formed because—

Two-thirds of all the Nation's bad housing exists in rural and small-town America.

Present housing laws are inadequately written, ridiculously underfunded, and simply incompetent to meet the housing needs and aspirations of the rural poor.

If the need for low-income, rural housing is even to be approached, the Federal government must assist in construction of at least seven million units during the coming decade—at our present level of federal activity, it will take more than a hundred years to get those houses constructed.

There does not exist a genuine, public commitment to alter the timetable and move low-income housing to a high position of national priority.

The Rural Housing Coalition will—

Strive to build at the grassroots and at the national level an awareness that America's rural poor—millions in number—live in shacks that stunt health and stifle spirit.

Provide a focal point for all who want to act to ensure that the Congressional commitment of 1949—"a decent home and a suitable living environment for *every* American family"—is fulfilled.

Draw from the recent campaign against hunger and malnutrition any lessons that can help to obtain a significant public response to the plight of the ill-housed, rural poor.

Support legislation that establishes and funds adequate, low-income, rural housing programs.

The concept of a Rural Housing Coalition was developed at the First National Conference on Rural Housing. The Conference, held at Warrenton, Virginia, June 9 thru 12, 1969, included participants from rural-antipoverty organizations, minority groups, universities, and government agencies.

INITIAL 25 MEMBERS OF THE BOARD OF DIRECTORS ELECTED AT THE FIRST MEMBERSHIP MEETING OF THE NATIONAL RURAL HOUSING COALITION OCTOBER 31, 1969 [1]

Ed Anderson, Friends Committee on National Legislation, Washington, D.C.

Paul Anthony, Southern Regional Council.

Dan Bedell, United Auto Workers, Washington, D.C.

Jim Clyburn, South Carolina Commission for Farm Workers, Charleston, South Carolina.

Clay Cochran, Rural Housing Alliance, Washington, D.C.

Cushing Dolbeare, Housing Association of Delaware Valley, Philadelphia, Pennsylvania.

Pat Gish, Eastern Kentucky Housing Development Corporation, Whitesburg, Kentucky.

Don Hadwigger, Washington Research Project, Washington, D.C.

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[1] The bylaws of the Coalition provide that the Board of Directors may have up to 50 members.

Rev. Robert E. Johnson, United Presbyterian Church, New York, New York.
Bob Jones, Unitarian Universalist Ass'n, Washington, D.C.
Dave Knox, Vermont Poor Peoples Congress, Hinesburg, Vermont.
Rev. R. B. Lloyd, Commission on Religion in Appalachia, Blacksburg, Virginia.
Cipriano Manuel, Indian Community Action Program, Tempe, Arizona.
William Morris National Association for the Advancement of Colored People, New York, New York.
Ben Neufeld, NCALL Research Fund, Washington, D.C.
Kermit Overby, National Rural Electric Cooperative Association, Washington, D.C.
Gerald Robinson, National Association for Community Development, Washington, D.C.
Harlan Severson, Mandan, North Dakota.
Fred Simonton, Mid-West Electric Consumers Association, Denver, Colorado.
Steve Kaplan, Richmond, Vermont.
Rev. Arthur Tennies, New York State Council of Churches, Syracuse, New York.
Harold Warstler, Macon Program for Progress, Franklin, North Carolina.
Ed Smith, North Dakota Farmers Union, Jamestown, North Dakota.
Carl Stuple, Natural Bridge, Virginia.
Frank Wright, Rutgers University, New Brunswick, New Jersey.

NATIONAL RURAL HOUSING COALITION

HONORARY CO-CHAIRMEN

Representative John Conyers.
Senator Charles Goodell.
Senator George McGovern.

COMMITTEE OF SPONSORS[1]

Robert A. Aleshire, Exec. Dir. National Association for Community Development, Washington, D.C.
Harry S. Ashmore, Center for the Study of Democratic Institutions, Santa Barbara, California.
H. M. Baggarly, Editor, Tulia Herald, Tulia, Texas.
George Ballis, Fresno, California.
Dan Bedell, United Auto Workers, Washington, D.C.
Randolph Blackwell, Director Southern Rural Action, Inc., Atlanta, Georgia.
Tom Bonar, Brookfield, Colorado.
Marvin Caplan, Leadership Conference on Civil Rights, Washington, D.C.
Eric Carlson, United Nations, New York, New York.
E. Russell Carter, National Council of Churches, New York, New York.
Stephen Cary, Haverford College, Haverford, Pennsylvania.
Dr. Ramiro Casso, McAllen, Texas.
Harry Caudill, Whitesburg, Kentucky.
Ethlyn Christensen, Denver, Colorado.
James Christiansen, American Baptist Home Mission Society, Valley Forge, Pennsylvania.
Bronson P. Clark, American Friends Service Committee, Inc., Philadelphia, Pennsylvania.
Rep. Robert Clark, Lexington, Mississippi.
Jake Clayman, AFL–CIO, Washington, D.C.
Dr. Robert Coles, Harvard University, Cambridge, Massachusetts.
Governor Kenneth M. Curtis, Augusta, Maine.
Marvin Davies, NAACP, St. Petersburg, Florida.
Tony Dechant, National Farmers Union, Denver, Colorado.
Paul Douglas, Washington, D.C.
Ronnie Dugger, Texas Observer, Austin, Texas.
Leslie W. Dunbar, Exec. Dir., The Field Foundation, New York, New York.
Marian W. Edelman, Director, Washington Research Project, Washington, D.C.
Peter Edelman, Robert F. Kennedy Memorial, Washington, D.C.
Rep. Bob Eckhardt (Texas), House of Representatives, Washington, D.C.
Mayor Charles Evers, Fayette, Mississippi.
John Henry Faulk, New York, New York.
Arthur Flemming, MacAlester College, St. Paul, Minnesota.
Herman Gallegos, Exec. Dir., Southwest Council of La Raza, San Francisco, California.
James L. Grahl, Basin Electric Cooperative, Bismarck, North Dakota.
David Granger, Washington, D.C.
LaDonna Harris, McLean, Virginia.
Ralph Helstein, President, United Packing House, Food and Allied Workers, Chicago, Illinois.
Dr. Vivian Henderson, President, Clark College, Atlanta, Georgia.
Aaron Henry, President, NAACP, Clarksdale, Mississippi.
Tony Henry, National Tenants Rights Organization, Washington, D.C.
Sarah Herbin, Black Women's Community Development Foundation, Washington, D.C.
Father Theodore Hesburgh, President, Notre Dame University, Notre Dame, Indiana.
Gerald Hill, San Francisco, California.
Rabbi Richard G. Hirsch, Washington, D.C.
M. Carl Holman, Urban Coalition, Washington, D.C.
Kenneth G. Holum, Washington, D.C.
Cliff Ingram, Chairman, National Association for Community Development, Washington, D.C.
Loyal Jones, Council of Southern Mountains, Berea, Kentucky.
Everett Krackov, Visalia, California.
Frank Lapeyrolerie, Director, Southwest Louisiana Self-Help Housing Association, Inc., Reserve, Louisiana.
John Lewis, Southern Regional Council, Atlanta, Georgia.
Rep. Allard K. Lowenstein, House of Representatives, Washington, D.C. (New York).
Pepe Lucero, President, National Association for Community Development, Washington, D.C.
Henry McCanna, National Council of Churches, New York, New York.
Father A. J. McKnight, Director, Southern Consumers' Cooperative, Lafayette, Louisiana.
Charles Mahone, President, Peoples Organization of Montgomery County, Rockville, Maryland.
Alex Mercure, Home Education Livelihood Program, Albuquerque, New Mexico.
Senator Lee Metcalf, U.S. Senate (Montana), Washington, D.C.
Senator Walter F. Mondale, U.S. Senate (Minnesota), Washington, D.C.
Tom Moore, Organization for Medical Alternatives, San Mateo, California.
Dr. Kenneth G. Neigh, United Presbyterian Church, New York, New York.
Senator Gaylord Nelson, U.S. Senate (Wisconsin), Washington, D.C.
Helge Nygren, Mor-Gran-Sou Electric Cooperative, Inc., Flasher, North Dakota.
Msgr. Edward O'Rourke, National Catholic Rural Life Conference, Des Moines, Iowa.
James G. Patton, James G. Patton & Associates, Washington, D.C.
W. Nelson Peach, University of Oklahoma, Norman, Oklahoma.
Bernard Rapoport, President, American Income Life Insurance Company, Waco, Texas.
Joseph L. Rauh, Americans for Democratic Action, Washington, D.C.
John Paul Roblin, Pearl River Valley Corp., Columbia, Mississippi.
Metz Rollins, National Council of Black Churchmen, New York, New York.
Henry Santiestevan, United Auto Workers, Washington, D.C.
James Smith, Pennsylvania State University, State College, Pennsylvania.
Philip Stern, Washington, D.C.
Adlai Stevenson, III, Mayer, Frelich, Spiss, Tiepney, Brown, & Blatt, Chicago, Illinois.
Ben Stong, Washington, D.C.
Charles Tillinghast, Boise-Cascade Industries, Boise, Idaho.
Jim Twomey, Urban America, Washington, D.C.
Rep. Morris Udall (Arizona), House of Representatives, Washington, D.C.
Dr. Norman Walters, Orinda, California.
Dr. Richard Wenner, Brooklyn, New York.
Dr. Raymond Wheeler, Chairman, Southern Regional Council, Atlanta, Georgia.
Glen Wilson, Cleveland, Ohio.
Florence Wykoff, Watsonville, California.
Senator Ralph Yarborough, U.S. Senate (Texas), Washington, D.C.
Julian Bond, Georgia State House of Representatives, Atlanta, Georgia.

[1] Organizations are listed for identification purposes only.

WHY HANOI KEEPS ON FIGHTING

Mr. GRIFFIN. Mr. President, the Democratic Policy Council was reported in the Washington Post this morning as declaring that all U.S. troops should be withdrawn from Vietnam within 18 months.

Variations on this theme are heard almost daily in Congress.

Now, it is apparent to most Americans that President Nixon has done more to end the war in Vietnam in the last year than was done in the 4 previous years.

He is continuing to wind that war down in a way, and at a pace, that will allow the South Vietnamese people to build their own defense and choose their own way of life.

In this endeavor President Nixon deserves and has the support of most Americans.

Yet, there are those who not only seek to direct the course the President should take; they would even tie his efforts to a fixed timetable.

No one can expect that there will ever be unanimous agreement among all of our people concerning the Vietnam war. The debate should, and will, continue.

But I wonder if those who seek to impose a timetable on withdrawal of American forces have taken the trouble to ascertain what effect their proposals may have in Hanoi.

In this connection, Edmund A. Gullion, dean of the Fletcher School of Law and Diplomacy at Tufts University, recently explained why Hanoi keeps on fighting.

Mr. President, I call his statement to the attention of the Senate and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Also, the Reader's Digest for this month contains a series of remarks culled from the North Vietnamese radio, newspapers, and spokesmen that reflect their continuing attitude toward the demands from some Americans for peace at any price. I ask unanimous consent that the article be printed at this point in the RECORD.

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

WHY HANOI KEEPS ON FIGHTING

(Statement by Edmund A. Gullion)[1]

While Hanoi broadcasts its thanks to the Americans who march through the streets of Washington, other Americans see the repitition of a grim and familiar pattern. Hanoi moves by the same calculations which paid off for it in the defeat of the French in 1954. As the late Ho Chi-Minh once told the French: "You will kill ten of our men and we will kill one of yours. And in the end, it will be you who will tire of it." French power was shaken but not shattered by the defeat at Dienbienphu. What broke France was the collapse of will on the home front. The French were fighting to preserve a hold in Vietnam. The Americans fight only to preserve the right of the South Vietnamese—the vast majority of whom fear and reject Hanoi—to choose and live by their own government. But North Vietnam, having seen one Western power worn down by sapping tactics on the home front, is sure the same strategy will pay off again. Indeed, this is what the declarations in the Hanoi press and radio are all about.

In Vietnam today the enemy grows weaker as our side grows stronger. The situation is still precarious but President Nixon's Vietnamization plan shows real signs of working. The bitter paradox is that Hanoi grows more resolute as American will seems to waver here at home. If the enemy believes that public opinion will force an immediate American pullout, he has no reason to negotiate at Paris or anywhere else. So long as he believes the throngs in Washington are marching not for peace but for him, he will carry on the fight and more American and Vietnamese men will lose their lives.

[From the Reader's Digest, February 1970]

FROM HANOI—WITH THANKS

("End the war now!" "Get out of Vietnam!" Such cries are heard in peace demonstrations across America today. Often they are voiced by well-meaning citizens who genuinely want peace—but they are also raised by rabid leftists who in fact want a communist victory in South Vietnam. That is why an anxious public, though aware of every American's right to dissent, should nonetheless ponder the real effect of such demonstrations. To what degree do they prolong the war by comforting Hanoi with the false assurance that the United States is rapidly losing its resolve to defend South Vietnam and will soon abandon it?

(Hanoi itself has provided the answer—with a calculated arrogance that clearly explains its intransigence at the Paris peace talks. Here traced from 1966 to the present, is a sampling, in somewhat condensed form, of the abundant evidence from North Vietnam's own information sources which shows that the enemy not only delights in the demonstrations in the United States, but has also placed its faith in them.)

February 27, 1966: The North Vietnamese newspaper *Nhan Dan*.

"In America the debates on the Vietnamese problem will become increasingly fiercer. The U.S. imperialist home front will be the scene of great confusion, which in turn will exert great influence upon the morale of the U.S. servicemen on the frontline. That is why the Johnson clique is very perplexed and afraid, faced with the ever stronger antiwar movement which, like a sharp knife, is stabbing them in the back."

November 6, 1966: Radio Hanoi:

"The Vietnamese people hail and support the struggle waged by the American people against the U.S. war of aggression in Vietnam, says Dr. LeDinh Than, chairman of the Vietnam Peace Committee. 'This struggle is a valuable encouragement and backing for the Vietnamese people, who sincerely thank the American peace fighters for their efforts to strengthen their solidarity with the Vietnamese people and coordinate their struggle with them.' "

November 8, 1966: Radio Hanoi:

"The Vietnamese people highly value the protest movement of the American people. We praise the American peace champions who courageously turned the courts which were trying them into forums to condemn the war. We praise the American journalists and writers who, in defiance or repression and threats, valiantly exposed the crimes of the Johnson clique in Vietnam."

February 15, 1967: Radio Hanoi:

"It is clear that the American people's protest movement has become a real second front against U.S. imperialists on the very soil of America. It is the largest, most stirring, and best organized mass movement in U.S. history."

October 17, 1967 (Four days before the "peace march" on the Pentagon led by Dr. Benjamin Spock and others): Radio Hanoi:

"The South Vietnam People's Committee for Solidarity With the American People has announced its program to establish relations with and contact all progressive organizations and individuals in the United States who want to acquaint themselves with the situation in Vietnam. The committee sent a message to the National Mobilization Committee and the Students Mobilization Committee in New York:

" 'We warmly hail your struggle from 16 to 21 October. Our struggle will certainly grow more powerful, and in coordination with your struggle it will certainly be capable of compelling the U.S. government to put an end to its aggressive war in Vietnam. May the 21 October struggle (the day of the March on the Pentagon) mark a new development in the American people's movement for an end of the U.S. war. We wish you brilliant success.' "

August 1968: Speech by Truong Chinh, Chairman of the National Assembly of North Vietnam and number two man in the government:

"We are currently taking advantage of the contradictions between the doves and the hawks in the American ruling class."

December 1968: Speech in Montreal, Canada, by Professor Hoang Minh Giam, North Vietnamese Minister of Culture:

" 'I have had the opportunity to meet American friends at the hemispheric conference to end the war in Vietnam. I must say that never before have I met so many Americans at a place so close to the United States. This was also a good occasion for me to talk with these American friends. I highly appreciate those young Americans who courageously said no to military conscription.' "

January 23, 1969: Radio Hanoi message to the National Mobilization Committee to End the War in Vietnam:

"We were deeply impressed by the successful march on Washington during the presidential inaugural day to welcome the victory of the South Vietnam National Front for Liberation and demand the withdrawal of all American troops. We extend to you sincere thanks. We hope that we will further coordinate our activities for peace and real independence in Vietnam."

October 6, 1969: Letter to American students from Tran Buu Kiem, chairman of the South Vietnam Liberation Student Union:

"We greatly admire the active and massive participation of the American youths and students in this fall movement. You are entering a new, seething and violent struggle phase. We hope that you all will pool your efforts in achieving great success, thus further accelerating the common movement of the American people against the war."

October 14, 1969: Message to American people from North Vietnamese Premier Pham Van Dong:

"This fall, the broad masses of the American people, encouraged and supported by many peace- and justice-loving American personalities, have again started a broad powerful drive to stop the war. The Vietnamese people fully approve and warmly hail your just struggle. We are firmly confident that with the solidarity and courage of our two peoples the struggle of the Vietnamese people will end in total victory. I wish your fall offensive a brilliant success."

October 14, 1969: Radio Hanoi:

"In response to Nixon's call for unity, the U.S. people have manifested a fierce opposition attitude. The U.S. peoples autumn struggle is placing the Nixon Administration in an extremely difficult, embarrassed situation. We consider their struggle the most realistic support for the Vietnamese people's fight against the United States."

October 17, 1969: Message from Xuan Thuy, chief of Hanoi's negotiating team in Paris:

"I should like today to send warm greetings to all Americans and all persons who took part in the October 15 movement. We consider that these legitimate actions are of a nature both to make the Paris conference progress and to demand of the Nixon Administration the complete and rapid withdrawal of the GIs."

October 21, 1969: Broadcast from Hanoi to communist troops in the South.

"All deceitful tricks and threats of the Nixon clique cannot check the American people's will. In their valiant and perserverving struggle, the American progressives will certainly win glorious victories. The Nixon clique will certainly be completely defeated in Vietnam."

November 6, 1969: Statement of the government of North Vietnam.

"The Vietnamese people hail the honest-minded Americans who, for the sake of peace, justice and the true interests of their people, have courageously denounced the plans for prolonging the war in Vietnam and strongly demanded a quick and total withdrawal of U.S. troops from South Vietnam."

November 13, 1969: Broadcast to communist troops in the South.

"A struggle which resulted in violence on 15 October 1969 will break out even more fiercely on 15 November. It will be coordinated by the National Moblization Committee to End War in Vietnam, one of the largest anti-war organizations in the United States. This struggle will have more violence and be on a much larger and more elaborate scale in all U.S. cities and state capitals. The seething struggle of U.S. youths, students and people is urging us to arise and win final victory for the fatherland."

November 14, 1969: Speech by Professor Hoang Minh Giam, North Vietnamese Minister of Culture.

"We highly value the great efforts of various U.S. anti-war organizations and well-known notables who had the initiative to organize the Moratorium Day, demanding the immediate return home of all U.S. troops with slogans suited to the American people's urgent needs and just aspirations. We enthusiastically welcome the peace-loving Americans who have stood up and struggled violently and bravely against the U.S. administration's stubborn attitude in prolonging the war of aggression. Moreover, we regard the U.S. people as our comrades in arms animated by the common goal of opposing the Nixon administration's aggressive policy and war. The fall offensive drive of

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[1] Edmund Gullion served the U.S. Department of State in many posts in Europe, Africa and the Far East before becoming dean of the Fletcher School of Law and Diplomacy. He was, among them, deputy chief of the American mission in Saigon from 1949 to 1953, and Ambassador to the Congo from 1961 to 1964. He recently visited South Vietnam with a delegation from the Citizens Committee for Peace and Freedom in Vietnam.

the American people has made more prominent our people's just cause and made our people more confident and resolute."

November 15, 1969: Communist broadcast from South Vietnam.

"The 'fall offensive' is sweeping the United States of America. We express our militant solidarity with and gratitude to the true sons and daughters of the United States. With all of our hearts we wish to thank our American friends."

OPPOSITION TO JOB CORPS SHUTDOWN

Mr. CRANSTON. Mr. President, according to an article published in the Washington Post last Saturday, the Nixon administration has seriously defaulted on its schedule to open 30 mini-centers to replace the Job Corps centers closed last summer in a dubious economy move. This disclosure, if true, is very disappointing to me because I have been concerned from the beginning that the precipitous decision last April 11 to phase out 59 Job Corps centers would have a serious adverse effect on thousands of disadvantaged youths and would greatly decrease the total number of job training opportunities available to such youths.

On April 25, 1969, when I submitted a resolution of opposition to the Job Corps shutdown, I expressed my grave concern that alternative training opportunities could not be made available in time to prevent irreparable damage to the attitudes and futures of many of these young men and women. Unfortunately, this appears to be exactly what has transpired, and I have written to Secretary of Labor Shultz for a report on this article.

The Post article states that only four of the 10 centers planned to be operational by last September have been opened even now—more than 5 months later—and one of these is said to have opened only a few weeks ago with about 30 enrollees and a staff reported to number over 85. These four centers have enrolled a total of only 500 youths, as compared with the approximately 17,000 slots eliminated in the 1969 closings. In addition, costs per enrollee have been extremely high in the new centers. While these are admittedly startup costs, I see no reason to expect them to decline appreciably until enrollment increases to planned levels. The Post article reveals that the Labor Department has encountered considerable difficulty in recruiting enrollees for the centers.

Furthermore, in spite of the fact that an announced purpose of the new mini-centers was to allow enrollees to be trained nearer their homes, the Department is now sending New York youths, who would formerly have been trained at Camp Kilmer, N.J., or one of the other nearby Job Corps camps, to centers in Kentucky and Indiana because no center has yet been established in New York City.

I was deeply disturbed to read the Assistant Secretary of Labor for Manpower characterized this extreme slowness in opening new centers as a "conscious decision" on the part of the administration, based on the desire to operate successful, high quality centers. Unfortunately, this conscious decision disregards the Department's own pledge last year to make alternative training opportunities available as soon as possible to serve the severely disadvantaged youths who are not and cannot be served in the remaining Job Corps facilities or in other training programs. Any such conscious decision would reveal an attitude of apparent insensitivity to the needs of the thousands of young men and women for whom conventional job training programs are grossly inadequate. For these youths, who are part of the hard-core disadvantaged, the comprehensive training, education, and counseling provided in Job Corps centers is absolutely essential.

If true, this disclosure of the administration's regrettable failure to implement its own proposals for revamping the Job Corps program demonstrates the undue haste and extremely unfortunate consequences of the decision last year to eliminate the 59 residential centers, with a total capacity of 17,000 enrollees. A new administration is justified in making program changes in keeping with its own priorities and preferences. However, the administration is not relieved of the obligation of making those changes in a manner which is least destructive to the lives and futures of the individuals whom the program is meant to serve.

In sum, the administration's Job Corps policies seem to continue the unconscionable pattern of piling more broken promises upon the heap already accumulated.

Mr. President, I ask unanimous consent that the Post article of February 7, 1970, be printed in the RECORD.

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

[From the Washington Post, Feb. 7, 1970]

ENROLLEE COSTS SOAR ON CENTERS FOR JOB CORPS

(By Eve Edstrom)

The Nixon administration has fallen far behind its schedule for opening 30 new "mini" centers for Job Corps youth, and enrollee costs are far in excess of original estimates.

After ordering the shutdown of 59 Job Corps centers last year, Labor Secretary George P. Shultz told Congress that at least 10 of the new centers would be opened by last September.

But as of yesterday, only four were in operation and two of them, with the bulk of enrollees, are on the same New Jersey and Hawaii sites that housed Job Corps enrollees under the Johnson administration.

Nixon administration officials also estimated that costs of the new program for each enrollee would be in the neighborhood of $5300 annually. But actually start-up costs, exclusive of capital outlays, appear to be double or triple that amount.

Cost figures were hard to come by at the Labor Department yesterday. But one source said $749,960 already has been spent on operating a new center at Phoenix. That center has had only 50 enrollees since October so the cost averages almost $15,000 an enrollee.

No actual expenditure figure for the other new center at Atlanta were available. But the operator of the center has a $2,061,474 contract to run it during fiscal 1970. It opened only a few weeks ago with about 30 enrollees, and reportedly a staff of 86.

The eventual capacities of both the Phoenix and Atlanta centers will be 350.

Therefore, Assistant Labor Secretary for Manpower Arnold Weber said no meaningful cost calculations can be made until the centers are operating at full capacity. When that happens, he said he believed the estimated enrollee cost of $5300 will be met.

RECRUITING DIFFICULTY

However, the Labor Department has been having difficulty recruiting enrollees for the program. For example, it has been difficult to interest white girls to go to the Atlanta facility which is in a Negro neighborhood.

Weber said it would be fair to state that the administration's "original ambitious schedule for opening the new centers has not been realized."

But he said this was a "conscious decision" based on the administration's desire to operate successful, high quality centers. He further noted numerous problems have arisen concerning the location of sites.

As Rep. William F. Ryan (D-N.Y.) has pointed out, there still is no center for New York City youth because Long Island residents have been objecting strenuously to such use of a site that the Job Corps plans to take over.

Therefore, although the administration said one of its purposes in establishing the new centers was to permit enrollees to be close to home, New York boys are being shipped to the old established centers in Kentucky and Indiana, which were not affected by last year's shutdown orders.

FOR NEW JERSEY ONLY

Many of the New York youth formerly were sent to Camp Kilmer in New Jersey, but Ryan said that center now has been restricted to handle only New Jersey young people.

The New Jersey site, which used to train about 1600 young people, now has about 170 boys enrolled, while the center in Hawaii has about 250 enrollees.

Ryan said it is shocking that the administration, in providing for only 500 young people at the new centers at the present time, "has failed to live up to its commitment" to operate substitute centers for those that were shut down.

He also said that many of the closings have been wasteful. He noted that an excellent center was closed in St. Louis and now the administration is shopping around to find a different site.

INCREASES IN OIL IMPORTS THREATENS WYOMING'S ECONOMY

Mr. HANSEN. Mr. President, I am pleased to note that the Wyoming Education Association has recognized the threat to Wyoming's economy and its schools, of proposed increases in oil imports into the United States.

Mr. Bob Anderson, president of the Wyoming Education Association, recently wrote to President Nixon pointing out the impact a proposed tariff system of oil imports could have on the domestic oil and gas industry and the subsequent damage any reduced oil and gas exploration development and production would surely have on the economics of Wyoming and other oil-producing States.

As I have pointed out in a recent series of speeches in the Senate, I cannot believe that the President would approve such drastic changes in the oil import program nor single out an industry so vital to the economic well-being and defense of our country for an experiment in government price control through manipulation of more cheaply produced foreign imports.

The Casper Star-Tribune took note of the concern expressed by Mr. Anderson

in behalf of Wyoming schools in a recent news article.

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

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

[From the Casper (Wyo.) Star-Tribune, Feb. 1, 1970]

TEACHER ASKS OIL IMPORTS BE KEPT AT PRESENT LEVEL

Bob Anderson, president of the Wyoming Education Association, has written to President Nixon urging him to seriously consider that any oil imports be kept at least at the present 12.2 per cent level.

A Cabinet Level Oil Import Task Force has studied the present oil quota system with the possibility of substituting tariffs and reducing quotas.

Anderson added "If a tariff system is applied in place of the quota system, the tariff program should be such that it will in no way reduce our domestic oil and gas activity below present levels."

At the present time, more than 37 per cent of our total taxable valuation is dependent upon oil and gas. In three of our counties, more than 70 per cent of the taxable property is based upon the oil and gas industry, he said.

"Any reduction in production of these resources or decrease in price thereon," said Anderson, "will certainly result in a disastrous effect on the economy of this State precipitating increased tax levies on agriculture, our other basic industry which is at this time heavily burdened."

Anderson also said "I do not believe that the economy of the agricultural industry is such at this time that it can possible bear the increased tax burden which would be required to maintain the public schools of this state on their present level regardless of the other serious impacts on the economy of Wyoming."

CHANGES THAT WILL OCCUR WHEN THE VIETNAM WAR ENDS

Mr. HARRIS. Mr. President, we are all aware of the changes in our national life and our economy which will occur when the Vietnam war finally ends. We can use the additional resources which will become available at that time wisely—in an attack on major domestic problems—or foolishly, allowing them to dissipate. The distinguished junior Senator from California (Mr. CRANSTON), in a speech delivered to the Western Electronics Manufacturers Association, has spoken eloquently of the challenges we face at home, and the necessity for shifting our collective talents and capabilities to an attack upon them, rather than continuing the present unnecessarily high level of defense expenditures. This speech particularly deserves the credit and attention of the Senate because of the great impact a shift away from defense production would have on the Senator's home State.

This is an important speech, because it presents constructive suggestions about the methods by which a reordering of priorities toward domestic needs can be effected with respect to industry, and because it gives a clear warning as to the dangers which would result from failure to take such steps.

I ask unanimous consent that it be printed in the RECORD.

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

SPEECH BY SENATOR ALAN CRANSTON BEFORE THE WESTERN ELECTRONICS MANUFACTURERS ASSOCIATION, PALO ALTO, CALIF., JANUARY 15, 1970

When peace breaks out, California industry will be the first to feel it. When the nation sets new priorities, California industry can and should be the first to respond. When the promise of the '60s becomes the reality of the '70s, California industry must play a major role.

The course our nation takes in the '70s in many ways will profoundly affect the men and women who work in electronics and in defense and aerospace in California.

What we accomplish in the '70s and after will be built on what we learned in the '60s and before.

The '60s was a sobering decade—one that began with hope, confidence and promise but ended in confusion, discontent, and, for some, despair.

I do not join the chorus of critics who see the '60s in terms of national failure and disgrace, however. Nor do I agree with the zealots of the far right and the way-out left who see in the '60s a confirmation of their thesis that our country and its citizens are tools in the hands of sinister, scheming and powerful manipulators—"communists" or "establishment," depending upon the particular radical prophets involved.

Far from that, the '60s for all their turbulence were years of growing maturity on the part of the American people. We have, as a nation, begun to understand the reality of the crisis of race relations and poverty.

We are at last becoming aware of the need to move quickly to correct our environmental imbalance that threatens black and white, rich and poor, city dweller and rural resident.

We have begun to raise serious and disturbing—but very fundamental—questions about the quality of our lives, both as individuals and as members of a democratic society. We have stripped away some of our more romantic illusions concerning our role in the world. We have learned something about the limitations of the power we possess, and about the dangers of power on the loose in this world. All of this is cause for rejoicing—not despair.

When a people sees itself accurately, with all its own blemishes and blights, all its faults and frailties, when it knows its weaknesses as well as its strengths, then it is, in the last analysis, a healthy people.

From all this—the discoveries of the '60s—come the goals of the '70s:

To build a just and ever freer society at home;

To create a natural environment that will sustain health and human life, and lead to a new and higher quality in the human experience;

To devise a reasonable foreign policy that will lead us all, Americans and others, toward true security and a stable peace.

These words are easily said. These goals are simply set. To determine the requisite methods, to muster the required resources, to overcome all obstacles that stand in the way, is more difficult.

But we have no choice. We must succeed. I am convinced that more and more Americans know this, and are prepared to pay whatever costs are necessary.

A recent questionnaire put out by the Xerox Corporation, urging people to forward their views to Congress, is typical. The returns were strikingly identical. The 10,000 or so Californians who communicated with me want less spent on the arms race and more spent on our domestic needs.

They ask for a higher allocation of tax dollars for cleaner air and water, and for social, educational and urban problems.

I believe these feelings are reflected and shared by countless Americans who are convinced that the time has come for a reordering of national priorities. The American people will not accept endless engagement and slaughter in a Vietnam War that their leaders wisely deem unwinnable in old-fashioned military terms.

The American people and, I suspect, the Russian people, too, will not put up forever with defense policies based upon an overkill capacity that today would enable us to kill every Russian something like 15 times, and that would enable them to kill every American something like eight times. There is rising American skepticism about the need for devices like MIRV that could increase our overkill power to 41. And, I have a hunch, there is rising Russian doubt about their need for a MIRV that could boost their overkill count to 25.

Certainly there is room in this scene for the mutual understanding and forbearance that could come out of the SALT talks at Helsinki and Vienna. Our society, and theirs, both have countless urgent and diverse needs that will be dealt with adequately only if there is a reallocation of time, talent, resources and money.

Since World War II, we Americans have spent ten times more on warfare and its attendent requirements than on the welfare of our people. We have spent many hundreds of billions since World War II on the cost of war, but only $48,000,000 on the cost of new schools, and a mere $2.5 billion on new rapid transit systems, to take two examples.

Out of all the taxes you and I pay, knowingly and unknowingly, visibly and invisibly, to every level of government—local, state and national—50 cents out of every dollar is allocated for defense and war. We have created a new and huge industry to produce modern weapons and their components.

In California, almost a million jobs—15 percent of the state's industries—are in defense and aerospace. "Induced" employment—the additional employment generated by the spending activities of these workers—has been conservatively estimated at between 500,000 and 1,000,000 more jobs.

So the policies we have followed since World War II have given between 1,500,000 and 2,000,000 Californians a direct economic stake in defense spending.

California's dependence on defense and aerospace industries for new manufacturing jobs is illustrated by the fact that toward the end of the '60s, four of every five of our new manufacturing jobs were in this field.

Clearly, this is not a healthy situation.

I just met with some men at Stanford Research Institute, and one of their environmental experts remarked, "The more complex a community is, the stabler it is."

California's industry would be stabler if it was more complex, more diverse. No state, no group of people, should be so dependent upon one element of federal spending.

It is dangerous for those who rely so heavily upon defense spending, because a sharp and sudden cut-back would have catastrophic consequences for them—as well as for our economy generally.

It is also dangerous because some of those dependent upon the arms race may, even though unknowingly, seek defense contracts to be authorized, funded and negotiated for weapons systems that ultimately weaken rather than strengthen us, weapons systems that cause international imbalances and counter-moves by other nations, thus escalating still further world competition in arms and increasing international instability and heightening the danger of all-out war.

As a Senator deeply devoted to the cause of peace who represents the state with more defense contracts than any other, I am often asked if this constitutes a severe political problem for me. My answer is, "No. It gives me, instead, a unique and tremendous op-

portunity." I am asked: "Don't you find yourself under terrific political pressure to work for defense contracts you may not believe in, and to vote for defense items you are really against?"

The fact is that I am often asked to lend a hand on matters where the request is wholly legitimate and basically sound. The fact is that I have responded, and tried to help, more often than not. When I've decided not to pitch in, it has never been because the request was improper. In such cases I simply felt that what I was being asked to support was unwise from the point of view of society's over-all, intricate interests.

Not once have I yet been subjected to what I would label "pressure." On the contrary, the heads of some of our biggest defense companies, physicists, engineers, managers and others on the corporate payroll have repeatedly said to me in effect:

"Don't quote me, because it might cost us some defense contracts we're trying to land, but keep on working to scale down the defense budget. I admired your stand against ABM, and there's a lot else we could eliminate without weakening ourselves one bit. Frankly, I'd much rather be using my own abilities for whatever they're worth, and our company's skills which are damned well worth a great deal, to produce some of the things we need so badly here at home."

That is the unique and tremendous opportunity I referred to that I have. But really, it's an opportunity that is mostly yours with all your vast capacities in electronics and in the defense-aerospace industry; it is just a little bit mine.

I will do all within my power to see to it that the future brings expanding, not diminishing, horizons to so many of you whose creative capacities and technological skills have been developed by, and devoted to, national service in defense. I envisage a role for you that will be more rewarding, more satisfying, and far more constructive than that of being consumed by the task of devising ways and means of producing or preventing destruction.

Certainly no group is more aware of the problems caused by overdependence on defense contracts than the managers, workers and stockholders in defense industries and the communities in which the plants are located. Many firms have made substantial progress in reducing their dependence on Pentagon contracts. Three outstanding examples are Ampex, Varian Associates, and Hewlett-Packard.

Ampex has reduced its dependence on government contracts from 20 percent of its total business in fiscal 1966 to 13 percent in fiscal 1969. Varian Associates' government percentage dropped from 65 percent in 1959 to 31 percent in 1970. Hewlett-Packard's percentage of government business has dropped from 50 percent to 35 percent of its total business in recent years.

Characteristically, the amount of the government contracts has tended to remain constant in recent years, while the private percentage of the total business of a given concern has been expanding. We are obviously heading into a time when there will be a shrinkage in the dollar volume of available and likely defense and space contracts. It is not enough to think and plan in terms of reconversion—a term that seems to apply to steps that should be taken sometime in the future, after drastic defense cutbacks have occurred. A better term, I think, is diversification; that is, something that should be happening right now.

But it's not enough for firms to think and plan simply in terms of achieving a better balance between military and domestic contracts and sales.

I know that many of you are doing very well in commercial sales, but the industry generally must carve out a larger role in grappling with our domestic needs, problems and crises.

Many industrial leaders agree. The National Association of Manufacturers asked the managers of 700 firms: "Do you feel your company should be involved in the solutions of public problems?" Eighty-eight percent answered, "Yes."

There is an unhappy history of failures in attempts by industry to apply systems engineering to social problems—along with some remarkable successes. The failures have occurred in good part, I believe, because the federal government has not played the significant role that it could.

If we are to progress in solving our domestic and environmental problems, we must find ways to encourage and assist private defense industries to move in on and capture a substantial share of nondefense federal and other government contracts.

Unfortunately, some of these contracts are now non-existent, for we have not yet tackled many of our most urgent domestic problems in any significant way. But men who decided that it would be a realistic goal to design and construct Poseidon submarines to carry men under the ocean and fire missiles through the atmosphere to strike distant targets with incredible accuracy can also help figure out a feasible technical and scientific approach to controlling poison and pollution of the sea and sky. Men who planned and executed our earth orbitings and moon landings can master the technological side of the mass transit crisis in urban America.

But I disagree with those who think this task is easier than putting a man on the moon. It isn't; it's tougher. N.A.S.A. didn't face the problems of political subdivisions, divided jurisdictions, private interests and public pressures that we face in our cities. There weren't people by the millions, rich people and poor people, people with property and people with no property at all, living on the path to the moon who had to be persuaded not only to get out of the way, but also to go along for the ride.

Together, however, you in industry and we in government and politics can and must surmount these and other problems relating to the difficult, unpredictable human equation.

As the United States government approaches a time when, I predict, it will be moving into some wholly new fields, you who serve in firms with defense and aerospace contract experience can make a particularly important contribution by helping improve federal contracting regulations, procurement regulations, and other administrative procedures.

I strongly support present D.O.D. regulations which permit defense contractors to charge as overhead on defense contracts a certain amount of independent research and development, bid, and proposal expenses, together with other technical effort costs.

After years of trial and error, these regulations were worked out by some of the best minds we've had in government to encourage innovation and to increase competition—two dividends which are manifestly in the public and the national interest.

We need similar regulations by other agencies to encourage independent research, creativity and competition in present and impending areas of non-defense, non-space federal investments.

No officials, however dedicated, can judge finally and definitively which research will pay off and which will not. That is true whether the research is on communications for a space ship or on a communications system for a city or state police force and whether the research is funded by N.A.S.A. or H.U.D. or D.O.D. or D.O.T.

Let's encourage innovative approaches to all our problems, not just to some of them. If every research project had to be cleared by a bureaucrat, we might still not have a polio vaccine today. Dr. Jonas Salk couldn't get a federal grant to cover research on his vaccine because the government thought he was going off in the wrong direction. We can all be grateful that a private foundation took a more favorable view of his work and advanced the necessary funds.

The question of bureaucratic autocracy has other ramifications. If we continue to increase the number of government accounting procedures, bookkeepers and what have you to monitor federal contracts, we will force the private firms involved to make proportionate increases in their staff to do the paper work to comply with the new procedures. At some point we must decide whether the proliferation of rules and regulations is not becoming counter-productive to the national interest. It will be tragic if the task of complying with new and ever-more-detailed regulations becomes so oppressive, costly and wasteful that it forces our most efficient firms out of government contracting.

I also believe that procurement regulations on major non-defense items should be simplified and standardized to lessen the distinction between competing for Pentagon and other federal contracts. We need uniformity in cost-allowable standards and recognition of those standards by I.R.S.

The whole question of the dimensions of non-defense contracts cries out for serious study. It is obviously more attractive to bid on one $2 billion contract than it is to bid on 50 or 60 separate $10 to $20 million contracts. Our federal, state and local governments, along with the business community, must develop a coordinated approach to the vital task of increasing the appeal, profit and effectiveness of work related to our domestic needs.

We urgently need improved police computer systems, for example, that can instantly analyze crime, detect patterns, and aid with officer placement. Our electronics industry has the capability to build the necessary systems. But it makes little business sense for a firm to do all the necessary research if the hardware payoff at the end is merely the privilege of installing the system in one limited urban area. It would be much more attractive to bid on a contract, sponsored by the Department of Justice, to provide several major urban areas with the same system and with federal funding of some of the necessary research and production costs. That could lead to truly significant breakthroughs in developing systems and services that local taxpayers and communities cannot now afford, and that you cannot now afford to devise and produce. It would mean great progress, at long last, in the preventive aspect of the war on crime. Current conditions cry out for similar advances in airport control and safety, innovations in hospital care through computers, and countless other areas where progress waits upon the application of federal leverage to utilize your abilities.

The list of these areas is very long, and I'm sure each of you could string it out further than I. I am eager to study every sound approach to putting your defense and space experience to work in ways that are responsive both to the legitimate needs of private industry and the domestic progress the public demands. I want to work actively with you to put them into effect. I look to you for advice and counsel.

New procedures and new regulations will do nothing, however, unless we funnel substantial money into needed non-defense programs. The present sketchy, spotty system of grant contracts is pitifully inadequate in areas it touches, and there are all too many areas it doesn't touch at all. Only very heavy funding in areas that have been too long neglected will suffice. And we must develop a formula for federal funding that will be

based upon substantial, centralized contracting authority.

In the years ahead, I expect politicians will be judged on their willingness to face head on the issue of priorities and to make tough decisions on programming and budgeting and taxing.

There is a great deal of loose talk about spending on defense and space explorations, and their effect on our failure to meet other pressing needs. The salient point was aptly covered by a N.A.S.A. official who was queried about sending men to the moon when we have among us more than ten million hungry Americans. "Lady," he replied, "We wouldn't be going to the moon if not going meant we'd feed those hungry people."

I believe we will meet our domestic needs only if they are shown to be complementary to our defense and space efforts, not contradictory or competitive to them. We will succeed in meeting and mastering these domestic needs only if we muster the will to meet them. When we realize that building a sound and solid society at home is just as important to our national security and survival as our military strength abroad, we will be on our way.

It is now time for us to get moving. But it will require a substantial degree of your time and talent, and the resources and dollars that have been at your disposal in defense and aerospace.

This is not now a partisan issue. President Nixon is joining Congress in cutting back the defense budget. He is heeding the country by pulling us back from Vietnam. He is leading the way in cutting back the space budget.

These budget reductions—reallocations, really—must also occur if we are to win the war against inflation. In my opinion, the prime cause of the inflation that is devouring the value of our dollars lies in our pouring so many billions into defense and space programs that do not produce goods or services that can be purchased by those who get their profits and salaries from those programs.

I don't believe that the correct way to curb inflation is the administration's prescription of tight money, curtailment of desperately needed programs like research in cancer and heart disease, investments in education, moves to discourage business investment and expansion, and consequent increases in unemployment. One way to succeed would be to institute wage and price controls. A sounder way would be to substantially switch the emphasis on government expenditures to peaceful and productive purposes—a switch that, happily, is now beginning. The Vietnam War, so costly to us in blood and treasure, has served one useful purpose: it has shattered some of our most cherished illusions about our role in the world, and the nature of the threat that hostile powers pose to our national security.

The overall world situation has brought the lesson of Vietnam into sharper focus. The Soviet Union and the United States now have the capacity to destroy each other in a nuclear war no matter who strikes first. It is unlikely that either side could ever develop an adequate first-strike capability no matter how many billions were spent. So both sides have an interest in reaching serious agreements on arms limitations, or at least in reciprocal moves not based upon binding agreements that actually lead to a situation where both sides reduce their expenditures on advanced military hardware.

It makes no sense for either side to pour billions into uneconomic weapons systems that don't produce more security and in some instances produce less. The same holds true for weapons needed to fight a conventional war. The possibility of a conventional war between the Soviet Union and the United States is becoming more and more remote, and military planners on both sides are going to have an increasingly difficult time justifying new planes, new tanks or new ships.

Now that we have learned the folly of commitment to limited wars like Vietnam, the only remaining justification for new conventional weapons systems might be to equip client states. But surely someone in the Kremlin has noted that providing new planes and tanks to Arab nations is a singularly uneconomic use of Russian resources. And we are rapidly discovering the same thing to be true in other parts of the world.

All this is not to say that peace is about to break out like cherry blossoms in the Washington spring. The world and the men in it are too complicated and perhaps too perverse for that. We will in all probability be spending substantial sums on defense for many, many years to come.

Certainly, as long as it's necessary, we must maintain the capacity to defend ourselves against strongly armed potential foes, and you will play a vital role in that task. But I don't think it unrealistic to assume that, as we phase out of Vietnam, our defense budget will fall to around $60 billion—accompanied by a rise, not a fall, in our prestige and power.

Various knowledgeable sources make many estimates of the size of the so-called post-Vietnam dividend—anywhere from eight to 43 billion dollars. We could, of course, use that dividend to simply cut taxes, and thus fuel a whole new boom in the private sector. But that would not bring us pure air and water and less noise, nor better police and transportation and educational systems, nor more housing, better health care, nor new recreational areas.

I believe we will move to meet these needs. The American people are rapidly learning that pouring money into things that foul our air and water and create urban and suburban slums is as uneconomic as building weapons systems we don't need. We are fast becoming less a nation of separate consumers and more a nation of united conservationists—dedicated to improving the quality of the total environment we share. We are coming to realize that the solution to our domestic environmental problems is as important to the quality of our lives as the creation of an international environment in which a secure peace can become a reality.

In our lifetime, man has become a self-endangered species, threatened with self-extinction. We are all in dire double jeopardy. We have developed the capacity not only to foul our own environment, but also to destroy the human race. Worse yet, we possess this combined ability before we have learned how to control the dark and irrational impulses which spring from our clouded past.

Our realization of this double jeopardy may be our salvation. We have somehow survived a very dangerous decade. We have learned a bit and matured a bit. Together, we still have time, and opportunity.

JUSTICE DEPARTMENT SHOULD NOT IMPERIL THE INTEGRITY OF THE PRESS

Mr. PELL. Mr. President, recent actions by the Department of Justice in obtaining subpenas for information and material from news organizations are a cause for concern, not only by the public information media, but also by the public itself.

Traditionally, news gathering organizations have taken the position that they will not make themselves, in effect, an arm of the police by voluntarily providing information to the police. They have insisted they will provide information only after the issuance of a subpena compelling them to do so. Then, the news organizations generally have cooperated to the full extent possible without endangering confidential news sources or impairing the future effectiveness of the news organizations to serve the public.

This procedure in general has worked well. Police organizations have respected the necessity for news organizations to have a high degree of independence, and to protect their news sources, and the news organizations have, as a rule, cooperated with the law enforcement agencies to the full extent consistent with their public responsibilities.

This relationship, this balancing of public interests, has been endangered by the sweeping, broad subpenas issued recently by the Justice Department. More recently, there have been public reports that these subpenas were the result, not of a new policy by the Justice Department, but of "blunders" by department officials. I would certainly hope it is the latter, and that such broad subpenas, apparently part of a "fishing expedition" will not be sought again by the Justice Department.

Mr. President, the public interest in this matter has been explored and presented very thoughtfully by Mr. James J. Doyle, chief editorial writer for the Providence Journal and Evening Bulletin, in an article published in the Providence Journal of February 5, 1970. I ask unanimous consent that it be printed in the RECORD, along with a subsequent Associated Press story indicating that the Justice Department is having second thoughts about its subpena actions.

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

[From the Providence Journal, Feb. 5, 1970]

OFFICIAL ACCESS—A THREAT TO PRESS FREEDOM

(By James J. Doyle)

The drive of the United States Department of Justice to get access to unused notes and pictures about news events from newspapers and from radio and television stations is dangerous business. In itself, it makes a serious threat to the freedom of the press; it could inspire similar demands from state attorneys general and from city and town prosecutors.

At immediate issue are notes and pictures taken during the course of investigations that preceded the writing and filming of material for reports on the Black Panthers and other extremist groups. It is a little frightening that the department does not seem to have aroused wide opposition from newspapers and radio and television stations.

The Columbia Broadcasting System and *Time* are preparing to fight the issue in the courts. The television chain and the magazine want to block the issuance of *subpoenas* which would make it possible for the Justice Department to demand and get every scrap of material that was not used in reports prepared for broadcast and publication.

For the general public which rarely gets a chance to learn much about the mechanics of newsgathering, the issue may seem of little account. After all, it would appear only that the government's agents are seeking a little bit of help in looking into the activities of an organization which openly preaches the desirability of violent attack on the government.

Let's take a look, therefore, at those mechanics. I speak from the experience gained while serving these newspapers as a reporter, part of whose time was spent running down tales of corruption and violence in locals of two unions which operate in this state and

in this city. I walked miles and spent weeks on those chores.

In the course of the investigations, I talked long hours with dozens of men, men fearful of reprisal if they became "involved" publicly in stories about those charges. I spoke to their wives, and sometimes the wives panicked even when their husbands were willing to talk. I took dozens of pages of notes and transcribed them for my files.

Eventually, I wrote stories. Not all I had heard went into those stories. Some of what I had heard and used in the stories was eliminated by lawyers concerned about the possibility of libel suits. Some of what I had heard was not used because it was not newsworthy or relevant in the judgment of my editors.

The stories that were printed went into the library files of these newspapers. The notes that were not used went into my personal files and later were surrendered to another reporter who was assigned to investigative work. I'm not sure where those files are now. I hope they are safe or have been destroyed.

In terms of newsgathering techniques, then, what the Justice Department is doing in the Black Panther case now may make sense to the general public. It is seeking, in effect, to get access to notes and pictures from the files of reporters and photographers who worked, as I did, running down every conceivable lead to get as many facts as possible to make a story.

The department is tapping sources that might never have talked if they had known that their stories would be turned over to the police and law departments for public display. The department is, in effect, enrolling reporters and photographers in police departments, and I don't know a single reporter or photographer who would enjoy that role.

I realize that there are those who will say at this piont, "Any good citizen ought to be ready to tell the police anything he knows about a matter that may involve criminal action". In their characters as citizens, I hope that every reporter and photographer would do his duty in this regard—as I hope every other citizen would.

But when a reporter or a photographer engages in major research or investigation to collect material for a story in the highest public interest, he functions as the agent of a free press, clad by the Constitution with the right to pursue and print the truth and acting under the further broad right of the public to know.

In the exercise of that right, the reporter and the photographer act with matching responsibilities: to seek the truth, to avoid libel, to write without malice; to concentrate on the relevant and to avoid the irrelevant; to exercise judgment—all goals to which the editors of all news media also are pledged by the nature of their tasks.

If the Justice Department pursues its drive to get access to all notes and pictures, used or unused, what will be the practical effect on reporters and photographers—and on the news media? The first effect will be to enforce the timidity of weak-kneed news media which will not want to "get involved" in possible criminal and libel court actions.

A second effect will be to silence those thousands of Americans who have learned that a free press is a guarantor of liberties when sometimes even attorneys general and state and local prosecutors decline to act out of personal fear of political considerations. It will be a sorry day for this country if Americans become afraid to talk to reporters.

The third effect—on reporters and photographers of integrity with respect for their professions—will be to turn them aside from their work. No decent man will want to imperil the freedom and safety of men and women with whom he talks in pursuit of major stories or major investigations in the public interest.

In short, the overall effect of the Justice Department's search for knowledge will tend to stifle a free press at the very roots of its information-gathering system. What good, then, will be the right of a free press, no matter how brilliant the Fourth of July oratory about the democratic guarantees of the United States Constitution?

There is nothing to prevent the Justice Department from taking to the streets in the same course of action followed by the reporters and photographers who investigated the Black Panthers. Tapping unused notes and pictures may ease the department's task, but only at the risk of creating a serious threat to the freedom of the press.

I have yet to read a frank explanation of the reason for the department's drive; I am sure that when it comes, it will be couched in terms equating its purpose with the Flag and Motherlove. Whatever the official rationale, however, I think a most serious issue has been raised, and I wish I could hear more and louder voices raised about it.

Big and savage attacks on the freedom of the press arouse big and savage defenses of the freedom of the press. I am deeply afraid that the most serious threat to an honest, free press will come from the slow erosion of freedom in the name of forced or unforced "cooperation" with the federal police—and then, in sure and slow stages, with state and local police.

The moment a free press allows itself to become an arm of any agency of government, it will have lost its right to claim freedom and it will shame decency if it cries freedom. If the Justice Department gets its way in the Black Panther case, the door will have opened into a room where I will be fearful to walk.

BLUNDER IN SUBPENAS?—UNITED STATES EASES DEMANDS FOR REPORTERS' NOTES

NEW YORK.—A Justice Department source says the government will not require all of the material that it demands from newsmen in a recent series of broadly worded subpoenas.

Unused source materials, including still photos, correspondence and notes, have been subpoenaed from newsmen in recent cases in Chicago and elsewhere.

However, the Justice Department source said yesterday the government probably would still reserve the right to demand some material from newsmen.

The subpoenas have been criticized by news media representatives.

William M. Ware, executive editor of the Cleveland Plain Dealer and chairman of the Associated Press Managing Editors Association Freedom of Information Committee, said, "The recent trend toward issuance of subpoenas for reporters' notes and files and news photographs, published or not, is a direct and serious threat to the American free press.

"Editors everywhere had better be weary of their response to these indiscriminate 'fishing expedition' subpoenas," he said.

CBS newsman Walter Cronkite said two news sources, one an official of an industrial firm and the other a representative of a foreign government, had refused interivews because of the subpoenas.

"We cannot function," Cronkite said. "Our people cannot be informed if we have to work under these conditions."

The Justice Department source said some government officials had broken a long-standing policy of agreeing with newsmen on what information would be demanded before the demands were made.

Privately, some Justice Department officials indicated they were chagrined over what they said appeared to be blunders by officials who had served newsmen with subpoenas that gave the impression the Nixon administration had instituted a rigid new policy toward the news media.

Reporters' materials have been subpoenaed by the Department of Justice within the past week from CBS, the New York Times, and Life, Time and Newsweek magazines in connection with investigations of the Black Panther party and the Weatherman branch of the Students for a Democratic Society.

Ramsey Clark, former U.S. attorney general, said, "I think there has been a change if general warrants are being issued, and I have a feeling of great uneasiness about it."

MEDICARE: THE NEED FOR REFORM

Mr. HARTKE. Mr. President, medicare and medicaid are and have been vital and necessary programs bringing better health and life for our elder citizens. They are, however, new programs, and problems have arisen which threaten the efficiency and economy of their operation. For some time, I and the other members of the Senate Finance Committee have been troubled by some of the reported difficulties with these programs. Accordingly, we directed the staff of the Senate Finance Committee on February 26, 1969, to undertake an intensive investigation of the operation of the medicare and medicaid programs. This investigation has now been completed, and it clearly reveals some unconscionable abuses; the result is impending bankruptcy of these two programs.

Although many successful corporations have faced bankruptcy in the first few years of their operation, longstanding critics of medicare will use this report as an excuse to totally condemn what they have always opposed. Medicare has a legion of enemies waiting to find an excuse to end the program. The present difficulties of medicare and medicaid should not be used to obscure the desperate need for their existence. The stark fact is that without these programs many of our older citizens would have died from lack of proper medical care. To eliminate these programs is to pass a sentence of death on many of this Nation's elderly.

What is involved here is not the life of a particular program but the question of responsibility in a democracy. We will, by improved legislation and regulations and by the cooperation of all the affected people, improve medicare and medicaid. Our goals are economy in government, efficiency in operation, but first and foremost, health and vitality for our elder citizens.

Medicaid and medicare are in grave financial trouble. In medicare, after 3 years' experience, original assumptions of cost have had to be entirely abandoned. The estimated cost of calendar year 1970 has jumped from the original projection of $3.1 billion to a current estimate of $5.8 billion. And from 1970 on, the gap between original estimates and current projections progressively widens. For example, estimated costs for 1975 were originally $4.3 billion, but by January 1969 they were $7.6 billion. Estimates of 1990 costs were $8.8 billion; but by January 1969 they had increased to $16.8 billion. In total, the estimated deficit between the cost of part A of

medicare and projected income under present law amounts to $131 billion for the next 25 years. It is estimated that the hospital insurance trust fund will be completely exhausted by 1973 under present methods of financing. New financing methods are needed to prevent complete exhaustion of all possible sources of funds.

Similar increases in cost are also evident in part B of medicare—the supplementary medical insurance plan of medicare. The Federal share of part B costs will have increased from $623 million for 1967 to an estimated $1,246 million in 1971.

Medicaid program costs have risen 500 percent since 1965. Because of the indicated increased costs, and the increasing financial burden of the medicare and medicaid programs, the staff of the Senate Finance Committee is devising a more equitable reimbursement formula, a formula that will be equitable to all involved—the Government, the doctor, and the patient. Hopefully, it will eliminate costly abuses and at the same time provide for simplified and coordinated cost-reporting requirements. This new reimbursement formula will make greater use of comparisons in determining reasonable costs. We are working not only on a new reimbursement formula but also on a system that will create an incentive for economy. Public programs, like the private sector itself, work best when there is incentive for efficient and economic operation. I believe incentives can be provided in this program which will be beneficial both for the patient and for the Government, and which will reduce costs.

Staff investigations have revealed certain abuses which must be eliminated. For example, on occasion medicare has paid for the cost of empty beds. New regulations are being drafted to prevent this abuse in the future. Also, it has been determined that because of the existence of medicare, some hospitals have been extremely inefficient in the collection of their bad debts, relying on Federal funds instead of the collection of their outstanding accounts. I support a requirement that all participating institutions make a genuine effort to collect from beneficiaries before passing on their bad debts to medicare as uncollectable. It also appears that medicare in some cases has paid for the collection of debts that were not a part of the program. Again, with stricter regulations and tighter controls we can prevent this abuse.

Another area the Senate Finance Committee must consider carefully is the tax-exempt status of hospitals and other medical facilities. It seems to me that this tax-exempt status is a privilege and is conditional on providing some services to the community. Hospitals should provide charitable services to the extent of their financial abilities in order to justify tax exemption.

Without such a rule, the existence of free- and below-cost medical care will diminish because of the existence of medicare and medicaid. But the purpose of medicare and medicaid is not to substitute for existing forms of free medical aid but to supplement them.

Medicare and medicaid were established with a clear congressional intent that physicians not receive more than they would receive normally. Unfortunately, in some instances, this rule has not been followed. One of the most flagrant abuses is what is known as a "gang visit." Under this practice some physicians may see as many as 30 or 40 or 50 patients in a day in the same facility, regardless of whether the visit is medically necessary or whether any service is actually furnished. In addition, many physicians are now itemizing for services that were previously included in one basic service fee. For them a medical visit is like a visit to the shopping center where every service, no matter how insignificant, is itemized. As a result, charges rise astronomically. This flagrant misuse of medicare can only disserve those it was intended to benefit.

Another problem is payments to subsidiary physicians in teaching hospitals. Previously, supervisors or teachers in hospitals were not included as a basic cost for care provided by that hospital. The staff study investigation shows that some hospitals now have transferred this educational cost to medicare. Unquestionably, there is a need for more medical education and for medical facilities generally. But, I believe that the way to provide for this need is through direct Federal appropriation, and not by burdening a program that was originally set up to provide for the health and welfare of our elder citizens.

The abuses I have mentioned earlier have resulted in substantial payments to certain doctors. A partial and incomplete study indicated that there are at least 4,300 individual practitioners, plus an additional 90 physicians groups, who each received $25,000 or more in 1968. The individual practitioners included at least 68 who were known to have received $100,000 or more.

I must say, Mr. President, that in comparison to the other States, the great majority of Indiana physicians have exercised a high degree of professional responsibility and restraint. Fewer doctors have received large payments than in most other States. In Indiana only 23 doctors received more than $25,000 under medicare, and of these, 29 received $29,000 or less. None received more than $80,000, there being one who received from $50,000 to $80,000 and another one who received from $40,000 to $50,000.

Compare this with other States. For example, in Alabama, 83 doctors received more than $25,000. In California, 375 doctors received more than $25,000 in reimbursement, with three doctors receiving more than $100,000. In Florida, 879 doctors received more than $25,000, with seven doctors receiving more than $150,000. In Iowa, 62 doctors received $25,000; in Maryland, 39 doctors received $25,000; in Kentucky, 41 doctors received more than $25,000. These figures clearly indicate that in Indiana the profession, as a whole, has tried to live within the spirit of this program.

I believe that new regulations and a new reimbursement formula will prevent any further abuses. To facilitate the infusion of needed new regulations, it is absolutely necessary that profiles of payments and the extent of payments to each doctor be carefully kept. In this way, those in charge can indicate who is receiving too much money. The public welfare demands this close accounting.

In another area in which to achieve efficiency and economy in medicare and medicaid programs, I have asked the staff of Senate Finance Committee to perfect an incentive reimbursement system. Here again, incentives should be devised to encourage better-than-average performance and economical operation.

In recent years, Congress provided for two new programs under medicare which were intended to reduce cost. Unfortunately, because of poor operations and standards, both programs have resulted in additional costs.

The first program was the inclusion of posthospital extended care benefits. This was intended to provide an extension of hospital care which, in its absence, would have to be provided by much more costly hospital care. It was Congress' intention to reduce cost and also provide much-needed secondary medical care. Unfortunately, there has been substantial looseness in certifying facilities as extended care facilities. We should require that only nursing homes that meet the high standards of the Federal program be allowed to participate.

In a major effort to control the rising cost of providing nursing home care under medicaid, the Committee on Finance approved an amendment to the Social Security Act in 1967 to pay for care in institutions providing services beyond room and board but below the level of skilled nursing homes. It was clearly congressional intent that this be a less costly service than nursing care and at the same time be adequate for the patient and his needs. Just as clearly, in some areas the congressional intent is not being met. In some States nursing homes have been reclassified as intermediate care facilities on a wholesale basis where they cannot meet the requirements for participation as skilled nursing homes under medicare. Furthermore, in several States, including Massachusetts, Rhode Island, and Ohio—many intermediate care facilities are being paid for at a greater rate than those paid to many skilled nursing homes participating in medicare in the same area. Again, this is expressly contrary to the congressional intent that intermediate care was to be less costly than that of skilled nursing homes.

I shall propose legislation that will prevent payment to intermediate care facilities at the same or greater rate than those made to skilled nursing homes. I also suggest stricter regulations for the certification of facilities under this part of the program.

Congress, in enacting medicare, wrote provisions that attempted to guard against excessive and unnecessary use of institutional care. Unfortunately in too many cases, hospitals have failed to carry out Congress direction, and there has not been an effective system to prevent unnecessary stays in hospitals. For this reason, new utilization procedure will be devised which will prevent abuses of this nature.

Briefly, some other areas for further

investigation by the Senate Finance Committee are the following:

First. There is disturbing evidence that some chains of medical facilities are growing not in response to any community needs, but rather in response to the existence of Federal funds. Legislation should be devised to prevent artificial growth of unneeded medical facilities.

Second. There is also evidence that some institutions are changing from a proprietary status to that of a nonprofit status to take advantage of Federal programs. I am preparing legislation that will avoid the abuse of tax-exempt status and capital gains treatment in the sale or exchange of health care facilities.

Third. It is clear that the reporting of medical payments to tax collectors is woefully inadequate. More complete tax reports will not only provide a much better picture of the cost of medical care but also will insure that each man pays his full and fair amount of Federal taxes. In the next couple of years, Congress, and the Senate Finance Committee in particular, must be concerned with how to make this program work better.

Mr. President, I am convinced that one of the main reasons for discontent in this country is the inability of all levels of Government to perform adequately, to deliver their service efficiently and economically. The solution is not to abandon governments and thereby abandon the needs and problems of the people, but to retain our historical confidence and optimism. By responding courageously to existing problems, not by denying them, we will continue to be worthy of the description, "idealists working on matter."

UKRAINIAN INDEPENDENCE DAY

Mr. WILLIAMS of New Jersey. Mr. President, on January 22, 1918, the people of the Ukraine announced their independence from Russia and became a "free and sovereign" republic. For 52 years, this day has been celebrated by Ukrainian descendants around the world as the Ukrainian Independence Day.

Through 300 years of suppression, the Ukrainian patriots continually struggled for freedom. When their oppressors became involved in the Bolshevik revolution, the Ukrainians recognized their opportunity for breaking from Russian rule and proclaiming their independence by announicng the Ukrainian National Republic. Unfortunately for these proud and dedicated people, their country was invaded by all sides for the next 3 years, even as they suffered from internal strife. In November 1920, the Republic finally succumbed under the superior military force of the Russian Army and the Ukraine was soon divided between the Soviets and the Poles.

It should be noted, Mr. President, that of all the nations under Soviet rule, the Ukraine has suffered the longest, yet the spirit of the Ukrainians in their continual struggle for permanent liberation is undying. Although the Ukraine has been destroyed, the Ukrainian National Republic continues to live in the hearts and minds of all Ukrainian loyalists.

Today Ukraine, the largest "non-Russian" nation in Eastern Europe, is still under Russian rule. For half a century, she has been shut off from the rest of the world, forbidden self-determination and self-control. Her continued fight for independence has the support and encouragement of free nations everywhere.

Therefore, Mr. President, in honoring the Ukrainian Independence Day, we give recognition to the vital principle of political freedom which we, in the United States, enjoy and to which all men aspire.

JUDGE CARSWELL'S DEFENDERS

Mr. HANSEN. Mr. President, on behalf of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent that a statement by him relating to testimony taken before the Committee on the Judiciary concerning Judge Carswell and the testimony of Prof. James W. Moore, of the Yale Law School, be printed in the RECORD.

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

STATEMENT BY SENATOR GURNEY

I have noticed that in recent days some Senators have placed in the RECORD testimony taken before the Judiciary Committee Concerning Judge Carswell. I think this laudable; the public should know all it can about this nominee and his credentials. However, lest the public receive the erroneous notion that the testimony before the Judiciary Committee was totally unfavorable, I think it would be well to give greater circulation to a part, at least, of the testimony favorable to the Carswell nomination.

TESTIMONY OF PROF. JAMES WILLIAM MOORE, YALE LAW SCHOOL, NEW HAVEN, CONN.

Mr. MOORE. Thank you, sir. My name and address is Professor James William Moore, Yale Law School, New Haven Connecticut. This morning we heard a great deal about the rights of women and with much eloquence. May I say that Yale too appreciates women, and we now let the men through the old sacred halls of Maury's where Louie dwells and they come singing the Whiffenpoof Song. Candor compels me to say that the quality of the singing has not improved any.

I appear at my request to testify in support of the prompt confirmation of G. Harrold Carswell as a Justice of the Supreme Court of the United States.

While my qualifications are set forth in more detail in an attached Appendix, briefly they are these. For 35 years I have been a student of the federal judicial system, its jurisdiction, practice and procedure. I hold a named chair, Sterling Professor of Law, at Yale University; am a member of the Supreme Court's standing Committee on Practice and Procedure; have authored many legal articles and books, chief of the latter being Moore's Federal Practice, and Collier on Bankruptcy (14th edition)——

The CHAIRMAN. Moore's Federal Practice is in most law offices, isn't it?

Mr. MOORE. Well, I like to think so, sir.

The CHAIRMAN. I think it is a standard textbook, is it not?

Mr. MOORE. Well, it is a self serving statement, but I will make it. I think it is.

And at the present time am in addition counsel to the trustees, now a single trustee of the New York, New Haven and Hartford Railroad since the beginning of its reorganization in mid-1961.

Now, as an author, may I say that I would attach no significance to a vote by a judge denying a plea for rehearing en banc. It is just not possible to determine what promoted that vote on the substantive issues. It in a sense is something like the denial of cert. and as Justice Frankfurter once said the bar has been told over and over again that no significance should be attached to a denial of cert.

I testify on behalf of Judge Carswell on the basis of both personal and professional knowledge.

About five years ago a small group of jurists, educators and lawyers consulted me (without compensation) in connection with the establishment of a law school at Florida State University at Tallahassee. Judge Carswell was a very active member of that group. I was impressed with his views on legal education and the type of law school that he desired to establish: a law school free of all racial discrimination—he was very clear about that; one offering both basic and higher legal theoretical training; and one that would attract students of all races and creed and from all walks of life and sections of the country. Judge Carswell and his group succeeded admirably. Taking a national approach they chose, as their first dean, Mason Ladd, who for a generation had been Dean of the College of Law at the University of Iowa and one of the most respected and successful deans in the field of American legal education.

And from the vision and support of the Carswell group has emerged, within the span of a few years, an excellent, vigorous law school.

For example, every member of the first graduating class of Florida State University Law School of about 100 passed the bar examination on the first go round. That makes my law school look like a member of the bush league.

From those and subsequent contracts I have formed the personal opinion that Judge Carswell is a vigorous young man of great sincerity and scholarly attainments, a good listener who wants to hear all sides, moderate but forward looking, and one of growth potential.

I have a firm and abiding conviction that Judge Carswell is not a racist, but a judge who has and will deal fairly with all races, creed and classes. If I had doubts, I would not be testifying in support, for during all my teaching life over 34 years on the faculty of the Yale Law School I have championed and still champion the rights of all minorities.

From the contacts I have had with Judge Carswell, and the general familiarity with the Federal judicial literature, I conclude that he is both a good lawyer and a fine jurist. Called to the bar about 20 years ago he has the background of private practice, public practice as a United States district attorney, and that of both district and circuit judge.

And while Judge Carswell has not been a circuit judge for a long time, he has Federal appellate experience since he has sat on the Court of Appeals as a district judge by designation, that goes back long before he became circuit judge. In fact I recall an example of an opinion written by him as early as 1961.

Having been in each of the 50 states, and having taught in most sections of this country, I have long been impressed with this country's diversity—economic, social, moral, and ideological. In my opinion the Supreme Court should be representative of that great diversity. And I believe at this time it is highly desirable that the next Justice should come from the section where Judge Carswell was born and has lived; and that Judge Carswell should be that Justice.

I thank you, sir.

The CHAIRMAN. You have made a very able statement.

Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chair-

man. I don't have any questions. I would like just to commend Professor Moore for the very excellent statement he has made here. We thank him for coming and presenting this excellent statement.

Mr. MOORE. Thank you, sir.

The CHAIRMAN. We certainly thank you.

Mr. MOORE. May I be excused, sir?

The CHAIRMAN. Yes, sir.

Mr. MOORE. Thank you.

AN AVIATION LEADER ADDRESSES ECONOMIC CLUB OF DETROIT

Mr. GRIFFIN. Mr. President, in a recent address before the Economic Club of Detroit, Najeeb E. Halaby, president of Pan American World Airways, discussed how the aviation industry can continue to grow without encroaching upon our natural resources.

I ask unanimous consent that Mr. Halaby's informative address be printed in the RECORD.

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

AN AIRPORT CAN BE BEAUTIFUL

(An address by Najeeb E. Halaby)

I spoke at the opening of the Detroit Metropolitan Wayne County Airport a couple of years ago, and I said that seeing talk and plans materialize as runways and terminals was like a vacation for an airline person. Today looking at the Commissioner's $300 million master plan to give this Detroit, the automotive city, the title of Transportation City is quite a renewal. It's more like a three week vacation perhaps in clear air with fresh water on an island of hope surrounded by a sea of salty controversy.

That's what we feel like in the transportation industry at times. And when we find a city as refreshing with its planning, it's like a vacation, and I must acknowledge that it's great occasionally to be able honestly to congratulate leaders in transportation for their vision and courage. We're much more often needling people to get on with the job of meeting the public demands.

You'd think Pan Am and Detroit would have been more closely living together. We did try a wedding with Detroit and other domestic points back in the mid-'40's, when we tried to get Pan Am domestic routes. Mr. Trippe felt that Detroit should not be an island in the mid-West, but part of this great world, and, unfortunately, he was not able to persuade our masters in Washington that we should have those domestic routes along with the international.

But since '54 we have been serving this area, and introduced in 1960 the first jet service between Detroit and Europe. Now with Pan Am linking you with Europe, and with other lines linking you to the Far East, with the seaway linking you to all of the oceans, Detroit, still thought by some to be deep in America's heartland, is as international to us as a trading port as Singapore or Panama or even Hong Kong.

Now one key gap that we'd like to help you fill in your international transport system is to provide you with direct service to Latin America. We have applied to the Civil Aeronautics Board and our other regulators in Washington to give direct service to Detroit to the Caribbean and South America with through plane service and with nonstop service.

When you look at the map of the world, as an airman does, you see that this is one gap in your entry into the whole world. It would give you much greater choice of flights, and we really think the present two-carrier service between Detroit and Latin America is inadequate as well as inconvenient.

This new airplane we've all been reading about is another gift that we would like to bring to this great area. 362 fellow passengers isn't as bad as you might think. In fact, our early experience has been that people get along quite well. In fact, the biggest problem we've had in the last six days where we've been scheduled flying between New York and London, is that with the two aisles up and down the airplane and with 360 people on board, the moment the seat belt sign goes off, instead of tightening up, people jump up and start walking around the airplane.

Now there's no difficulty about it tipping over or going into a dive or a climb. The problem is traffic control. Think of that—to make traffic congestion airborne; that's quite an achievement, within the airplane. In any case, we have had a few minor problems, some delays due, I think, to what might be called super-precaution, but for the last two days and nights, we've been right on schedule with good loads between New York and London and with five of these giants at $23 million each you can see that we've got a number of Imperials to market. I hope the inventory doesn't build up.

We wanted to bring this beautiful bird in to the land of automation, and we've tried twice, but two snow storms made it rather difficult. In one case, we were concerned lest this airplane come in and have either freezing rain or slush freeze on the control services. As you know, before an airliner takes off a man goes up in a crane and sprays a kind of antifreeze or ice dilutant. And even as well equipped as Jim Davies has this airport, they had a little problem in assuring us that they could spray the tail feathers of this great bird enough to unfreeze it.

You see, the tail six stories high, and even your airport doesn't have a sprayer six stories high. So, we decided not to take the chance of bringing it in to demonstrate it to you for fear that our first 747 at Detroit might stand as a monument to the future of air transportation until sometime later in the spring when it thawed out.

I think we in the transportation business are a little bit more maligned at times than we deserve. It is easy to forget and take the automobile and the airplane for granted. But when you go back and look at the change in man's mobility and the structure of today's society, you realize what kind of contribution wheels and wings have made. There are those who would argue that there should be a certain kind of monument for the automobile industry; some would urge a noble kind of monument, others would echo Elliot's observation which was that their only monument should be "the asphalt road and a thousand lost golf balls."

We don't agree with that, but I think an article recently is of importance to us, who visit Detroit rather than live here. The paper said that Detroit had discovered a new word—environment. Today, that word is bigger in the motive city than such old standbys as "horsepower" or "all new" or even "profits." In virtually every major speech to any group, environment is a major topic.

Well, when I read that I naturally threw away the original speech which dealt with high finance, the future of the universe and Pan American World Airways. Courtesy, after all, demanded that I adhere to your current local traditions. And I won't shirk the argument about which kind of award we get in the transportation industry, but before addressing myself to that, I think we can look at some positive contributions that we've made and be proud of them.

The automobile and aviation industries are relatively new. Both have aimed at the mass market. Both have changed the quality of life, not by selling hardware but by merchandising mobility. In fact, we're really merchants of mobility by offering man more dominion over time and space; by translating the expression "expanding his horizons" from poetry to hard fact; by holding out a whole new range of aspirations and by adding a whole new dimension to man's life and outlook.

The automobile liberated man from the cloister of his neighborhood and made him a citizen of his country. The airplane has made him a citizen of the world. Our industries have grown along with the population, and, more important, along with its growing aspirations. But the effects of this industrial growth overflow the immediate society that produces it. Michigan earns $3½ billion a year selling its products to foreign countries and buys $2½ billion worth of goods from overseas. And, if this were a nation instead of a state, it would rank as the eleventh richest country in the world on the basis of GNP.

And one reason Michigan enjoys such success is because you can get your products to those faraway markets, and that's where we come in. The jet, you know, because it carries so much more weight than the propeller plane, has been responsible for a tremendous increase in marketing of automobiles and spare parts abroad; whereas the propeller's ideal cargo was ping-bong balls, a jet's is ball bearings. And, as you will recall, our major problem in selling cars abroad was providing spare parts quickly. The jets enabled you to fly spares anywhere in the world in a day, and elimianted the exorbitant alternative of warehousing huge inventories of obsolescent parts in distant places.

And, today, auto parts constitute one of the foremost items of air cargo, not to forget full diesel power plants. Now these exported cars and trucks and machinery return benefits not only to the workers who construct them but they contribute favorably to our balance of payments; they bring a higher standard of life to those on the other end who receive them. And, they set an example for your competitors abroad as well to get in on the market.

We have throughout the world millions of persons living in an environment of hunger, of disease, of primitive life, of ignorance—yes, of helplessness, but since we are a globally oriented people, and surely and provenly of humanitarian instinct, we have a responsibility to try to change these environments.

And I don't think we've been found wanting, in the broad sense of the word. A great deal has been spoken about the need to produce food for the burgeoning population of the world, but relatively little has been said about how to get it to them. Biafra has dramatized that once again. Chances are, over the long term, food as well as medicines will fly to underprivileged areas on jets of our great international carriers, and to get to their ultimate destinations on trucks built in Detroit, over roads built with American-made machinery.

I think our mobility has created the best informed public in the world. A tourist is not unusual who has seen far more of the world than Alexander the Great who wept that there was no more of it left for him to conquer, you'll remember; nor is this casual tourism merely frivolous. You will recall that barbarian was the word for foreigner through the Golden Age of Greece, the Roman Empire, in fact, right up to the Medieval Ages. A foreigner, anybody who spoke a different language, dressed differently, had different habits and manners, in a word, anybody you didn't know very well was automatically a barbarian.

Well, the more we travel, the more we discover that strangers are not barbarians after all, and hopefully, they discover that we have some qualities to recommend us. You might say that mobility has had a marvelous way of civilizing people we thought of as barbarians. Certainly widespread travel has displaced vast reservoirs of ignorance and hostility with a measure of understanding and friendship, and this is important to the environment and the global community.

In dedicating the 747 a few days ago in Washington, I suggested to our First Lady that what we're really dedicating is a new era of man's hospitality to man. And, I think that's really within reach, and it may be as important as the negotiations to limit armaments to expand this hospitality, as I see here today, with representatives of various other cultures and other nations who are with you.

Of course, this mobility has enhanced or even led to things like the four-day work week which I doubt that many of those at the head table are as anxious to see arrive as we are. We'd like a four-day work week for all of our customers, but not for our own employees. Although in a recent negotiation, the head of the union did argue that we should be for a four-day week because then all of our employees could travel a great deal more on our airlines. And I had to nod and smile without agreeing.

These longer vacations, the highly publicized problem of how to spend all this leisure time that mechanization will thrust on us, are parts of this pattern of mobility. And I guess I can't really speak with a lot of authority on this latter point, because right now at Pan Am this long vacation is not approaching the crisis stage as one of our problems.

The positive impact of mobility on our global environment is there. Up over the skating rink at Rockefeller Center, is a magnificent statue of Prometheus, a god of Greek mythology, doing his thing. And the thing Prometheus is remembered for, you will recall, is stealing fire from the sun and presenting it to mankind. Now that statue, most of you have seen it, shows Prometheus, all golden and glorious in the sunlight, racing, fire in hand, toward Radio City Music Hall.

And it doesn't show what happened after he gave mankind this invaluable gift. Zeus, the father of the gods, as you may recall, was enraged about this, and took revenge on both Prometheus and mankind for trying to improve what we now call the quality of life. He sent mankind a woman of stunning beauty, but with an unfortunate curiosity about trunks. You remember Pandora. And, as for Prometheus, Zeus chained him up with a hungry vulture to gnaw on his liver.

And I'm sure all of us take solace that this is only a myth—that people today who try to make life more comfortable and rewarding, no longer have to worry about their livers. Although the legend doesn't record it, I'll wager that soon after making mankind the gift of light and warmth, man started complaining about smoke getting in their eyes.

It's pointless to deny that we have a problem of environment today. Of course we have; in fact, it is a far more pervasive problem than most of its advocates indicated as a global problem. It may appear that by enumerating the contributions that our transportation system has made to our global environment, I'm laying the foundation for a counter-assault from the conservationists, who tend to suggest that it may harm our environment. I'm not, believe it or not. I love trees, except possibly for one at the dogleg on the eighth fairway of a certain golf course.

But let's forget that for a moment. I think it's fair to say that we can no longer take grass, birds, fish, and wild life for granted in general. But to say that public service organizations whose very livelihood is dependent upon the patronage of shippers and passengers, don't care, is quite another thing. We in the airlines are, I guess you might say, among the world's most experienced conservationists. We conserve time and life; we conserve comfort and energy; and we are in sympathy with the objectives of all the other conservationists.

And if I were not, my good friend, ardent conservationist and member of our Board of Directors, Charles Lindbergh, would be prompt to straighten me out—I'll tell you that. No, the reason I've described at length what these vehicles have done to improve the global human environment is to put in perspective the problem that confronts us today.

The same jet, that accomplishes all these wonders I've been describing also contributes to air and noise pollution, and requires more room to operate both on the ground and in the air, and more support facilities from the community. All these needs have an impact on the immediate environment at every major airport at a time when people are becoming extremely concerned about the preservation of nature. The question is: what do we do about it?

I think we first have to look at the dual pollution of sound and smoke. You might say that these were the price we had to pay for the new world the jets brought to our doors. But, as with all new products, prices at first are high—even the social price. But after they enter mass productoin, and undergo forced improvements and refinement, the price generally comes down. And, so it is with the jets in terms of smoke and sound.

At its worst, the jet engine produced only a small proportion of the smoke that pollutes our cities' air. Less than one per cent. But even this small amount demanded action. If only because it not only indicated a loss of efficiency in the engine, but a social cost that had to be reduced. So, for example, Pratt and Whitney developed for the 747 the newest, biggest and finest in the family of jet engines to produce 45,000 lbs. of thrust—more than twice its father's weight in the jet field. It's about equal to the energy of 900 Chryslers, and can burn fuel so thoroughly and efficiently that it produces no smoke discernible to the casual observer. So these planes of the future will be all but smoke-free. Moreover, the industry has undertaken a program of modifying and improving earlier generations of jet engines, to eliminate smoke to the maximum extent possible, and to have this done within 3 years, at a cost to the industry that may run as high as 30 million dollars.

These are some of the things that we are doing, and doing it because it will appeal to our public and is in the interest of the public. For you nonsmokers, we are also concerned about the conservation of your breath, and we are going to designate a section in this large new airplane that will be available just for smokers. Now, we can't guarantee that no one else will smoke in the airplane. But for those who don't like to sit next to a cigar, this will be a break.

Now as for the sound of the jet, we never expect a silent engine. We have developed sound suppressors for the 707 engines that reduced their noise well below that of a bus accelerating on the street corner, and even our severest critics have judged the 747 engines quiter on takeoff and landing than the 707s and 727s. In fact, never in the history of transport has so much money been spent on sound and smoke suppression as in the development of the supersonic transport and the superjet 747 within the last five years.

The miracle is, and for your automotive engineers and electronics experts and other technical men, it is a tour de force in technology, that this Boeing-Pan Am 747 which is three times as large, and three times as productive, is quieter and cleaner than its 10 year older brother, the 707, and much quieter and cleaner than its 727 cousin.

However, we have much more demanding challenges. Our grand objective must be to expand our capacity to give our proliferating society the local and the global mobility that it needs and has come to expect, without encroaching on our natural resources. The airport, properly planned, must offer a comprehensive solution to many of the problems facing the airlines. Looking at the land used by our airports, looking at the problem of pollution and congestion and organization, and looking at the requirements of today's society, what new concepts could we develop if we were able to plan the ideal airport of the future?

An airport can be beautiful, but how? First, we would have to create a buffer zone around each airport so that no longer would the airport be allowed to attract residential neighbors—which it does—who then complain, which they do. Here Detroit has set an example. Jim Davies told me not long ago that back in the early 50s, a zone or buffer of a type was set up around the airport, and I think it's a great tribute to those political leaders who stood fast against the eager encroachers on that area.

Of course, the residents of the zone would by law be more or less sound proof, and the buffer zone would largely be utilized to accommodate industry, warehousing, trucks and related transportation enterprise. A second thing that we can do is use the areas adjacent to the airport for job training and for education, particularly, for technical training related to the growth of aviation and transportation.

Third, I think the airport could be a logical site for tree farming and for the building of landscaping capabilities. State or county forest reserves would be an economic asset, a scenic asset, and a contribution to noise abatement. Such forest reserves would also serve as the basis for recreational and conservation programs. There is no reason why most of the ground associated with an airport has to be a slum or desert. It can quite easily become a park land.

Fourth, the airports of the future could be a nest of recreational facilities. For an airport by definition requires vast spaces, but, by definition, the aircraft themselves use only that portion of the vast spaces devoted to runways and ramps. And the runways and the airport boundaries, therefore, in a sense protect all of these vast areas. Why shouldn't an airport include picnic grounds, riding trails, hiking paths, baseball diamonds, tennis courts, football fields, stables, swimming pools, skating rinks, golf courses? Or, if the area includes water, why not a marina? Why not? The answer is, only because we have not thought through the use of airports for these purposes.

Fifth, an airport can serve as a conservation area. Conservationists and airport managers should realize that they are natural allies, and to use the biological term, they can develop binding, symbolic relationships. They could prove that ecology and technology can be balanced. Airports can be more than airports—they can serve conservation, recreation, training and industrial needs as well as transportation needs.

Under such circumstances, the community might change its airport image from menace to asset. And this has been done at Dulles, at Kuala Lampur, the new airport in Paris and the planned airport in Tokyo, so it is not a myth from an airline executive. I note with pleasure that Detroit's master plan for its Metropolitan Airport in the 70s incorporates a number of these concepts. The problem now is to loosen up the funds to match the vision of its planners in this age of rocketing interest rates and tight money.

Finally, I'd like to make a plea to the leaders of our great automotive industry, who have produced buses, taxis, limousines, and private cars in such magnificent volume. Please go to work on systems of airport access for the soaring 70s. The current combination of freeway, cloverleaf and parking lot will not be good enough—in my judgment—even when they are double-decked and triple-decked.

Yes, Cleveland is to be credited for having in operation its rapid train from city center to airport center, and it's quite a boon for the traveler. Dulles has its great mobile lounges, developed by Chrysler and Budd. It has an 18-mile-single-purpose road,

limited to airport access only. Tokyo has its monorail. But, and this will remain true unless you, or Disney, does something about it—there is not yet available a system engineered high speed, safe and economical public method for getting hundreds of millions of people from the door of their home or office to the door of the airplane.

I think on a systems approach that Detroit is worthy of this challenge. The demand is there and Detroit's been very good at meeting and generating demands, and I think the demand will treble round the world by 1980, when close to ¾ of a billion people will be going to and from airports in the 125 nations of the world. Of course, it takes ingenuity as well as funds to exploit the life enhancing forces of our technology. There's no denying that we are faced with a sociological challenge quite as formidable as the technical one of exploring the outer reaches of the universe.

In closing, may I urge that we all try to reframe our perspective, to keep the ultimate objective of our efforts—people, their safety, their comfort, their economy—in the forefront of our attention. And may I urge that we strive to communicate this sense of values, this sense of global environment, to the critical idealists of the next generation, who will succeed us. Who knows? Each of us may discover that the other is not such a barbarian after all. Thank you.

AMERICA IN THE 1970'S

Mr. HARRIS. Mr. President, I invite the attention of the Senate to a crucially important set of recommendations for an agenda of national priorities which was adopted yesterday by the Democratic Policy Council. The council, a constituent agency of the Democratic National Committee, is a principal forum through which the National Democratic Party determines and publicizes its views on major questions facing the Nation. Former Vice President Hubert H. Humphrey serves as council chairman and Senator MUSKIE and I serve as vice chairmen.

The council forcefully stated its views on a number of issues which concern the Senate and trouble every American.

I am grateful for the effort put in on this important statement by members of the Democratic Policy Council and by its six committees.

I believe that what they have to say will be useful in helping move this Nation in the right direction. I ask unanimous consent that it be printed in the RECORD.

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

[Report of the Democratic Policy Council, Feb. 9, 1970]

AMERICA IN THE 1970'S

We, the members of the Democratic Policy Council, set forth in this first statement of policy our principal beliefs and hopes about the paths this nation should follow in the decade of the 1970's.

We believe the American people are capable of facing America's problems for what they are. We believe they are willing to initiate and sustain tangible efforts to meet these problems. We do not believe they will long be content with a national administration lacking any deep inner convictions about ourselves and our world . . . a national administration highly skilled in public relations and television packaging, but demonstrably unwilling to come to grips with the necessities of the 1970's.

Our people are threatened by the prospect of an inflationary economy headed simultaneously toward recession. Rising prices are a cruel tax on the poor, the retired, on every owner of insurance policies, every contributor to a retirement system.

The strength of our economy, as our resources of human life and spirit, is drained by a war which has been prolonged unnecessarily.

Our humanity is assaulted by inadequate schools, by the crushing costs of available health care, by racial injustice and unequal opportunity, by a crisis in housing and transportation, by the foul air and water which pollute our environment, and by a rising rate of crime.

Our initial doubt about the Republican Administration's capacity to tackle these problems was changed to certainty when, in the same week, President Nixon vetoed as inflationary legislation providing an extra $1.2 billion for education and health and then announced a new multi-billion dollar spiral in the nuclear arms race.

We believe the American people deserve better from their national leaders.

In the months ahead the Democratic Policy Council and its committees will speak to these problems . . . specifically and in detail. Some of what we say here today is general—for in certain areas we have yet to find solutions equal to the problems which confront us. Some of what we say is tentative—for in examining these problems we expect to learn much. But this document does express our deepest convictions about the purposes and goals which should characterize our national life in this decade of challenge and promise.

We offer these ideas and positions to the American people. And we challenge the Republican Administration to respond.

I

It is widely recognized that in this decade we must devote our greatest energies to securing the decisive shift of resources—human and natural—from pursuits which cripple or destroy man's capacity for life, liberty and happiness to those which enhance these qualities. Too often, however, such recognition is not accompanied by the realization that this task will require difficult and courageous political judgments.

Just to fulfill the nation's *existing* commitments to its citizens may require placing additional burdens on the American people. It may require further redistribution of our wealth and redirection of our human energies. It will require the elimination of obsolete Federal programs and subsidies that have long since lost their original purpose. It may require restructuring of our instruments of government. As a beginning it is essential to commit the billions now spent on Viet Nam to help solve our pressing domestic problems.

It is the Congress to which the American people must increasingly look for leadership in determining our national priorities and committing the resources—human and financial—to meet our urgent domestic needs. An initial step in any such determination is the creation of a Joint Congressional Committee on National Priorities.

These are but a *few examples* of the commitments which Congress already has made the law of the land:

The Housing Act of 1949 declared that the "general welfare and security of the nation require . . . a decent home and suitable living environment for every American family . . .".

In the 1968 Housing and Urban Development Act, the Congress recognized that for twenty years the promise had not been kept, noted the failure as "a matter of grave national concern" and rededicated itself to "the elimination of all substandard housing in a decade."

—In the 1966 Model Cities legislation, Congress declared that "improving the quality of urban life is the most critical problem facing the United States . . .".

The Economic Opportunity Act of 1964 declared it "the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this nation by opening to everyone the opportunity for education and training, the opportunity to work and the opportunity to live in decency and dignity."

The Elementary and Secondary Education Act of 1965 made it the policy of the United States "to provide financial assistance . . . to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational program. . . ."

To date these commitments remain unfulfilled and either ignored or underfunded by the Republican Administration.

Simply to ignore these acts of Congress and the national goals established by these acts is not acceptable; we must move decisively to accomplish them. But we must look simultaneously at other pressing needs:

Crime

The Republican Administration has talked a great deal about stopping crime. But the crime rate has continued to rise; indeed, crime increased by 11 percent nationwide in 1969. In the face of these facts, however, the Republicans have asked for only $480 million to implement the Safe Streets Act of 1968 in comparison to the $1 billion that was forecast for 1971 by the previous Democratic Administration. Effective use should be made of all of the resources that can be made available through this legislation.

Today in the United States we have no *system* for the enforcement of our criminal laws. We have instead only a faltering, inefficient process—police, courts, corrections—consisting of an amalgamation of fragmented and often hostile agencies. There are serious deficiencies in every part of this process, and as a whole it is not preserving order and keeping our people safe from the threat of crime.

Each year there are more than nine million serious crimes committed in the United States. Only half of these are even reported to the police. The police arrest a suspect in only one-eighth of the crimes committed and in only one-sixteenth is there a conviction obtained. The law enforcement process, as it presently operates, is not doing the job on crime that must be done, and it will never do the job unless we face up to the need for basic improvements in levels of funding and in management techniques.

We must swiftly and substantially increase the resources devoted to law enforcement and the administration of justice.

Federal, State and local authorities must work together to create central offices of criminal justice at the metropolitan level to make all parts of the law enforcement process—police, courts, corrections—function together as a fair, effective system.

Beyond this, however, we need major efforts in several areas almost totally overlooked by the Republicans: strict gun control legislation, prevention of juvenile delinquency and rehabilitation of young offenders before they become hardened criminals; rehabilitation of drug addicts; the reform of our court system to eliminate delays in the administration of justice and the reform of our correctional institutions to include greater stress on community-based rehabilitation.

Seventy percent of all crimes are committed by repeat offenders. In other words, to achieve real resutls in the war-on-crime, it is essential to provide the facilities and expert personal care to help stop persons convicted of one crime from committing another.

Education

Improving education and making it freely available to all our people is the surest way to break the cycles of poverty, crime, welfare, and blighted opportunity that prevent us from fulfilling our national destiny. Yet we have only begun to make the major commit-

ment of resources, time and talent needed to secure this urgent priority. Existing programs, including the landmark Elementary and Secondary Education and Higher Education Acts, remain underfunded; there is almost no support from the federal government for research into new educational techniques; and we need to make greater efforts in areas of pre-school education, child development, facilities and methods for teaching disadvantaged children and further education for adult Americans. Education must never be starved of funds or sacrified for less essential needs. It must receive our continuing attention, commitment, and support.

Cities

The urban crisis was a prominent feature of the political landscape of the 1960's, but the Republican Administration already seems bent upon having us forget it in the 1970's. Despite the importance of national action to save our environment, this effort cannot become an excuse or rationale for diverting our attention and vital resources from the increasingly serious plight of American cities. The Eisenhower Commission has called for vast new expenditures on domestic needs, underscoring the earlier conclusions of the Kerner and Douglas Commissions about the urgency and dimension of the task of reconstructing urban life.

Above all, however, the effort to rescue our metropolitan areas requires a political decision, supported by all the American people. This, in turn, will require committed and articulate political leadership which calls upon our nation to make the sacrifices now that are essential if we are to insure the survival and development of urban America.

Medical care

Sharply rising medical costs and the lack of adequate health care for millions of Americans demand far better use of existing medical facilities, and their expansion to meet the growing needs of the 1970's. We must explore ways for all Americans to be insured against grave financial loss through illness and to have full access to preventive care facilities. The time has come to look particularly at ways for the federal government to help establish and support national programs of health insurance, in the private market where possible but through public action where necessary. The time has also come to correct immediately the outrageous abuses of Medicare and Medicaid as revealed by the Senate Finance Committee staff yesterday.

Welfare

Last year, the Republican Administration proposed a family assistance program that would begin reform of the present welfare system and provide a federal minimum payment of $1600 for a family of four whose income was under $1000. Although the Republican program contains some good elements, we should explore other proposals that would remedy shortcomings in the Administration's bill.

We need, for example, to implement the broader proposals of the Heineman Commission on Income Maintenance appointed by President Johnson and to increase the minimum payments to a figure that makes it possible for a family of four to survive in today's economy; achieved in stages this would bring each family's income to the federally-defined poverty line of $3600 a year. And we should look for ways to relieve the already overburdened budgets of states and localities.

Other needs claim our attention and action:

Workable mass transportation systems to eliminate the daily worsening traffic congestion of the highways in our metropolitan centers;

A total commitment by the federal government to eliminate hunger and malnutrition in this richest of nations;

A program for rural America which concentrates on development of rural communities and their human and material resources; which helps to relieve the already overcrowded urban centers; which more fairly compensates efficient producers of agricultural commodities while reducing gross overpayments to a handful of absentee, off-the-land farm "manufacturers."

Where will we find the resources to meet these commitments and solve these problems?

First, we must insure that no favored interest group evades its obligation to contribute to the public sector. We must continue the fight to close tax loopholes which benefit a few politically powerful groups to the detriment of our society as a whole. Progress was made in 1969 by the Democratic Congress, but more must be done.

Second, we must make a serious and determined effort to reduce our military budget to the lowest level consistent with realistic national security objectives. We welcome the cuts announced on the Pentagon budget for fiscal 1971, even though the Administration's refusal to release figures on expenditures related to the Vietnam war makes it difficult to assess the nature and extent of the military reductions which have been proposed. But we are distressed to learn of the Administration's decision to return initial responsibility for military budgeting to the Armed Services instead of leaving it in civilian hands; allocation of Defense dollars should not be determined through logrolling by competing services, but by people aware of and responsible for competing domestic needs of our society.

We know, for example, that the number of major new weapons systems initiated in the past year has been unusually large; when added to weapons programs previously under way, the cost-to-completion of 131 major systems has risen to over $140 billion, even if no further cost overruns occur.

We must understand that small initial down payments on major weapons systems can have enormous impact on future budgets, depriving the American people of urgently needed funds for schools, hospitals, clean air and water, and more livable cities and rural areas.

The Policy Council's Truth-in-Budgeting Task Force will soon release a more detailed report on the Republican Administration's budget for fiscal 1971.

Third, we must pursue responsible fiscal and monetary policies to insure real growth in our economy so that under existing tax rates, there will be substantial additional revenues for our public needs. Inflation must not continue to rob the poor, the retired, the small businessman, those on fixed incomes and so grievously inhibit our ability to meet our national needs.

Finally, we must face the difficult question and be prepared, if necessary, for the possibility that along with tax reform and Pentagon budget reductions we will have to make selective increases in tax rates so that those able to contribute most readily to the public weal will do so in true proportion to their ability.

This nation has the greatest per capita income of any nation in the world, but our citizens contribute less per capita than those in most industrialized, Western nations.

In sum, a decisive shift of resources will not be achieved with rhetoric or short-term budgetary gimmickry. It will take hold and imaginative commitments of resources and talents, worthy of a great and dedicated people. We have faith that given proper leadership, America will take these essential steps in the decade ahead.

II

Despite the Administration's claims of progress, Vietnam remains our most urgent overseas problem and our most divisive and bitter domestic one. Our national interests require that the war in Vietnam be brought to a close at the earliest practical moment. The loss of life, the diversion of resources from critical domestic needs, and the disunity of our country must be ended.

The withdrawal of some U.S. troops is a desirable first step and we support this decision. But future U.S. decisions, affecting American lives and resources, should not be dependent upon either North Vietnamese or South Vietnamese actions. Our schedule of withdrawal should not be dependent upon the progress of the Paris peace talks, the level of violence, or the progress of so-called Vietnamization. It should depend primarily upon the interests and policy of the United States. That interest and that policy require a firm and unequivocal commitment to the American people that all U.S. forces will be withdrawn from Vietnam in accordance with a definite schedule. We see no reason why this withdrawal should not be completed within eighteen months. Such a withdrawal can be accelerated by efforts to create the conditions necessary for a peaceful political settlement.

The resolution of the Vietnam tragedy cannot be found in military measures alone—whether those of the United States or, through Vietnamization, those of South Vietnam. It can be found in political arrangements which broaden the South Vietnamese government to the point where it is truly representative of the people. Our continued unconditional support of the Thieu government as now constituted is not only unjustifiable but delusive. The U.S. should be interested in putting an end to violence in Vietnam, not prolonging it. And so long as the present government of Vietnam believes that it can count on U.S. military support for an indefinite period, we believe it will not take or permit others to take the domestic poltical measures in South Vietnam which are essential to peace.

There are, as well, unanswered questions regarding negotiations. It is puzzling that President Nixon stated in his November 3rd address that Ho Chi Minh's letter to him "flatly rejects" his approach. We had been faced with a North Vietnamese demand that a settlement "must be . . . in accordance with the NLF program." But Ho Chi Minh's letter stated, "The ten point program . . . is *a* logical and reasonable basis for settlement . . .". Furthermore, his letter ended by stating, "With good will on both sides we might arrive at common efforts in view of finding a correct solution to the Vietnam problem." Was this a rejection, or, in fact, an invitation for further negotiation?

By failing to appoint a successor to Ambassador Lodge, the Administration has created the widespread impression that it has downgraded the Paris talks and "written off" negotiations. We believe that the President should immediately appoint a high level negotiator to head the Paris delegation and thus put pressure on the North Vietnamese to negotiate in good faith. Among the subjects that should be pressed are steps to reduce the level of combat and violence, leading to a ceasefire.

President Thieu has denounced and taken action against Vietnamese political leaders who have urged a negotiated compromise settlement. Yet there is evidence that a majority of the South Vietnamese desire such a settlement. Even in the 1967 elections, over sixty percent of the people voted for civilian candidates who ran on some type of peace platform. We believe the United States should now insist on the inclusion in the Saigon government of men who represent wider pub-

lic opinion desiring a peaceful solution and who are prepared to negotiate such a settlement.

Furthermore, the United Nations should be used to the fullest extent practicable to speed a resolution of the struggle in Vietnam.

The Administration's failure to develop viable U.S. policies in other areas of the world is deeply disturbing.

Almost the only "new" policy of this Administration has been the so-called Guam or Nixon Doctrine. At first this appeared to mean that we would keep existing commit ments in Asia but not expand them and that coping with subversion must be the responsibility basically of the nation threatened. Yet the policy has now become an accordion, contracted at home, expanded when the President or Vice President travel. President Nixon volunteered in Bangkok to stand with Thailand against threats "from abroad and from within," and Vice President Agnew spoke in Singapore of a "definite relationship" where there has been no commitment in the past. In addition, the President implied but did not define an American nuclear umbrella over Asia. Finally, the President's State of the Union message seemed to apply the doctrine to the whole world, and without distinction. This may or may not be "policy," but it represents neither clarity nor a willingness to level with the American people.

We welcome the resumption of American-Chinese discussions in Warsaw and the initiatives toward relaxation of barriers to commerce and travel between the United States and China. We urge that consideration be given to further steps which will bring China into wider contact with the community of nations and encourage the end of her isolation.

We support the growing economic and social role being played in Asia by Japan. We should encourage the trend toward regional cooperation among Asian nations.

The objective of U.S. policy in the Middle East is lasting peace between the Arab nations and Israel—a peace that will assure independence and security to Israel and all other nations in the area. Today we are further away from that goal than we were 14 months ago.

As a matter of primary importance, the United States should undertake efforts to bring about face-to-face negotiations between the parties in the Arab-Israeli conflict, including efforts under the auspices of the United Nations. We should also press for restoration of complete compliance with the cease-fire. It is regrettable that the quiet statesmanship of the past has given way at times to public declarations by Administration spokesmen.

In the meantime, the Middle East arms race continues at an accelerated rate, spurred by increased shipments of arms to the Arabs from the Soviet Union and the recent French sale of advanced aircraft to Libya. The United States should make every effort to reduce the flow of arms into the area and press for Middle East arms limitation arrangements.

However, pending such an arrangement, the United States must remain prepared to correct or prevent an arms imbalance which might either threaten Israel's existence or contribute to a resumption of major hostilities.

We believe the United States should welcome and support the new German government's initiatives for improving relations with the nations of Eastern Europe and with the Soviet Union. Furthermore, we believe that the proposed European Security Conference between the NATO and Warsaw Pact countries presents opportunities to reduce tensions in Europe now, and we are concerned by indications that the Administration considers that the conference should be postponed for at least a year. Rather than dragging our feet, we should assure our NATO allies that the United States is fully prepared to join in such a conference. Among the immediate issues should be the lessening of tensions in Europe and the mutual reduction of force levels. A Warsaw Pact—NATO agreement on balanced reductions in forces is the soundest way to reduce the number of American troops stationed in Europe.

Pending such an agreement, we call upon the Administration to obtain from our German and other allies in NATO an arrangement to take over some of the budgetary costs now carried by the American taxpayer.

In Latin America, this Administration has replaced the Alliance for Progress with a vacuum.

Governor Rockefeller's study trip of our already overstudied Hemisphere was completed months ago; the Latins presented their own joint proposals on U. S. policy to the President last year. Yet there has been no adequate Administration response. No policy on trade; no policy on aid—except to reduce it; no policy on inter-American reorganization; no policy on social and economic reform. Nothing to reflect a commitment to Latin America's drive for a better future.

However, there have been ample assurances that the political status quo will be respected; the Governor's embrace of Duvalier, and his advocacy of increased military aid, are only some notorious examples. Military governments and the erosion of individual liberty in Latin America seemingly are not matters of much concern to the Administration today.

This is not a policy to stir the hopes—and strengthen the commitment—of the democratic leadership in Latin America.

We must rededicate ourselves to the UN in order to insure that its role for peace—in mediation, conciliation, and in providing observers and peacekeeping forces—will be effective in those parts of the world in which the UN alone can act.

We should also look to the UN as an important forum for the control of the arms race, helping to bring more countries into the growing consensus against the use of nuclear and other weapons of mass destruction, through instruments such as the Non-Proliferation Treaty, and for the control of the population explosion which threatens the human environment of the rich nations and the very existence of the poor. Furthermore, its affiliated agencies can serve an expanding role in cooperative action for human progress and should have our enthusiastic support.

While economic progress is no guarantee of peace, we believe that economic development of the emerging nations can make an essential contribution to a peaceful world. The United States, together with the other industrialized nations, has a responsibility to increase and make more efficient its participation in development, particularly through multilateral organizations and through a liberalized trade policy.

The Committee on International Affairs is preparing detailed, policy papers which will examine and make recommendations in each of these critical areas.

III

The success of our efforts in the 1970's to use the resources of America wisely for the benefit of all depends on maintaining a strong and sound economy. Today, this goal is threatened by the cruel reality of inflation and the growing threat of recession.

Most Americans, particularly those of modest or fixed incomes, have suffered under the 6.1 percent rise of consumer prices which occurred in 1969. Sky-rocketing grocery bills and an enormous increase in the cost of basic health services bring home the fact that inflation has been more rapid in the last year than in any since 1951.

Interest rates, meanwhile, have soared to the highest levels in over a century, small business has been denied fair access to credit, and the housing industry has entered a full-fledged recession. The economy's expansion has come to a halt, and unemployment is a reality for a rising number of workers in major industries.

While some have benefited from sky-rocketing interest rates, strategic control of sources of credit, or the ability to push prices or income up faster than costs, most Americans have been caught up in a fruitless attempt to keep up with a spiral cost of living or of doing business, and many have suffered severe economic disability.

How has the Republican Administration brought us to this state of economic crisis?

The Republican Administration has failed to give us strong, balanced and affirmative leadership to deal effectively with our developing economic crisis. It has rejected a policy to give leadership to private price and wage decisions, and has even repeatedly advertised that it had no concern with such decisions. This announced renunciation of Presidential leadership told the responsible and the irresponsible that the sky was the limit. And the results were predictable: prices in those industries previously responsive to Democratic wage-price leadership rose an average of 6 percent in 1969, compared to the 1.7 percent annual increase that occurred in these industries from 1966–68.

However, the Administration has shown no interest in considering the use of credit control authority granted it by the Congress.

We can expect little relief until the Administration decides to stop fighting inflation with one hand tied behind its back.

There have been other failures. A year ago the Administration was unable for months to decide whether or not it favored extension of the income tax surcharge, or whether it wanted tax reform and, if so, what kind. More recently, it has been unable to make up its mind about monetary policy, standing helplessly by, alternately wringing and clapping its hands while interest rates have soared.

We have heard nothing more effective than a series of repeated hopes by the Administration—repeatedly disappointed—that its policies would soon bring a slowing down of inflation. Now we are told that this is all the fault of the Democrats and that the projected budgetary surplus for fiscal year 1971 will do the job. But the Administration forgets to tell the American people that this budget—if it does turn out to be balanced—will not be the *first* balanced budget in recent years, but the *third* in a row; and it is only the first for which the Republicans are fully responsible.

If a balanced budget, therefore, was the solution for all economic ills, then surely the inflation both of the cost of living and of interest rates, like the drying up of credit for housing and small business, would have long since begun to ease, and American workers would not now be fearing the loss of several million jobs from a potential recession.

We learned long ago that a balanced federal budget in itself is no panacea for a sound and balanced economy—yet this is all the Republicans have offered in the past year. A sophisticated economic policy adequate to the needs of the 1970's must have many concerns: among them, stable prices, jobs for all, reasonable interest rates, the fair availability of credit, adequate economic growth, and a sound dollar internationally. It must seek equity for all sectors of society—producers and consumers; small businessmen, farmers, homebuilders and homebuyers; workers, the self-employed, the unemployed, the unemployable and the retired; as well as big business and the banks. All these concerns cannot be met by the simple prescription of a balanced budget.

We are forced to this conclusion: the rhetoric of the Republican Administration's concern about inflation is directed at the

so-called silent majority. But the reality is that the Republican economic policy has endangered the economic welfare of the great majority of the American people. The history of Republican economics supports the fear that—as in 1954, 1957, and 1960—a Republican Administration may once more plunge us into recession. The American people are entitled to something better.

In the coming months, the Committee on Economic Affairs will release policy studies in the following areas and possibly others: economic goals for America; fiscal and monetary policies, and tools for their execution; inflation; tax structure; federal-state-local fiscal relationships; the concentration of economic power; and international trade and the balance of payments.

IV

We welcome the negotiations with the Soviet Union looking toward the limitation of offensive and defensive strategic nuclear weapons. This is a critical time. Both the United States and the Soviet Union are continuing to move forward in the arms race—moving in reaction to one another and in a direction which can only leave both nations less secure than they are today and with fewer resources to devote to domestic needs.

We are convinced that the national interest of both countries demands a stop in the "mad momentum" of the strategic armament race. A policy designed to bring about reciprocal restraint will create the most favorable conditions for bilateral agreement on arms limitations, without endangering our security through unilateral disarmament or indefinite unilateral postponement of strategic weapons programs. Some have argued that negotiations will succeed only if we achieve a position of increased strength. But this argument would distort the promise of disarmament talks into a rationale for continued escalation. It would be a tragic error to jeopardize the prospects for reducing the terrible risks and heavy costs of the arms race by precipitate decisions to proceed with new nuclear weapons not urgently needed for our national security.

Specifically, we question the need and the wisdom of going ahead now with a new manned strategic bomber and expanded plans for anti-ballistic missile defenses. In an abrupt change from last year's justification of the Safeguard system as necessary to protect our land based missiles and hence our second strike capability, the Administration now proposes an enlarged system which purportedly would protect our cities from a Communist Chinese nuclear threat which may exist a decade or more in the future.

Past experience surely demonstrates the futility of resting present security decisions primarily on speculation about the future. The risks of accelerated ABM deployment far outweigh the highly conjectural value of an anti-ballistic missile system using today's technology against the threats we may or may not face in the 1980's. We oppose further ABM deployment.

Expansion of the Safeguard system from missile defense to area defense will cast doubt on our intentions and seriously prejudice the prospects for the SALT talk. The underlying assumption of protracted Chinese hostility and irrationality can also preclude real progress in improving relationships between China and the United States. The nuclear striking force on which we rely to deter a major Soviet attack surely will deter the relatively insignificant nuclear strength attainable by China or any other power in the foreseeable future.

Moreover, steps should be taken now to bring about reciprocal restraint in testing and deploying new nuclear missiles with improved warheads, such as MIRV. Only by such steps can we keep open the option of negotiating an effective and verifiable agreement on nuclear arms control. This should be made the first order of business when the SALT talks reconvene in Vienna in April. In taking the initiative to stop atmospheric nuclear testing, President Kennedy advanced the cause of peace and our own security. The Soviets responded affirmatively to U.S. initiative and the Limited Nuclear Test Ban Treaty was agreed upon shortly thereafter. The United States should further seize the initiative and take another step toward a safer world by deferring MIRV testing and further deployment of offensive and defensive missile systems while calling on the Soviet Union for similar restraint.

We are concerned by the Administration's failure to relate the defense budget for fiscal year 1971 to probable threats to U.S. national security in the 1970's. No rhetoric about meeting our treaty commitments and promoting partnerships, while reducing our involvement and our overseas military presence, can substitute for detailed analysis of where and how our security may be threatened and what level and mix of military power is needed to deter or deal with those threats.

The Arms Control and Defense Policy Committee will shortly release a more detailed report on these and other matters, together with recommendations for further reforms of the selective service system.

V

Americans, living in a democratic society, have never wholly failed to ask: How can government at all levels serve all the people with greater justice and effectiveness?

In the decade of the 1970's, however, the American people will ask this question with greater urgency than at any other time in our history and they will expect answers.

They properly will expect just and effective government in the wealthiest, most powerful nation of the world. Such a nation, Americans will say, must have governments—federal, state and local—which can secure equality of opportunity for all citizens, move decisively against the tremendous human problems besetting our society, particularly in its urban areas, and preserve our national inheritance of liberty and individual initiative.

To secure these goals of just and effective government will demand more than rhetoric and reassurance. We need national leadership ready to give moral force and practical support to the law of the land, the law that says all children, black and white, rich and poor, are to learn and live together. We need national leadership ready to walk in dark urban ghettos and forgotten rural sprawls, ready to search them out, eliminate them and build in their place communities of dignity and opportunity.

Having been warned two years ago by the National Advisory Commission in Civil Disorders that "our nation is moving toward two societies, one black, one white—separate and unequal," we need national leadership that does not polarize opposites but that reconciles differences, one that helps heal the wounds of generations of oppression and inequality.

We are told to judge the Republican Administration on the basis of deeds. But it is the record of Republican deeds which concerns us:

The Administration's failure to support the extension of the Voting Rights Act of 1965 which had secured the most essential political right for more than 700,000 previously disfranchised blacks, despite considerable support for extending the law.

The nomination to the Supreme Court of two jurists, who, at best, have demonstrated no understanding of the nation's commitment to full racial justice;

The Administration's efforts to delay the process of school desegregation which had been promised an earlier generation of school children by the Supreme Court in 1954; and

The Administration's opposition to legislation strengthening the enforcement powers of the Equal Employment Opportunity Commission.

These acts by the Republican Administration have served to polarize the people of this country on the basis of race, and have understandably diminished the confidence of black citizens in the commitment of government to the achievement of equality for all citizens.

We believe that the Haynsworth and Carswell nominations to the Supreme Court should not have been made; and we urge the Senate to reject Judge Carswell as it did Judge Haynsworth.

We believe further, that this administration must state unequivocally where it stands on the question of the elimination of dual systems of education based on race.

The Committee on Democracy and Government is charged with developing the specific plans that, when implemented, will reestablish a relationship of trust and common purpose between the American people and government at all levels. In the 1970's this will require of *access, structure,* and governmental *effectiveness.*

We report periodically on these matters to the American people.

At this juncture, however, several specific directions have already become clear and demand comment now.

In a democracy, access to *government* can be no greater than access to the political process itself. For this reason, the 1970's must be a time of far-reaching reform of the American political system, including, among others:

The elimination of the vestiges of voting discrimination on the basis of race, a goal which can best be served at this time by reenacting and enforcing the Voting Rights Act of 1965;

The amendment of the Constitution of the United States to lower the voting age for all state and federal elections to eighteen;

The amendment of the Constitution to permit the direct election of the President and the Vice President of the United States;

The establishment of a Universal Voter Enrollment Plan to register all qualified voters through a government canvass of every election jurisdiction, as called for by the Democratic Party's Freedom-to-Vote Task Force under the chairmanship of former Attorney General Ramsey Clark;

The creation of a National Election holiday to permit everyone the opportunity to vote and a National Election Commission to keep an accurate and comprehensive current record of all election rules and results, a duty which no agency, public or private, now performs;

Procedures for permitting all citizens, regardless of where they happen to be on election day, to vote through a simplified process for casting and verifying ballots; and

Some system of public support to alleviate the growing financial burdens of running for political office—whether by tax credits, public subsidies, donations of time or services, including television time—thus allowing poor and middle-income citizens, as well as the rich, to represent their country in public office.

The benefits of full participation and access to the political process can be thwarted nevertheless by an outmoded governmental structure incapable of dealing with the complex demands of contemporary society and the economy.

For this reason the federal government must offer the states and localities powerful incentives to redesign the fragmented, unresponsive, underfinanced structure of local government itself is an evolutionary process toward governmental units that encompass metropolitan areas capable of deal-

ing with metropolitan-wide problems. At the same time we must also give attention to developing a lower tier of neighborhood political units, "little city halls," to which appropriate municipal offices and services would be decentralized, and through which elected representatives of the neighborhood would exercise authority over the provision of neighborhood services.

Increased effectiveness of government will require numerous reforms in the 1970's. There are few things more destructive of effective government action than the overlapping and confusion of administration of domestic programs. The executive branch urgently requires the decision-making and command mechanism that would be provided by a National Domestic Policy Council. Such an instrumentality would serve not only to increase effectiveness within the federal bureaucracy but also to carry forward the equally vital task of developing more efficient delivery systems of federally-supported services.

To assist in making these decisions, the executive should have the information and guidance flowing from a system of social indicators—measures of factors such as reduction of racism, and educational and health deficiencies—prepared and evaluated by a Council of Social Advisors, analogous to the annual Economic Report prepared by the Council of Economic Advisors.

In our quest for the good life we have put enormous pressures on our natural resources, disrupted delicate biological balances, fouled our cities and the countryside, and endangered our lives and the planet. Our challenge is to restore a balance between man and his environment and to make life more meaningful and attractive in the largest cities and in the smallest towns.

Consider these facts:

Almost every American lake, stream or river is now blighted by pollution.

As a nation, we discard yearly more than 195 million tons of solid waste, and industrial smokestacks spew over 175 thousand tons of noxious fumes into the air.

The exhaust pipes of 85 million cars create more than 60 percent of the air pollution that blankets major cities.

Thoughtful and respected scientists have warned that unless the tempo of ravaging our national environment is checked, life itself may hang in delicate balance by the year 2000.

This problem touches everyone—the poor, the middle class, the wealthy. Not only is it an urban phenomenon but the forces of blight threaten life in rural America as well.

Now, our goal for all citizens must be a safe and sane environment for man—the right to clean air, to clear waters, to open spaces and to a beautiful America—not a bulldozed America.

We have made a small and modest beginning. The apathy of the 1950's turned to awareness and action in the 1960's. Through Democratic leadership, a nation's commitment was embodied in such landmark legislation as:

The Clean Air Act of 1963;

The Clean Air and Solid Waste Disposal Acts of 1965;

The Clean Rivers Act of 1966;

The Water Resources Planning Act of 1966;

The Air Quality Act of 1967; and

The National Environmental Policy Act of 1969.

We welcome the President's expressed concern with the problems of the environment. Now we must hope that this concern will be translated into a serious and sustained commitment to attack these problems.

The time has passed for rhetorical pronouncements or admonitions. Nor is this the time to call for a "do it yourself" environmental clean-up program. The central and irreducible fact is that the federal government must assume major responsibility and assert national leadership in this effort.

We must demand more than sleight-of-hand financing and the mere reshuffling of governmental bureaus and agencies. Indeed, we must be acutely aware of the danger of superficial reforms that divert the growing public support for far-reaching and effective action.

There must be no misunderstandings—a serious and sustained effort to achieve, and then to maintain, a quality environment for Americans is an undertaking of major proportions. It will require significant readjustments in our national priorities. It will entail the examination and possibly the rejection of certain national beliefs and practices. It will involve greater citizen participation. But, most importantly, it will demand new governmental tools at all levels and the enormous commitment of public resources.

President Nixon devoted much of his State of the Union message to the environmental crisis. He committed his Administration to this battle, but regretfully his budget does not square with the promise to propose "the most comprehensive and costly program in this field in America's history." In fact, his budget represents for many programs a retreat from the goals already set by Congress and for others no more than a commitment to achieve existing levels. And deeds, not words, will be the ultimate measure of this Administration's commitment.

Pollution takes its greatest toll among those who live in the urban environment. Americans who live in the central cities should not be asked to put up with uncollected garbage, crippling poisons in the air, rivers which are fire hazards, contaminated water supplies, or relentless urban noise. These Americans who have been forgotten in the past must not be forgotten now in this battle to reclaim our environment.

We suggest a program of action—action that is urgently required.

An appropriations request for the full $1.25 billion authorized for expenditure in fiscal 1971 for grants for water pollution control.

A program for continued and greatly expanded assistance to municipalities for the construction of waste treatment facilities after 1971.

Stricter and more rapid enforcement of both air and water pollution control standards, and greater public participation through the commencement of class actions against violators of the standards.

A requirement that all existing factories will have the best available anti-pollution equipment and technology installed and applied as quickly as possible.

A requirement that places the burden of proof on proposed industries, before they are built, that they will not add to air or water pollution.

Accelerated research to develop exhaust-free motor vehicles.

Development of state-wide air pollution control programs so that no polluters can evade or escape control and compliance schedules, with stand-by authority in the Federal government to act if the states do not.

The development of rational systems of user charges that place the burden of the cost of cleaning up public waterways upon those who are the source of the pollution.

Greatly increased Federal outlays for research and development in all areas of environmental control.

Adequate funding for acquisition of lands for park and open space needs but in a manner designed to avoid speculation and excessive land payments.

Strong Federal strip mine control and land reclamation laws.

A new program for noise polution abatement and control.

The complete elimination of harmful environmental contaminants and pesticides.

A national policy and plan for growth, population distribution and land use.

Development of a major Federal environmental education program.

Development of new methods to cope with the problems of solid waste disposal.

Strong regulations promptly implemented against pollution by Federal installations.

The decade of the 1970's will be equally decisive in our efforts to protect the American consumer. Under the leadership of Presidents Kennedy and Johnson, the Democratic Party has:

The National Motor Vehicle and Traffic Safety Act of 1966;

The Child Protection Act of 1966;

The Wholesome Meat Act of 1967;

The Wholesome Poultry Products Act of 1968; and

The Truth-in-Lending Act of 1968.

Experience has shown that much of the consumer legislation of the 1960's needs strengthening. Beyond this, however, the 1970's must be a time of expanding the consumer's right to choose and his right to be heard. And, as in the case of environmental policy, we must be particularly alert in the 1970's to the dangers of consumer proposals which offer only paper rights and fake reform—a highly sophisticated brand of mislabeling and deceptive packaging.

In this spirit of vigilant action, we advocate this program:

A consumer protection agency, one vested with independence, power and authority, to consolidate the scattered consumer research and investigative activities of the federal government and mechanisms outside the government to help the consumer achieve satisfaction in the market place, such as the Consumer Action Plan recently announced by the Democratic National Committee;

A freedom of consumer information law that would authorize the release of consumer product information collected by federal agencies, particularly the information related to product performance;

A federal class action law to permit consumer lawyers to bring class actions in the federal courts without having to await prior action by the Attorney General or the Federal Trade Commission;

A consumer products guaranty bill that would require the maker of any guarantee to repair or replace malfunctioning parts within a reasonable time and without charge;

A fish inspection law that would provide full-time federal inspectors in the fish processing plants, essentially the same system now used in the meat and poultry inspection program;

Comprehensive automobile insurace reform; and

Comprehensive product safety legislation.

These are the essential next steps in consumer protection as we enter the 1970's. Further recommendations will be made.

THADDEUS KOSCIUSZKO: SOLDIER AND PATRIOT

Mr. KENNEDY. Mr. President, on February 12, we celebrate the birth of the great Polish patriot and hero of our own Revolution, Thaddeus Koscuiszko. Called by Thomas Jefferson "the purest spirit of liberty," Koscuiszko was born February 12, 1746, at Siechnowicz, Poland. As a youth his brilliance and particularly his aptitude for engineering were so outstanding that they came to the attention of the King of Poland, who sent him to France to study at leading French military schools.

Unfortunately, there was little opportunity for his talents, for by the time he returned to Poland the First Partition had occurred; a commission in the reduced army was to be had only by purchase, and Kosciuszko was without

funds. He left Poland and went to Paris, where the news of the outbreak of hostilities in America kindled his imagination, and he determined to go to the aid of America—a Polish knight in the cause of liberty.

The contribution of Kosciuszko to the American cause was so substantial, in widely differing spheres of military activity, that he can justly be counted among the architects of the final victory at Yorktown. His engineering accomplishments included the fortification of the Delaware, aiding in the defense of Philadelphia in the early period of the war; the fortification of Saratoga, leading to a victory which won for America not only a campaign but France's recognition of her independence; and the fortification of West Point, rendering it impregnable. In the latter half of the war, he joined the southern campaign under Generals Gates and Greene and served with great distinction and courage as a dashing leader of cavalry.

It is good to remember, in contrast to the tragedy of Poland's desperate and unsuccessful struggle for freedom under Koscuiszko's leadership, that this brave leader had, here in America, his share in a glorious victory and complete triumph. Later he enjoyed the experience of public receptions and reunions with old friends in America, and the Continental Congress, for once giving a hero his due during his lifetime, appropriated $15,000 for him and made him a land grant of 500 acres in Ohio.

Polish Americans are justly proud of the memory of Thaddeus Koscuiszko, whose name is treasured as a shining example of the Polish contribution to American life; but all Americans, and all men, owe honor to the memory of one whose life was dedicated, with entire unselfishness and with unswerving courage, to the cause of liberty—the hero of Poland and of America, Thaddeus Koscuiszko.

ENVIRONMENTAL QUALITY: THE GOVERNOR OF MARYLAND SPEAKS OUT

Mr. TYDINGS. Mr. President, Marvin Mandel, the Governor of Maryland, recently testified in Annapolis before the Senate Subcommittee on Intergovernmental Relations. Governor Mandel expressed his support for S. 2752, the Intergovernmental Coordination of Power Development and Environmental Protection Act, and outlined Maryland's forceful effort to abate pollution and provide a quality environment for all her citizens.

The State has adopted basic air pollution regulations and is now divided into six air quality regions. Open burning dumps are being eliminated and through Governor Mandel's creative initiative a program to remove abandoned automobiles has been started. In the area of water pollution, Maryland has perhaps the most progressive water quality control program in the Nation. As the Governor notes in his statement Maryland has required her counties to submit comprehensive water and sewerage plans for approval and, most importantly, is now financing a training program at our community colleges, to provide the money needed to operate the new water treatment facilities.

Let me make special mention that with Governor Mandel's full approval the State is cracking down on those who violate Maryland's water quality standards. In the last half of 1969, the Maryland Department of Natural Resources issued more that 125 formal notices of pollution violations against industrial and commercial concerns. I fully support this approach to clean water. The time for sweet talking and compromise is over. It is time to crack down on those who treat publicly owned natural resources as a private possession to pollute as they wish.

In his statement to the subcommittee Governor Mandel calls for a Federal-State partnership in the siting of powerplants and for original research to be carried out on the environmental effects of powerplant operations. These are sensible recommendations and I am in full agreement with them.

Mr. President, Gov. Marvin Mandel's statement is a useful review of Maryland's program to protect her natural resources and a forceful declaration of the Governor's own commitment to a quality environment. It reflects the concern of all Marylanders for the State's environmental well-being and their determination to insure that this is not degraded.

I commend the statement to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF GOVERNOR MARVIN MANDEL

Mr. Chairman, Members of the Committee: I am Marvin Mandel, Governor of the State of Maryland. On behalf of myself and the people of Maryland, I am honored to welcome you to Annapolis. We are pleased that you are here to take testimony and give us an opportunity to present our views on S. 2752, the Intergovernmental Coordination of Power Development and Environmental Protection Act.

Other legislation fostered by Senator Muskie has aided Maryland materially in our fight to control air and water pollution. We have also benefitted from Federal legislation addressing the problems of solid waste disposal. The proposed legislation under consideration today once again illustrates Senator Muskie's knowledge of the problem and the need to coordinate local, State, regional, and Federal efforts to control the environment.

The proliferation of electric power generating plants and their attendant high voltage transmission lines poses serious environmental hazards. The State, including its citizens and power industry as well as its regulatory agencies, has grappled with this set of problems for more than twenty years. The controversy surrounding the atomic energy plant under construction at Calvert Cliffs has brought all of the old issues connected with fossil fuel plants into sharp focus. In addition, we have had thrust upon us the new set of awesome responsibilities that accompany our first venture into the area of nuclear power production. We are anxious to share with your Subcommittee our record of partial success, our plans for the future, and our anxieties created by uncertainty.

The members of this subcommittee know that pollution control programs vary greatly from one State to another. Before addressing myself to the Calvert Cliffs generating plant, let me give you some highlights of the fight to control pollution in Maryland.

We have turned the corner and we are making significant progress toward the elimination of both air and water pollution. In brief, Maryland has a modern hard-hitting air pollution control law. The State has been divided into six air quality control regions and basic regulations have been adopted. Methodically, all open burning dumps in the State are being eliminated. A ban on open burning, a tax on automobile hulks in junk yards, and a cash incentive for turning junked cars over to scrap processors has started to bring the problem of the abandoned automobile under control. In conjunction with the National Air Pollution Control Administration, we have made the first moves in the long hard fight to restore clean air to the Washington and Baltimore metropolitan areas.

Of special significance to our topic today, stringent limitations have been placed on the sulphur content of all fuel oil. Within metropolitan areas, and statewide for large burners including power plants, the sulphur content of coal is regulated. Discharge of smoke and soot has been outlawed so that emissions from power plant stacks in the future will be invisible to the naked eye. All new power plants must meet the air pollution control regulations before they are permitted to go into operation. In the case of older plants, improvements have been scheduled over a period of years so that the clean-up will be made as quickly as possible without interrupting the supply of power. This is an expensive program. The Baltimore Gas & Electric Company is committed to compliance plans enforceable under an order of the State that will cost 23 million dollars over the next few years. The citizens of Maryland know that they will be required to bear these expenses, but they have given overwhelming support to the clean air program. A few cents extra on an electric bill is a small price to pay to protect our people from the disease and disablement caused by air pollution.

We have made giant strides in our effort to control water pollution. An aggressive set of closely coordinated State and local actions has moved us steadily towards our first objective, to clean up the backlog of pollution that has resulted from three centuries of neglect. Maryland has adopted water quality standards for all waters of the State, and I am proud to tell you that we were one of the first ten states to have both our standards and plan of implementation approved by the Federal government. To meet those standards and lay the background for the needs of the future, Maryland is the only State that I know of that requires the governing bodies of its counties to adopt comprehensive water and sewerage plans. When adopted by the county government, after public hearings and approval by the State regulatory agencies, a county plan has the full effect of law and must be followed. All water and wastewater treatment plants are required by law to be under the direction of competent supervisors. In a State-financed program, 400 operators have been trained in our community colleges, and another 200 are enrolled this year.

Every industry in Maryland is being checked for compliance with water quality standards. Under a no-nonsense procedure, a formal notification is issued and corrective measures are taken. Otherwise, the matter moves promptly to the courts as rapidly as due process will permit. A special Assistant Attorney General is assigned to our water pollution control agency to provide counsel and to make sure that violations are corrected or prosecuted. In the last half of 1969, the State issued more than 125 formal notices of violation against industrial and commercial concerns ranging in size from the very small to the giants of industry.

Mr. Chairman, like you, I believe there is overwhelming logic in favor of joint Federal-State programs to eliminate and prevent further pollution of our natural resources. We hailed the provisions of the Clean Waters Restoration Act of 1966, a landmark piece of legislation that bears your name. Maryland adjusted its grant program. We accepted the opportunity to establish mutually acceptable Federal-State standards. We required our political subdivisions to prepare comprehensive plans, thereby becoming completely eligible for the full fifty-five percent Federal grant on sewage treatment facilities. At the same time, our General Assembly realized that Federal funds would not be available as rapidly as our communities would be willing to proceed, even with the generous appropriation authorized in the Federal Water Pollution Control Act.

Therefore, we took advantage of the reimbursement clause that Congress placed in the Federal Act to meet that very possibility. Maryland set up a Sanitary Facilities Fund to meet its own obligations to its communities and to pre-finance any deficiency of funds to meet the full Federal grant. Thus, our people were assured that the full amount of Federal and State grants was ready and waiting, and that all they need do was to get their local governments to move. The existence of the fund has stimulated our State officials to be forceful because they know that at the end of the tough negotiation sessions, when the other side finally agrees to act, the State will not be embarrassed by asking the recalcitrants to wait on a priority list for a Federal grant.

The initial results of this financing plan are all that Congress and our General Assembly could ask for. At the start of 1967, there were approximatly 800,000 of our people contributing to water pollution for lack of modern sewerage facilities. We set as our goal the most modern treatment available for every community in Maryland by the end of 1971. I am pleased to tell you that projects constructed, under construction, or firmly funded at this time, have reduced the backlog to approximately 200,000 persons. With the projects in the planning stage, our 1971 goal is in sight.

But all is not well. The under-funding of the Federal grant program is a flagrant breach of promise. It has placed our program in financial jeopardy and it has raised grave questions in the minds of our legislative leaders concerning the reliability of implied promises in Federal legislation. Because the reimbursement clause was limited to appropriations through fiscal year 1971, we accepted some risk that the full amount of money advanced to pay Federal grant offers would never be returned to the State. But we were trusting enough to believe that money authorized by the Congress would be requested by the President in his budgets. That was the proud record of the water pollution control program prior to its transfer from the Department of H.E.W. to the Department of the Interior. Since that transfer, the request has never equalled the authorized amount.

Billion dollar authorizations and million dollar requests give us little reason to believe that the Federal government will be a predictable and dependable partner.

I know that you share my views on this matter of full funding for the grant portion of the Federal Water Pollution Control Act. We know that Senator Muskie supported the Crusade for Clean Water and we were somewhat satisfied when Congress raised the President's request from 214 to 800 million. It was not as good as the one billion authorized, but much better than the inadequate initial request. Now that the appropriation bill has been passed and enacted into law over the President's signature, I cautiously hope that the money will be promptly allotted to the States.

In this war against pollution, the Federal Government has every right to insist that the States move with a sense of purpose. Also, in many areas, including the topic of your hearing today, joint responsibilities in the matter of power plants, there are good reasons to form a partnership. However, these problems are real and they cannot be avoided or shelved at the State and local levels. It seems to me, Mr. Chairman, that the States should insist on a partnership role with the Federal government in the siting of power plants, but only on some predictable and dependable basis. Maryland must hesitate to commit itself to a partnership based on Federal legislation if the erratic, unpredictable financing experienced in recent years is to become the norm in such arrangements. In that event, it would be wiser for us to go about our separate duties agreed to ally as closely as the opportunities of the moment permit, but avoiding programs vitally dependent on projected Federal funding.

With that background, let me turn my attention to the problems of power production and transmission. Nowhere does the concern for the environment seem more prominent. Here in Maryland many voices are raised in dissent, but it is difficult to hear a common chorus emerging from the noise. Somehow, in my role as Governor, I must judge between the clashing views and sort out truth from emotion. It is most difficult to differentiate between those who are concerned with making this a better world and those who are concerned with preserving some special condition for themselves at the expense of the rest of the world. Among those who have sought to advise me, there are individuals with genuine concern willing to work for a better environment, and then there are others who seek to exploit the environmental issue as a means of attaining some personal goal.

I have faith that an environmental crisis can be defused, but stern judgments and hard choices will have to be made. In the short run, Maryland is, to a large extent, the master of its own environment. But in the long run, our fate will depend on equally courageous actions in our neighboring states, the Federal government, and perhaps even the other countries of the world.

Nowhere do these hard choices come into focus more sharply than on the issue of additional power plants. The options are clear enough. Conceivably, we could outlaw all electric energy in the State of Maryland and fall back on an economy of animal power and human labor, but I don't believe any rational person would agree to that course of action. We could freeze the supply of electrict energy at its present level and resign ourselves to a declining standard of living. If so, those now enjoying air-conditioned homes, electric hot water heaters, and elevator services in luxury apartments, must be prepared to see those privileges revoked and their excess power redistributed to make some slight improvement in the lot of the less privileged. My guess is that neither group would lead a happy life. Another possibility is to permit the unrestrained proliferation of power plants and turn our backs on the mounting misery and diminishing value of life caused by air and water pollution. That we do not intend to do.

There is no such thing as a pollution free electric generating plant. We cannot choose pollution-free fossil fueled plants as an alternative to the uncertain hazards of atomic plants. Both produce waste heat and both require high-voltage transmission lines. Abandoned strip mines scarring the landscape, acid streams and rivers, hazardous railroad spurs, fly ash and cinder disposal, and air pollution problems accompany the use of coal. In fact, our air pollution control people advise me that we must face the fact that the day is coming when we cannot tolerate the burning of raw coal. They say it is important that we start to explore ways of increasing the supply of natural gas, or methods for converting coal to gas at the coal mine. Fuel oil has its own set of environmental problems. Marylanders live in constant fear of a major oil spill on the Chesapeake Bay. The likelihood of a spill increases in direct proportion to the amount of oil burned in the State. Even buried gas pipes have been known to rupture and cause explosions, taking large tolls in life and property.

Thus, our choice is whether we use more electricity or not. If we use more, we must face and control hazards no matter what type of generating plant we use.

Neither have we arrived at the time in history where there is enough electricity to provide the good way of life for every citizen of Maryland. The underprivileged want electric stoves, air conditioning, and television probably as much as the suburbanite wants electric heat or a summer cottage with all of the electrical conveniences of home. Maryland is rich in history and scenic beauty. I don't believe there is a route for for a power line in this State that would not intrude on the view from some hallowed ground or alter a scenic vista treasured by someone.

We must also consider our hopes and aspirations for the industrial development of Maryland. Clean industry places less strain on the quality of our environment. But, clean industry requires electricity for such things as modern computers and air conditioned working space. The creation of good paying jobs by industries that are good neighbors in residential counties depends on an adequate supply of electricity. Desirable economic activities will not be attracted to an energy starved State.

The intention of the Baltimore Gas & Electric Company to construct an atomic power plant at Calvert Cliffs had the effect of placing these difficult choices on the Governor's desk. Two and one-half years earlier, a zoning hearing before the Commissioners of Calvert County cleared the way for the construction of the atomic plant on 985 acres of land at Calvert Cliffs. A year later, Governor Agnew congratulated the County Commissioners for their cooperation in getting the power company to construct its newest generating plant at that site. According to the Calvert Journal Gazette, the Governor was reported as saying that he had made a study of the entire matter and felt it was a great gain for the county to have such an important industry located there.

My science advisers have said that there is no possibility of a critical mass producing a nuclear exposion at Calvert Cliffs. But, I hasten to advise my scientists that there is a critical mass of conflicting social dissent that could produce a human explosion many times more powerful than the most awesome atomic bomb. I determined that before the State Government under my administration gave the Baltimore Gas & Electric Company the final permit to use water from the Chesapeake Bay for cooling purposes, I would seek the advice of the best minds available to me. At my invitation, a Task Force was formed of 17 outstanding citizens known for their concern for human and social values as well as their technical ability to understand the subject. They were charged to advise me if the characteristics of nuclear power plants constitute a significant threat to justify further action on the part of the State. The Task Force has completed its deliberations and presented its report to me. They found that the Calvert Cliffs nuclear power plant, operated in compliance with Federal and State laws, would not in any significant way constitute a threat to the people or seriously impair the quality of the Chesapeake Bay environment. The Task Force noted that the State agencies had been vigilant in the enforcement of water quality standards and the protec-

tion of shellfish. However, they pointed out that permits were issued as construction proceeded and stated that this sequence should not be allowed to recur. I am pleased to tell you that under recent State legislation, construction cannot start on power plants or power lines until all of the necessary permits are secured in advance from the regulatory agencies of the State.

Recently, the Maryland Academy of Sciences presented me with still another report on the matter of nuclear power plants. A special Study Panel of the Academy of Sciences came to the same general conclusions as the Governor's Task Force. Both groups concluded that while the Calvert Cliffs installation by itself did not constitute a threat, a massive research effort is required to make intelligent decisions with respect to the large number of power plants that will be required to supply the anticipated desire for future electrical energy in Maryland and the adjoining states. Both of these learned groups were highly critical of the fact that criteria to judge the hazard to the environment of radioactive discharges are conspicuous by their absence. Much research has been done to establish guidelines to protect the health and safety of man, but little knowledge exists to judge the hazard to plants and living creatures other than man. This is a glaring omission which we will attempt to correct at the State level, but considering the magnitude of the task and the gravity of the situation, we believe that a massive national research effort is required as well.

Both the Task Force report and the report of the Maryland Academy of Sciences are being studied by our natural resources staff. On February 18th, a public hearing will be held in Baltimore to consider the application for use of cooling water at the Calvert Cliffs installation. Shortly after the hearing, our Department of Water Resources will decide whether no not to issue the permit, and, if so, what engineering requirements and other stipulations will be placed on the use of water. Our laws are such that if any person is aggrieved by the decision of the Department of Water Resources, he may appeal to a Board of Review. If still dissatisfied, the person is entitled to take his case to court. Thus, Mr. Chairman, it is clear that Maryland's laws are written to guarantee that the public and private citizens have an opportunity to participate in regulatory decisions and that they do have remedy against arbitrary or capricious actions.

Maryland is richly endowed with natural resources. Our heritage extends from the upland streams and forests of Appalachia to the sandy beaches of the Atlantic ocean. We feel an almost sacred obligation to the Chesapeake Bay and its tributaries. We are determined to do whatever is necessary to protect the Chesapeake Bay from the ravages of pollution.

Maryland has committed itself to the cause of conservation and environmental control. Nowhere is that commitment more evident than in the reaction of our citizens to the proposed atomic power plant at Calvert Cliffs on the shores of Chesapeake Bay. Citizens from all parts of the State have written to me expressing their deep concern. Scientists in industry and in universities, some of whom were not directly associated with formal advisory groups, have voluntarily spent many hours studying the potential hazards. They have expressed their views on radio, television, and in the newspapers. Many of them have sent thoughtful letters to me and the State agencies containing worthwhile recommendations. I am grateful for this upswell of concern and for the messages I have received, both public and private.

There is one wonderful theme that runs through these communications. From the most astute scientist to the lay citizen, the theme of common concern is for quality, quality of the Bay and the plants and creatures living in it. Of course there is concern for the health of man and some parochial interests of those whose personal lives will be disturbed, but the predominant concern is for the Bay itself, the Bay as a living entity. I believe that the people of Maryland are telling their Governor that the quality of our natural resources is a valuable commodity in its own right. It is, if you please, a property right, held in common by all of the people in this State and the many others who visit us.

The public is dissatisfied and distrustful of the Atomic Energy Commission. Part of the trouble is that the public doesn't believe that any organization can be true to two masters. In the dual role of promoting the usefulness, while passing on the safety, of nuclear energy, AEC is bound to draw suspicion. But more than that, I think AEC's troubles stem from the fact that they don't believe that our people can be interested in anything more than their personal health, wealth, and comfort. Having spent millions of dollars to find what level of radioactivity man can tolerate, they are dismayed when we ask, "Yes, but what will it do to the sex life of a rockfish?" They can't believe that people would be willing to pay more for electric energy just to keep oysters healthy. But many of us are willing to pay that price.

Calvert Cliffs is but one of many issues that have aroused the public. Whenever an activity has been proposed in recent years that could cause a major impact on the environment, I can detect this common assertion and question:

"Government has shown its willingness and ability to act as an instrument to create wealth while at the same time protecting the health of man, but will it and can it protect the quality of the environment for our enjoyment and the survival of our children?"

I have addressed myself to that question and have found my answer. The question becomes a mandate. In my term of office I am giving a high priority to conservation and the environment. We have started to turn back the tide of water and air pollution and momentum is on our side. Soon the open dumps, the untreated sewage, and the belching smoke stacks will be a sin of the past. Even while we are eliminating this backlog of pollution, we will take the stern measures open to the State to see that pollution is kept under control in the future.

To that end, next week I intend to go before the General Assembly with a message and a number of far-reaching proposals. The program which I outline will cover all aspects of conservation and the environment. However, in the field of bulk power production and atomic energy, the measures would seem to be consistent with Senator Muskie's bill. Specifically, I am taking steps to establish a Council on Maryland's Environment. The composition and responsibilities of this Council will be revealed at a later date.

In another action, I have instructed the Secretary of Health, or his designee, to participate as a party in all Maryland power licensing cases before the Atomic Energy Commission. As the AEC is limited to those aspects of the environment related to health and safety of humans, the Secretary of Health seems to be the logical choice. However, I have asked him to see that there is the fullest possible articulation of our interests in the public record and that our interests are given explicit weight in any consideration of the benefits and risks of nuclear power plants in Maryland. I will expect the Secretary of Health to enter into these hearings in the role of a constructive skeptic.

Finally, I have instructed the Secretary of Natural Resources to prepare a complete and coordinated plan for research and monitoring of atomic power plants on the Chesapeake Bay. The Secretary will seek the advice and cooperation of the Maryland Academy of Sciences, industries, universities, other State agencies, and the agencies of the Federal government. I have asked him to report his plan to the Council on Maryland's Environment by July 1, 1970. The plan will include a design of specific monitoring functions, including the division of assignments among participating groups and the manpower and funds required. Research projects will be identified according to priority and the organizations best suited to conduct various aspects of the research will be named.

I have asked the Secretary not to be constrained by any assumed limitations on funds or other resources. He will present the Council with a clear picture of the actions, priorities, and resources required. The Council will then find the resources needed or make the hard decisions necessary if resources are not available.

I am advised that the research may be long and costly, but we must start now. Otherwise we will soon come to the point where we cannot accept the logic presented by my advisers. They have told me that the first plant isn't much of a risk because the potential insults to the environment are small compared to other risks that now exist. But, the addition of each plant will bring us closer to some danger point, and without research we can neither define that point nor can we design to avert it.

The Federal government must be prepared to assume the cost of research that is beyond the capabilities of the individual States. Even if the States could bear the cost of individual research, the duplication of effort would be wasteful of scarce research manpower and would be extremely costly. I hope this committee will agree with me, that if we can't afford the research needed to protect the environment from nuclear damage, it would be prudent to delay the proliferation of atomic power plants until that precondition has been met.

GOVERNOR ROCKEFELLER LAUDS STATE TRAFFIC SAFETY COUNCIL'S 10 YEARS OF ACCOMPLISHMENTS

Mr. GOODELL. Mr. President, Gov. Nelson A. Rockefeller recently attended a meeting in New York City with a group of leading businessmen, bankers, and industrialists, all of whom were either members of the New York State Traffic Safety Council's Finance and Advisory Committee or strong supporters of the council's important work.

The State traffic safety council has for many years pioneered in all phases of training police and other officials in traffic control work designed to make New York highways safer for travel. This luncheon conference marked the 10th anniversary of the organization of the council. It is with understandable pride that I call attention to the fact that Charles F. Luce, chairman of the board of the Consolidated Edison Co. of New York, accepted Governor Rockefeller's invitation to serve as chairman of the council's finance and advisory committee. In the true spirit of the New York business and industrial community, and despite the business pressures of his own company, Mr. Luce will undertake this civic responsibility on behalf of the council and the people of New York.

Mr. President, at this meeting two principal reports were made. Governor Rockefeller, the main speaker, high-

lighted the important programs of the council which have set an example for other States to follow. Mr. C. W. Owens, president of the New York Telephone Co., who serves as the council's president summarized the main accomplishments of the council during the past 10 years. Because of the importance of the council's work not only to New York but to our national effort for improving safety on our Nation's highways, I ask unanimous consent to have excerpts from these addresses inserted in the CONGRESSIONAL RECORD.

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

EXCERPTS FROM GOVERNOR ROCKEFELLER'S REMARKS TO MEMBERS OF THE NEW YORK STATE TRAFFIC SAFETY COUNCIL, NEW YORK CITY, JANUARY 1970

Ten years ago, a group of civic-minded New Yorkers decided it was time they personally got involved in the problem of traffic accidents.

The result was the formation of the State Traffic Safety Council—and today, you can take great pride in your achievements of the last decade.

Your presidents—Cliff Phelan, Bill Renchard, Bo Wentworth, Baldy Maull, and now Neil Owens—have all given an extra measure of themselves to be sure that the council would succeed

Not only has it succeeded; it has become a national model, and has drawn attention from states throughout the Country.

As your council's honorary chairman, I want to thank these men and your entire membership—for your efforts to achieve traffic safety.

Unfortunately, despite the best efforts of all of us, the automobile accident—with all the suffering and financial ruin it brings—remains one of our most persistent and serious social problems.

However, we have made progress since the modern traffic safety movement began in the early 1930's.

Safety is now a vital component in every mile of highway we build or maintain.

We are learning more about making automobiles safer for drivers, passengers, and those outside the vehicles.

And our driver education and driver rehabilitation efforts are proven safety programs.

However, if we are to reduce traffic accidents substantially below their present levels, we have to have a high degree of cooperation between the various levels of government, and we also have to involve the private sector.

I would like to give you one illustration of how such cooperation is now being carried out today in New York State.

In 1966, Congress passed the National Highway Safety Act, and set aside new funds to help both the state and its communities carry out traffic safety projects.

The amount of Federal money available was limited, and many states used it all up at the state level, carrying out statewide projects.

Here in New York, however, we felt that action at all levels of government was needed. And so, unlike most of our sister states, we made plans immediately to share these funds with our local governments.

We devised a plan under which each of the State's larger political subdivisions—counties, cities, and towns—could qualify for grants.

Our plan called for formation of local traffic safety boards, made up of all interests involved in highway safety—highway superintendents, police chiefs, planners, local legislators, and private citizens.

New York was the first state to develop such a plan, and eventually, it became a national model, followed by states everywhere.

Now, two years later, New York is still the national leader in channeling traffic safety funds to localities.

So far, nineteen counties, and seventeen cities and towns have adopted our plan and formed their local safety boards.

These boards have received more than $2,000,000 through the State Interdepartmental Highway Safety Committee, to carry out safety projects.

And there are now 52 such projects underway by local safety boards. They include:

Purchase of breathanalyzers to crack down on drinking drivers;

Purchase of speed-detection devices to combat speeders;

Inventories of traffic control devices such as signs and traffic lights, to permit better safety planning;

Improvement of accident records, to pinpoint trouble spots on our highway system;

And even a project under which a television camera in a helicopter keeps a whole expressway system under constant aerial surveillance.

Your council has been an effective partner with us in these endeavors.

As soon as the local assistance plan was developed in 1967, your staff under Joe Kusaila sponsored a series of meetings throughout the state, to tell local groups how to qualify for these funds.

Your staff has since met with hundreds of local safety officials, to help them get organized.

Just this week, for instance, your staff conducted a training session in Syracuse for local traffic safety boards from throughout the State.

And you have done much more. You have trained thousands of engineers, policemen, and safety administrators. You have given meaning and impetus to traffic safety on a statewide basis. In short, you have been a strong right arm to me, and to every other public official in the State dedicated to reducing traffic accidents.

As you enter your second decade, under Neil Owens' leadership, I want to thank you, to commend you, and to urge that you keep up the good work. And we only have to look at any newspaper on any day of the week to know that in reducing death and injury on the highway, much work remains to be done.

EXCERPTS FROM THE REPORT BY C. W. OWENS, PRESIDENT OF THE NEW YORK STATE TRAFFIC SAFETY COUNCIL, NEW YORK CITY, JANUARY 1970

(Before proceeding with the main thrust of his remarks Mr. Owens congratulated the members of the Finance and Advisory Committee, Members of the Board and Governor Rockefeller for their inspiring cooperation and support. He pointed out that Governor Rockefeller was probably the only Honorary Chairman of any comparable organization anywhere in the country who was directly, personally and actively involved not only in the formation of the Council but also in its fund raising campaign and other operations.)

Now all of you are familiar with what is happening on our highways. In 1968 more than 55,000 persons were killed in auto accidents—up 4% from 1967. Nationwide the cost is running well over $11 billion annually.

In New York last year we had 3,114 fatalities and 409,202 accidents, a new record. We have had 2,034 fatalities for the first nine months of this year. The figures for accidents are not yet available. But they will be high. Cost estimates for all this tragedy range anywhere from $500,000,000.00 to one billion annually. This is a most unhappy waste of our resources in terms of manpower and finances.

Thus nationally and in our State the picture is rather gloomy. Governor Rockefeller recognized this problem ten years ago when he urged a group of business and industrial leaders to organize our Council. We have been working at this ever since, and I believe with some remarkable results.

In the last seven years the Council has trained more than 9,000 police and other officials in all phases of traffic safety management. This is a record we can all be proud of. I don't know of any other comparable agency which has accomplished so much with so little. We have taught police traffic engineering, business management techniques, proper traffic accident investigation, use and maintenance of traffic records, selective enforcement, supervision and court room procedures; and how to cope with the drinking, driving and drug problem.

When we first started, we barely managed to attract 120 police from 60 units of government. This year more than 1,500 police and other officials from 411 units of government and other agencies attended our training workshops in eight key locations in the State. We have pioneered in this work. At least a dozen other states are following our example.

None of this success would have been possible without the fullest cooperation and encouragement from Governor Rockefeller, his immediate staff and his Administration.

We are indebted to Motor Vehicles Commissioner Tofany and his predecessor, Bill Hults; to State Police Superintendent Bill Kirwan and his predecessor, the late Arthur Cornelius; to the Departments of Transportation and Commerce, and to all police agencies in New York. Commissioner Francis Looney of the Nassau County Police Department, and President of the State Police Chief Association, has worked with us wholeheartedly over the years. I would like to tell Commissioner Looney, in his capacity as head of the State Police Chiefs Association, that our Council is grateful to the Association and its members for their cooperation over the years.

Now all of you should have before you copies of our annual report. That report explains in detail what we have accomplished, not only this year, but over the last 10 years. With your permission, therefore, I will simply touch on some of the highlights contained in that report.

Some years ago we initiated the Council's annual awards program designed to encourage police departments to upgrade their traffic management activities. When we started this program, a handful of police agencies cooperated. And understandably so. We were a new organization and few had heard of us. This year 54% of the police departments eligible to participate joined with us in this project.

In line with our police work, I am happy to report, that we have supported constantly Governor Rockefeller's efforts to add more state police patrols to guard our highways. Most important, the Council played a significant role in helping the State Police acquire a $4,000,000.00 State Police Academy. When it opens, it will provide formal training to all police agencies in the State in traffic management subjects.

Over the years the Council has either sponsored or supported 24 major pieces of traffic safety legislation enacted into law. Included in that package are such bills as mandatory seat belt requirements; fail safe brakes; training for school bus drivers; periodic eye tests; the Good Samaritan bill; school speed limits; safer tires, reflectorized license plates, and annual inspection for all motor vehicles. Our work has inspired countless editorials on highway safety. Earlier this year hundreds of newspapers carried our support of the Governor's request to the Legislature for a tougher drinking driving law.

More recently, the Department of Motor

Vehicles invited our cooperation in developing a key-sort accident analysis and information card-system for police departments. Together we launched a statewide study in which almost 95% of the police agencies in the state cooperated. Currently, approximately 65 large and small police agencies have adopted this system. Another 60 have it under consideration. This was a major undertaking and may well produce major results in the years ahead. To the best of my knowledge, this is the first such study of this nature ever undertaken in New York, or for that matter, in any state in the nation. It was an historic achievement. The aim here, of course, was to encourage local police to develop a records system whereby each department would know exactly what is happening on roads within their jurisdiction. Unless the police know what is happening, and where these accidents are occurring, there is simply no way of mounting an effective program designed to reduce the slaughter on our highways. Here again we have pioneered and here again we believe that other states will follow the pattern set in New York.

When you consider the relatively small budget that we have, and the small staff, which has never been more than four men with secretarial help, I think you will agree that our Council has produced a remarkable record.

While the Governor invited me to take on this job, it is really you who are here today, who are responsible for these accomplishments—for all this good work being done to safeguard you and your families, and all our citizens when they use our highways for pleasure and for business. This is a tribute not only to the present leadership of the Council but also to the men who have guided its work in the past.

HERBICIDES AND DEFOLIANTS IN VIETNAM: A CRITICAL REVIEW

Mr. GOODELL. Mr. President, for over a year now, chemical and biological weaponry—CBW—has undergone careful review in Congress.

Last year, Congress succeeded in placing restrictions on the vast arsenal of chemical and biological agents developed for military purposes.

Still, Congress has much to do. Yet to be resolved are questions directed at the existence of disease-producing weapons, such as toxin weapons, and the use of herbicides, defoliants, and tear gas in Vietnam.

"Defoliation" by Thomas Whiteside is a useful report on the use of herbicides and defoliants in Vietnam. I ask unanimous consent that it be printed in the RECORD.

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

[From the New Yorker, February 1970]

DEFOLIATION

(By Thomas Whiteside)

Late in 1961, the United States Military Advisory Group in Vietnam began, as a minor test operation, the defoliation, by aerial spraying, of trees along the sides of roads and canals east of Saigon. The purpose of the operation was to increase visibility and thus safeguard against ambushes of allied troops and make more vulnerable any Vietcong who might be concealed under cover of the dense foliage. The number of acres sprayed does not appear to have been publicly recorded, but the test was adjudged a success militarily. In January, 1962, following a formal announcement by South Vietnamese and American officials that a program of such spraying was to be put into effect, and that it was intended "to improve the country's economy by permitting freer communication as well as to facilitate the Vietnamese Army's task of keeping these avenues free of Vietcong harassments," military defoliation operations really got under way. According to an article that month in the New York *Times*, "a high South Vietnamese official" announced that a seventy-mile stretch of road between Saigon and the coast was sprayed "to remove foliage hiding Communist guerrillas." The South Vietnamese spokesman also announced that defoliant chemicals would be sprayed on Vietcong plantations of manioc and sweet potatoes in the Highlands. The program was gathering momentum. It was doing so in spite of certain private misgivings among American officials, particularly in the State Department, who feared, first, that the operations might open the United States to charges of engaging in chemical and biological warfare, and, second, that they were not all that militarily effective. Roger Hilsman, now a professor of government at Columbia University, and then Director of Intelligence and Research for the State Department, reported, after a trip to Vietnam, that defoliation operations "had political disadvantages" and, furthermore, that they were of questionable military value, particularly in accomplishing their supposed purpose of reducing cover for ambushes. Hilsman later recalled in his book, "To Move a Nation," his visit to Vietnam, in March, 1962: "I had flown down a stretch of road that had been used for a test and found that the results were not very impressive. . . . Later, the senior Australian military representative in Saigon. Colonel Serong, also pointed out that defoliation actually aided the ambushers—if the vegetation was close to the road those who were ambushed could take cover quickly; when it was removed the guerrillas had a better field of fire." According to Hilsman, "The National Security Council spent tense sessions debating the matter."

Nevertheless, the Joint Chiefs of Staff and their Chairman, General Maxwell Taylor, agreed that chemical defoliation was a useful military weapon. In 1962, the American military "treated" 4,940 acres of the Vietnamese countryside with herbicides. In 1963, the area sprayed increased fivefold, to a total of 24,700 acres. In 1964, the defoliated area was more than tripled. In 1965, the 1964 figure was doubled, increasing to 155,610 acres. In 1966, the sprayed area was again increased fivefold, to 741,247 acres, and in 1967 it was doubled once again over the previous year, to 1,486,446 acres. Thus, the areas defoliated in Vietnam had increased approximately three hundredfold in five years, but now adverse opinion among scientists and other people who were concerned about the effects of defoliation on the Vietnamese ecology at last began to have a braking effect on the program. In 1968, 1,267,110 acres were sprayed, and in 1969 perhaps a million acres. Since 1962, the defoliation operations have covered almost five million acres, an area equivalent to about twelve per cent of the entire territory of South Vietnam, and about the size of the state of Massachusetts. Between 1962 and 1967, the deliberate destruction of plots of rice, manioc, beans, and other foodstuffs through herbicidal spraying—the word "deliberate" is used here to exclude the many reported instances of accidental spraying of Vietnamese plots—increased three hundredfold, from an estimated 741 acres to 221,312 acres, and by the end of 1969 the Vietnamese crop-growing area that since 1962 had been sprayed with herbicides totalled at least half a million acres. By then, in many areas the original purpose of the defoliation had been all but forgotten. The military had discovered that a more effective way of keeping roadsides clear was to bulldoze them. But by the time of that discovery defoliation had settled in as a general policy and taken on a life of its own—mainly justified on the ground that it made enemy infiltration from the North much more difficult by removing vegetation that concealed jungle roads and trails.

During all the time since the program began in 1961, no American military or civilian official has ever publicly characterized it as an operation of either chemical or biological warfare, although there can be no doubt that it is an operation of chemical warfare in that it involves the aerial spraying of chemical substances with the aim of gaining a military advantage, and that it is an operation of biological warfare in that it is aimed at a deliberate disruption of the biological conditions prevailing in a given area. Such distinctions simply do not appear in offical United States statements or documents; they were long ago shrouded under heavy verbal cover. Thus, a State Department report, made public in March, 1966, saying that about twenty thousand acres of crops in South Vietnam had been destroyed by defoliation to deny food to guerrillas, described the areas involved as "remote and thinly populated," and gave a firm assurance that the materials sprayed on the crops were of a mild and transient potency: "The herbicides used are nontoxic and not dangerous to man or animal life. The land is not affected for future use."

However comforting the statements issued by our government during seven years of herbicidal operations in Vietnam, the fact is that the major development of defoliant chemicals (whose existence had been known in the thirties) and other herbicidal agents came about in military programs for biological warfare. The direction of this work was set during the Second World War, when Professor E. J. Kraus, who then headed the Botany Department of the University of Chicago, brought certain scientific possibilities to the attention of a committee that had been set up by Henry L. Stimson, the Secretary of War, under the National Research Council, to provide the military with advice on various aspects of biological warfare. Kraus, referring to the existence of hormone-like substances that experimentation had shown would kill certain plants or disrupt their growth, suggested to the committee in 1941 that it might be interested in "the toxic properties of growth-regulating substances for the destruction of crops or the limitation of crop production." Military research on herbicides thereupon got under way, principally at Camp (later Fort) Detrick, Maryland, the Army center for biological-warfare research. According to George Merck, a chemist, who headed Stimson's biological-warfare advisory committee, "Only the rapid ending of the war prevented field trials in an active theatre of synthetic agents that would, without injury to human or animal life, affect the growing crops and make them useless."

After the war, many of the herbicidal materials that had been developed and tested for biological-warfare use were marketed for civilian purposes and used by farmers and homeowners for killing weeds and controlling brush. The most powerful of the herbicides were the two chemicals 2,4-dichlorophenoxyacetic acid, generally known as 2,4-D, and 2,4,5-trichlorophenoxyacetic acid, known as 2,4,5-T. The direct toxicity levels of these chemicals as they affected experimental animals, and, by scientific estimates, men, appeared then to be low (although these estimates have later been challenged), and the United States Department of Agriculture, the Food and Drug Administration, and the Fish and Wildlife Service all sanctioned the widespread sale and use of both. The chemicals were also reported to be short-lived in soil after their application. 2,4-D was the bigger seller of the two, partly because it was cheaper, and suburbanites commonly used mixtures con-

taining 2,4-D on their lawns to control dandelions and other weeds. Commercially, 2,4-D and 2,4,5-T were used to clear railroad rights-of-way and power-line routes, and, in cattle country, to get rid of woody brush, 2,4,5-T being favored for the last, because it was considered to have a more effective herbicidal action on woody plants. Very often, however, the two chemicals were used in combination. Between 1945 and 1963, the production of herbicides jumped from nine hundred and seventeen thousand pounds to about a hundred and fifty million pounds in this country; since 1963, their use has risen two hundred and seventy-one percent—more than double the rate of increase in the use of pesticides, though pesticides are still far more extensively used. By 1960, an area equivalent to more than three per cent of the entire United States was being sprayed each year with herbicides.

Considering the rapidly growing civilian use of these products, it is perhaps not surprising that the defoliation operations in Vietnam escaped any significant comment in the press, and that the American public remained unaware of the extent to which these uses had their origin in planning for chemical and biological warfare. Nevertheless, between 1941 and the present, testing and experimentation in the use of 2,4-D, 2,4,5-T, and other herbicides as military weapons were going forward very actively at Fort Detrick. While homeowners were using herbicidal mixtures to keep their lawns free of weeds, the military were screening some twelve hundred compounds for their usefulness in biological-warfare operations. The most promising of these compounds were test-sprayed on tropical vegetation in Puerto Rico and Thailand, and by the time full-scale defoliation operations got under way in Vietnam the U.S. military had settled on the use of four herbicidal spray materials there. These went under the names Agent Orange, Agent Purple, Agent White, and Agent Blue—designations derived from color-coded stripes girdling the shipping drums of each type of material. Of these materials, Agent Orange, the most widely used as a general defoliant, consists of a fifty-fifty mixture of *n* butyl esters and of 2,4-D and 2,4,5-T. Agent Purple, which is interchangeable with Agent Orange, consists of the same substances with slight molecular variations. Agent White, which is used mostly for forest defoliation, is a combination of 2,4-D and Picloram, produced by the Dow Chemical Company. Unlike 2,4-D or 2,4,5-T, which, after application, is said to be decomposable by micro-organisms in soil over a period of weeks or months (one field test of 2,4,5-T in this country showed that significant quantities persisted in soil for niney-three days after application), Picloram—whose use the Department of Agriculture has not authorized in the cultivation of any American crop—is one of the most persistent herbicides known. Dr. Arthur W. Galston, professor of biology at Yale, has described Picloram as "a herbicidal analog of DDT," and an article in a Dow Chemical Company publication called "Down to Earth" reported that in field trials of Picloram in various California soils between eighty and ninety-six and a half per cent of the substance remained in the soils four hundred and sixty-seven days after application. (The rate at which Picloram decomposes in tropical soils may, however, be higher.) Agent Blue consists of a solution of cacodylic acid, a substance that contains fifty-four per cent arsenic, and it is used in Vietnam to destroy rice crops. According to the authoritative "Merck Index," a source book on chemicals, this material is "poisonous." It can be used on agricultural crops in this country only under certain restrictions imposed by the Department of Agriculture. It is being used herbicidally on Vietnamese rice fields at seven and a half times the concentration permitted for weed-killing purposes in this country, and so far in Vietnam something like five thousand tons is estimated to have been sprayed on paddies and vegetable fields.

Defoliation operations in Vietnam are carried out by a special flight of the 12th Air Commando Squadron of the United States Air Force, from a base at Bien Hoa, just outside Saigon, with specially equipped C–123 cargo planes. Each of these aircraft has been fitted out with tanks capable of holding a thousand gallons. On defoliation missions, the herbicide carried in these tanks is sprayed from an altitude of around a hundred and fifty feet, under pressure, from thirty-six nozzles on the wings and tail of the plane, and usually several spray planes work in formation, laying down broad blankets of spray. The normal crew of a military herbicidal-spray plane consists of a pilot, a co-pilot, and a technician, who sits in the tail area and operates a console regulating the spray. The equipment is calibrated to spray a thousand gallons of herbicidal mixture at a rate that works out, when all goes well, to about three gallons per acre. Spraying a thousand-gallon tankload takes five minutes. In an emergency, the tank can be emptied in thirty seconds—a fact that has particular significance because of what has recently been learned about the nature of at least one of the herbicidal substances.

The official code name for the program is Operation Hades, but a more friendly code name, Operation Ranch Hand, is commonly used. In similar fashion military public-relations men refer to the herbicidal spraying of crops supposedly grown for Vietcong use in Vietnam when they refer to it at all, as a "food-denial program." By contrast, an American biologist who is less than enthusiastic about the effort has called it, in its current phase, "escalation to a program of starvation of the population in the affected area." Dr. Jean Mayer, the Harvard professor who now is President Nixon's special adviser on nutrition, contended in an article in *Science and Citizen* in 1967 that the ultimate target of herbicidal operations against rice and other crops in Vietnam was "the weakest element of the civilian population"—that is, women, children, and the elderly—because in the sprayed areas "Vietcong soldiers may . . . be expected to get the fighter's share of whatever food there is." He pointed out that malnutrition is endemic in many parts of Southeast Asia but that in wartime South Vietnam, where diseases associated with malnutrition, such as beri-beri, anemia, kwashiorkor (the disease that has decimated the Biafran population), and tuberculosis, are particularly widespread, "there can be no doubt that if the [crop-destruction] program is continued, [the] problems will grow."

Whether a particular mission involves defoliation or crop destruction, American military spokesmen insist that a mission never takes place without careful consideration of all the factors involved, including the welfare of friendly inhabitants and the safety of American personnel. (There can be little doubt that defoliation missions are extremely hazardous to the members of the planes' crews, for the planes are required to fly very low and only slightly above stalling speed, and they are often targets of automatic-weapons fire from the ground.) The process of setting up targets and approving specific herbicidal operations is theoretically subject to elaborate review through two parallel chains of command: one chain consisting of South Vietnamese district and province chiefs—who can themselves initiate such missions—and South Vietnamese Army commanders at various levels; the other a United States chain, consisting of a district adviser, a sector adviser, a divisional senior adviser, a corps senior adviser, the United States Military Assistance Command in South Vietnam, and the American Embassy in Saigon, ending up with the American ambassador himself. Positive justification of the military advantage likely to be gained from each operation is theoretically required, and applications without such positive justification are theoretically disapproved. However, according to one of a series of articles by Elizabeth Pond that appeared toward the end of 1967 in the *Christian Science Monitor:*

"In practice, [American] corps advisers find it very difficult to turn down defoliation requests from province level because they simply do not have sufficient specific knowledge to call a proposed operation into question. And with the momentum of six years' use of defoliants, the practice, in the words of one source, has long since been 'set in cement.'

"The real burden of proof has long since shifted from the positive one of justifying an operation by its [military] gains to the negative one of denying an operation because of [specific] drawbacks. There is thus a great deal of pressure, especially above province level, to approve recommendations sent up from below as a matter of course."

Miss Pond reported that American military sources in Saigon were "enthusiastic" about the defoliation program, and that American commanders and spotter-plane pilots were "clamoring for more of the same." She was given firm assurances as to the mild nature of the chemicals used in the spray operations:

"The defoliants used, according to the military spokesman contacted, are the same herbicides . . . as those used commercially over some four million acres in the United States. In the strengths used in Vietnam they are not at all harmful to humans or animals, the spokesman pointed out, and in illustration of this he dabbed onto his tongue a bit of liquid from one of . . . three bottles sitting on his desk."

As the apparently inexorable advance of defoliation operations in South Vietnam continued, a number of scientists in the United States began to protest the military use of herbicides, contending that Vietnam was being used, in effect, as a proving ground for chemical and biological warfare. Early in 1966, a group of twenty-nine scientists, under the leadership of Dr. John Edsall, a professor of biochemistry at Harvard, appealed to President Johnson to prohibit the use of defoliants and crop-destroying herbicides, and called the use of these substances in Vietnam "barbarous because they are indiscriminate." In the late summer of 1966, this protest was followed by a letter of petition to President Johnson from twenty-two scientists, including seven Nobel laureates. The petition pointed out that the "large-scale use of anti-crop and 'nonlethal' antipersonnel chemical weapons in Vietnam" constituted "a dangerous precedent" in chemical and biological warfare, and it asked the President to order it stopped. Before the end of that year, Dr. Esall and Dr. Matthew S. Meselson, a Harvard professor of biology, obtained the signatures of five thousand scientists to co-sponsor the petition. Despite these protests, the area covered by defoliation operations in Vietnam in 1967 was double that covered in 1966, and the acreage of crops destroyed was nearly doubled.

These figures relate only to areas that were sprayed intentionally. There is no known way of spraying an area with herbicides from the air in a really accurate manner, because the material used is so highly volatile, especially under tropical conditions, that even light wind drift can cause extensive damage to foliage and crops outside the deliberately sprayed area. Crops are so sensitive to the herbicidal spray that it can cause damage to fields and gardens as much as fifteen miles away from the target zone. Particularly severe accidental damage is reported, from time to time, to so-called "friendly" crops in the III Corps area, which all but surrounds Saigon and extends in a rough square from

the coastline to the Cambodian border. Most of the spraying in III Corps is now done in War Zones C and D, which are classified as free fire zones, where, as one American official has put it, "everything that moves in Zones C and D is considered Charlie." A press dispatch from Saigon in 1967 quoted another American official as saying that every Vietnamese farmer in that corps area knew of the defoliation program and disapproved of it. Dr. Galston, the Yale biologist, who is one of the most persistant critics of American policy concerning herbicidal operations in Vietnam, recently said in an interview, "We know that most of the truck crops grown along roads, canals, and trails formerly brought into Saigon have been essentially abandoned because of the deliberate or inadvertent falling of these defoliant sprays; many crops in the Saigon area are simply not being harvested." He also cited reports that in some instances in which the inhabitants of Vietnamese villages have been suspected of being Vietcong sympathizers the destruction of food crops has brought about complete abandonment of the villages. In 1966, herbicidal operations caused extensive inadvertent damage, through wind drift, to a very large rubber plantation northwest of Saigon owned by the Michelin rubber interests. As the result of claims made for this damage, the South Vietnamese authorities paid the corporate owners, through the American military, nearly a million dollars. The extent of the known inadvertent damage to crops in Vietnam can be inferred from the South Vietnamese budget—in reality, the American military budget—for settling such claims. In 1967, the budget for this compensation was three million six hundred thousand dollars. This sum, however, probably reflects only the barest emergency claims of the people affected.

According to Representative Richard D. McCarthy, a Democrat from upstate New York who has been a strong critic of the program, the policy of allowing applications for defoliation operations to flow, usually without question, from the level of the South Vietnamese provincial or district chiefs has meant that these local functionaries would order repeated sprayings of areas that they had not visited in months, or even years. The thought that a Vietnamese district chief can initiate such wholesale spraying, in effect without much likelihood of serious hindrance by American advisers, is a disquieting one to a number of biologists. Something that disquiets many of them even more is what they believe the long-range effects of nine years of defoliation operations will be on the ecology of South Vietnam. Dr. Galston, testifying recently before a congressional subcommittee on chemical and biological warfare, made these observations:

It has already been well documented that some kinds of plant associations subject to spray, especially by Agent Orange, containing 2,4-D and 2,4,5-T, have been irreversibly damaged. I refer specifically to the mangrove associations that line the estuaries, especially around the Saigon River. Up to a hundred thousand acres of these mangroves have been sprayed. . . . Some [mangrove areas] had been sprayed as early as 1961 and have shown no substantial signs of recovery. . . . Ecologists have known for a long time that the mangroves lining estuaries furnish one of the most important ecological niches for the completion of the life cycle of certain shellfish and migratory fish. If these plant communities are not in a healthy state, secondary effects on the whole interlocked web of organisms are bound to occur. . . . In the years ahead the Vietnamese, who do not have overabundant sources of proteins anyhow, are probably going to suffer dietarily because of the deprivation of food in the form of fish and shellfish.

Damage to the soil is another possible consequence of extensive defoliation. . . . We know that the soil is not a dead, inert mass but, rather, that it is a vibrant, living community. . . . If you knock the leaves off of trees once, twice, or three times . . . you change the quality of the soil. . . . Certain tropical soils—and it has been estimated that in Vietnam up to fifty per cent of all the soils fall into this category—are laterizable; that is, they may be irreversibly converted to rock as a result of the deprivation of organic matter. . . . If . . . you deprive trees of leaves and photosynthesis stops, organic matter in the soil declines and laterization, the making of brick, may occur on a very extensive scale. I would emphasize that this brick is irreversibly hardened; it can't be made back into soil. . . .

Another ecological consequence is the invasion of an area by undesirable plants. One of the main plants that invade an area that has been defoliated is bamboo. Bamboo is one of the most difficult of all plants to destroy once it becomes established where you don't want it. It is not amenable to killing by herbicides. Frequently it has to be burned over, and this causes tremendous dislocations to agriculture.

Dr. Fred H. Tschirley, assistant chief of the Crops Protection Research Branch of the Department of Agriculture, who made a month's visit to Vietnam in the spring of 1968 in behalf of the State Department to report on the ecological effects of herbicidal operations there, does not agree with Dr. Galston's view that laterization of the soil is a serious probability. However, he reported to the State Department that in the Rung Sat area, southeast of Saigon, where about a hundred thousand acres of mangrove trees had been sprayed with defoliant, each single application of Agent Orange had killed ninety to a hundred per cent of the mangroves touched by the spray, and he estimated that the regeneration of the mangroves in this area would take another twenty years, at least. Dr. Tschirley agrees with Dr. Galston that a biological danger attending the defoliation of mangroves is an invasion of virtually ineradicable bamboo.

A fairly well-documented example not only of the ecological consequences of defoliation operations but also of their disruptive effects on human life was provided last year by a rubber-plantation area in Kompong Cham Province, Cambodia, which lies just across the border from Vietnam's Tay Ninh Province. On June 2, 1969, the Cambodian government, in an angry diplomatic note to the United States government, charged the United States with major defoliation damage to rubber plantations, and also to farm and garden crops in the province, through herbicidal operations deliberately conducted on Cambodian soil. It demanded compensation of eight and a half million dollars for destruction or serious damage to twenty-four thousand acres of trees and crops. After some delay, the State Department conceded that the alleged damage might be connected with "accidental drift" of spray over the border from herbicidal operations in Tay Ninh Province. The Defense Department flatly denied that the Cambodian areas had been deliberately sprayed. Late in June, the State Department sent a team of four American scientists to Cambodia, and they confirmed the extent of the area of damage that the Cambodians had claimed. They found that although some evidence of spray drift across the Vietnamese border existed, the extent and severity of damage in the area worst affected were such that "it is highly unlikely that this quantity could have drifted over the border from the Tay Ninh defoliation operations." Their report added, "The evidence we have seen, though circumstantial, suggests strongly that damage was caused by direct overflight." A second report on herbicidal damage to the area was made after an unofficial party of American biologists, including Professor E. W. Pfeiffer, of the University of Montana, and Professor Arthur H. Westing, of Windham College, Vermont, visited Cambodia last December at the invitation of the Cambodian government. They found that about a third of all the rubber trees currently in production in Cambodia had been damaged, and this had happened in an area that normally had the highest latex yield per acre of any in the world. A high proportion of two varieties of rubber trees in the area had died as a result of the damage, and Dr. Westing estimated that the damage to the latex-producing capacity of some varieties might persist for twenty years. Between May and November of last year, latex production in the affected plantations fell off by an average of between thirty-five and forty per cent. According to a report by the two scientists, "A large variety of garden crops were devastated in the seemingly endless number of small villages scattered throughout the affected area. Virtually all of the . . . local inhabitants . . . depend for their well-being upon their own local produce. These people saw their crops . . . literally wither before their eyes." The Cambodian claim is still pending.

Until the end of last year, the criticism by biologists of the dangers involved in the use of herbicides centered on their use in what were increasingly construed as biological-warfare operations, and on the disruptive effects of these chemicals upon civilian populations and upon the ecology of the regions in which they were used. Last year, however, certain biologists began to raise serious questions on another score—possible direct hazards to life from 2,4,5-T. On October 29th, as a result of these questions, a statement was publicly issued by Dr. Lee DuBridge, President Nixon's science adviser. In summary, the statement said that because a laboratory study of mice and rats that had been given relatively high oral doses of 2,4,5-T in early stages of pregnancy "showed a higher than expected number of deformities" in the offspring, the government would, as a precautionary measure, undertake a series of coordinated actions to restrict the use of 2,4,5-T in both domestic civilian applications and military herbicidal operations. The DuBridge statement identified the laboratory study as having been made by an organization called the Bionetics Research Laboratories, in Bethesda, Maryland, but gave no details of either the findings or the data on which they were based. This absence of specific information turned out to be characteristic of what has been made available to the public concerning this particular research project. From the beginning, it seems, there was an extraordinary reluctance to discuss details of the purported ill effects of 2,4,5-T on animals. Six weeks after the publication of the DuBridge statement, a journalist who was attempting to obtain a copy of the full report made by Bionetics and to discuss its details with some of the government officials concerned encountered hard going. At the Bionetics Laboratories, an official said that he couldn't talk about the study, because "we're under wraps to the National Institutes of Health"—the government agency that commissioned the study. Then, having been asked what the specific doses of 2,4,5-T were that were said to have increased birth defects in the fetuses of experimental animals, the Bionetics official cut off discussion by saying, "You're asking sophisticated questions that as a layman you don't have the equipment to understand the answers to." At the National Institutes of Health, an official who was asked for details of or a copy of the study on 2,4,5-T replied, "The position I'm in is that I have been requested not to distribute this information." He did say, however, that a continuing evaluation of the study was under way at the National Institute of Environmental Health Sciences, at Research Triangle Park, North Carolina. A telephone call to an officer of this organization brought a response whose tone varied from wariness

to downright hostility and made it clear that the official had no intention of discussing details or results of the study with the press.

The Bionetics study on 2,4,5–T was part of a series carried out under contract to the National Cancer Institute, which is an arm of the National Institutes of Health, to investigate more than two hundred compounds, most of them pesticides, in order to determine whether they induced cancer-causing changes, fetus-deforming changes, or mutation-causing changes in experimental animals. The contract was a large one, involving more than two and a half million dollars' worth of research, and its primary purpose was to screen out suspicious-looking substances for further study. The first visible fruits of the Bionetics research were presented in March of last year before a convention of the American Association for the Advancement of Science, in the form of a study of possible carcinogenic properties of the fifty-three compounds; the findings on 2,4,5–T were that it did not appear to cause carcinogenic changes in the animals studied.

By the time the report on the carcinogenic properties of the substances was presented, the results of another part of the Bionetics studies, concerning the teratogenic, or fetus-deforming, properties of the substances, were being compiled, but these results were not immediately made available to biologists outside the government. The data remained—somewhat frustratingly, in the view of some scientists who had been most curious about the effects of herbicides—out of sight, and a number of attempts by biologists who had heard about the teratological study of 2,4,5–T to get at its findings appear to have been thwarted by the authorities involved. Upon being asked to account for the apparent delay in making this information available to biologists, an official of the National Institute of Environmental Health Sciences (another branch of the National Institutes of Health) has declared, with some heat, that the results of the study itself and of a statistical summary of the findings prepared by the Institute were in fact passed on as they were completed to the Commission on Pesticides and Their Relationship to Environmental Health, a scientific group appointed by Secretary of Health, Education, and Welfare Robert Finch and known—after its chairman, Dr. E. M. Mrak, of the University of California—as the Mrak Commission. Dr. Samuel S. Epstein, chief of the Laboratories of Environmental Toxicology and Carcinogenesis at the Children's Cancer Research Foundation in Boston, who was co-chairman of the Mrak Commission panel considering the teratogenic potential of pesticides, tells a different story on the availability of the Bionetics study. He says that he first heard about it in February. At a meeting of his panel in August, he asked for a copy of the report. Ten days later, the panel was told that the National Institute of Environmental Health Sciences would be willing to provide a statistical summary but that the group could not have access to the full report on which the summary was based. Dr. Epstein says that the panel eventually got the full report on September 24th "by pulling teeth."

Actually, as far back as February, officials at the National Cancer Institute had known, on the basis of a preliminary written outline from Bionetics, the findings of the Bionetics scientists on the fetus-deforming role of 2,4,5-T. Dr. Richard Bates, the officer of the National Institutes of Health who was in charge of coordinating the Bionetics project, has said that during the same month this information was put into the hands of officials of the Food and Drug Administration, the Department of Agriculture, and the Department of Defense. "We had a meeting with a couple of scientists from Fort Detrick, and we informed them of what we had learned," Dr. Bates said recently. "I don't know whether they were the right people for us to see. We didn't hear from them again until after the DuBridge announcement at the White House. Then they called up and asked for a copy of the Bionetics report."

At the Department of Agriculture, which Dr. Bates said had been informed in February of the preliminary Bionetics findings, Dr. Tschirley, one of the officials most intimately concerned with the permissible uses of herbicidal compounds, says that he first heard about the report on 2,4,5-T through the DuBridge announcement. At the Food and Drug Administration, where appropriate officials had been informed in February of the teratogenic potential of 2,4,5-T, no new action was taken to safeguard the public against 2,4,5-T in foodstuffs. In fact, it appears that no action at all was taken by the Food and Drug Administration on the matter during the whole of last year. The explanation that F.D.A. officials have offered for this inaction is that they were under instructions to leave the whole question alone at least until December, because the matter was under definitive study by the Mrak Commission—the very group whose members, as it turns out, had such extraordinary difficulty in obtaining the Bionetics data. The Food Toxicology Branch of the F.D.A. did not have access to the full Bionetics report on 2,4,5-T until after Dr. DuBridge issued his statement, at the end of October.

Thus, after the first word went to various agencies about the fetus-deforming potential of 2,4,5–T, and warning lights could have flashed on in every branch of the government and in the headquarters of every company manufacturing or handling it, literally almost nothing was done by the officials charged with protecting the public from exposure to dangerous or potentially dangerous materials—by the officials in the F.D.A., in the Department of Agriculture, and in the Department of Defense. It is conceivable that the Bionetics findings might still be hidden from the public if they had not been pried loose in midsummer through the activities of a group of young law students. The students were members of a team put together by the consumer-protection activist Ralph Nader—and often referred to as Nader's Raiders—to explore the labyrinthine workings of the Food and Drug Administration. In the course of their investigations, one of the law students, a young woman named Anita Johnson, happened to see a copy of the preliminary report on the Bionetics findings that had been passed on to the F.D.A. in February, and its observations seemed quite disturbing to her. Miss Johnson wrote a report to Nader, and in September she showed a copy of the report to a friend who was a biology student at Harvard. In early October, Miss Johnson's friend, in a conversation with Professor Matthew Meselson, mentioned Miss Johnson's report on the preliminary Bionetics findings. This was the first that Dr. Meselson had heard of the existence of the Bionetics study. A few days previously, he had received a call from a scientist friend of his asking whether Dr. Meselson had heard of certain stories, originating with South Vietnamese journalists and other South Vietnamese, of an unusual incidence of birth defects in South Vietnam, which were alleged to be connected with defoliation operations there.

A few days later, after his friend sent him further information, Dr. Meselson decided to obtain a copy of the Bionetics report, and he called up an acquaintance in a government agency and asked for it. He was told that the report was "confidential and classified," and inaccessible to outsiders. Actually, in addition to the preliminary report there were now in existence the full Bionetics report and a statistical summary prepared by the National Institute of Environmental Health Sciences, and, by nagging various Washington friends. Dr. Meselon obtained bootlegged copies of the two latest reports. What he read seemed to him to have such serious implications that he got in touch with acquaintances in the White House and also with someone in the Army to alert them to the problems of 2,4,5–T, in the hope that some new restrictions would be placed on its use. According to Dr. Meselson, the White House people apparently didn't know until that moment that the reports on the adverse effects of 2,4,5–T even existed. (Around that time, according to a member of Nader's Raiders, "a tremendous lid was put on this thing" within government agencies, and on the subject of the Bionetics work and 2,4,5–T "people in government whom we'd been talking to freely for years just shut up and wouldn't say a word.") While Dr. Meselson awaited word on the matter, a colleague of his informed the press about the findings of the Bionetics report. Very shortly thereafter, Dr. DuBridge made his public announcement of the proposed restrictions on the use of 2,4,5–T.

In certain respects, the DuBridge announcement is a curious document. In its approach to the facts about 2,4,5–T that were set forth in the Bionetics report, it reflects considerable sensitivity to the political and international issues that lie behind the widespread use of this powerful herbicide for civilian and military purposes, and the words in which it describes the reasons for restricting its use appear to have been very carefully chosen:

The actions to control the use of the chemical were taken as a result of findings from a laboratory study conducted by Bionetics Research Laboratories which indicated that offspring of mice and rats given relatively large oral doses of the herbicide during early stages of pregnancy showed a higher than expected number of deformities.

Although it seems improbable that any person could receive harmful amounts of this chemical from any of the existing uses of 2,4,5–T, and while the relationships of these effects in laboratory animals to effects in man are not entirely clear at this time, the actions taken will assure safety of the public while further evidence is being sought.

These actions, according to the statement, included decisions that the Department of Agriculture would cancel manufacturers' registrations of 2,4,5–T for use on food crops, effective at the beginning of 1970, "unless by that time the Food and Drug Administration has found a basis for establishing a safe legal tolerance in and on foods," and that the Departments of Agriculture and the Interior, in their own programs, would stop the use of 2,4,5–T in populated areas and in all other areas where residues of the substance could reach man. As for military uses of 2,4,5–T, the statement said, "The chemical is effective in defoliating trees and shrubs and its use in South Vietnam has resulted in reducing greatly the number of ambushes, thus saving lives." However, the statement continued, "the Department of Defense will [henceforth] restrict the use of 2,4,5–T to areas remote from the population."

All this sounds eminently fair and sensible, but whether it represents a candid exposition of the facts about 2,4,5–T and the Bionetics report is debatable. The White House statement that the Bionetics findings "indicated that offspring of mice and rats given relatively large oral doses of the herbicide during early stages of pregnancy showed a higher than expected number of deformities" is, in the words of one eminent biologist who has studied the Bionetics data, "an understatement." We went on to say that "if the effects on experimental animals are applicable to people it's a very sad and serious situation." The actual Bionetics report described 2,4,5–T as producing "sufficiently prominent effects of seriously hazardous nature" in controlled experiments with pregnant mice to lead the authors "to categorize

[it] as *probably dangerous.*" The report also found 2,4–D "potentially dangerous but needing further study." As for 2,4,5–T, the report noted that, with the exception of very small subcutaneous dosages, "all dosages, routes, and strains resulted in increased incidence of abnormal fetuses" after its administration. The abnormalities in the fetuses included lack of eyes, faulty eyes, cystic kidneys, cleft palates, and enlarged livers. The Bionetics report went on to report on further experimental applications of 2,4,5–T to another species:

Because of the potential importance of the findings in mice, an additional study was carried out in rats of the Sprague-Dawley strain. Using dosages of 21.5 and 46.4 mg/kg [that is, dosages scaled to represent 21.5 and 46.4 milligrams of 2,4,5–T per kilogram of the experimental animal's body weight] suspended in 50 per cent honey and given by the oral route on the 6th through 15th days of gestation, we observed excessive fetal mortality (almost 80 per cent) and a high incidence of abnormalities in the survivors. When the beginning of administration was delayed until the 10th day, fetal mortality was somewhat less but still quite high even when dosage was reduced to 4.6 mg/kg. The incidence of abnormal fetuses was threefold that in controls even with the smallest dosage and shortest period used. . . .

It seems inescapable that 2,4,5–T is teratogenic in this strain of rats when given orally at the dosage schedules used here.

Considering the fetus-deforming effects of the *lowest* oral dosage of 2,4,5–T used in the Bionetics work on rats—to say nothing of the excessive fetal mortality—the White House statement that "relatively large oral doses of the herbicide . . . showed a higher than expected number of deformities" is hardly an accurate description of the results of the study. In fact, the statistical tables presented as part of the Bionetics report showed that at the lowest oral dosage of 2,4,5–T given to pregnant rats between the tenth and fifteenth days of gestation thirty-nine per cent of the fetuses produced were abnormal, or three times the figure for control animals. At what could without much question be described as "relatively large oral doses" of the herbicide—dosages of 21.5 and 46.4 milligrams per kilogram of body weight of rats, for example—the percentage of abnormal fetuses was ninety and a hundred per cent, respectively, or a good bit higher than one would be likely to deduce from the phrase "a higher than expected number of deformities." The assertion that "it seems improbable that any person could receive harmful amounts of this chemical from any of the existing uses of 2,4,5–T" also appears to be worth examining, for this is precisely what many biologists are most worried about in relation to 2,4,5–T and allied substances.

It seems fair, before going further, to quote a cautionary note in the Du-Bridge statement: "The study involved relatively small numbers of laboratory rats and mice. More extensive studies are needed and will be undertaken. At best it is difficult to extrapolate results obtained with laboratory animals to man—sensitivity to a given compound may be different in man than in animal species. . . ." It would be difficult to get a biologist to disagree with these seemingly sound generalities. However, the first part of the statement does imply, at least to a layman, that the number of experimental animals used in the Bionetics study had been considerably smaller than the numbers used to test commercial compounds other than 2,4,5–T before they are approved by agencies such as the Food and Drug Administration and the Department of Agriculture. In this connection, the curious layman could reasonably begin with the recommendations, in 1963, of the President's Science Advisory Committee on the use of pesticides, which proposed that companies putting out pesticides should be required from then on to demonstrate the safety of their products by means of toxicity studies on two generations of at least two warm-blooded mammalian species. Subsequently, the F.D.A. set up new testing requirements, based on these recommendations, for companies producing pesticides. However, according to Dr. Joseph McLaughlin, of the Food Toxicology Branch of the F.D.A., the organization actually requires applicants for permission to sell pesticides to present the results of tests on only *one* species (usually, in practice, the rat). According to Dr. McLaughin, the average number of experimental animals used in studies of pesticides is between eighty and a hundred and sixty, including animals used as controls but excluding litters produced. The Bionetics studies of 2,4,5–T used both mice and rats, and their total number was, in fact, greater, not less, than this average. Including controls but excluding litters, the total number of animals used in the 2,4,5–T studies was two hundred and twenty-five. Analysis of the results by the National Institute of Environmental Health Science found them statistically "significant" and this is the real purpose of such a study; it is meant to act as a coarse screen to shake out of the data the larger lumps of bad news. Such a study is usually incapable of shaking out anything smaller; another kind of study is needed to do that.

Thus, the DuBridge statement seems to give rise to this question: If the Bionetics study, based on the effects of 2,4,5–T on two hundred and twenty-five experimental animals of two species, appears to be less than conclusive, on the ground that "the study involved relatively small numbers of laboratory rats and mice," what is one to think of the adequacy of the tests that the manufacturers of pesticides make? If, as the DuBridge statement says, "at best it is difficult to extrapolate results obtained with laboratory animals to man," what is one to say of the protection that the government affords the consumer when the results of tests of pesticidal substances on perhaps a hundred and twenty rats are officially extrapolated to justify the use of the substances by a population of two hundred million people—not to mention one to two million unborn babies being carried in their mothers' wombs?

The very coarseness of the screen used in all these tests—that is, the relatively small number of animals involved—means that the bad news that shows up in the data has to be taken with particular seriousness, because lesser effects tend not to be demonstrable at all. The inadequacy of the scale on which animal tests with, for instance, pesticides are currently being made in this country to gain F.D.A. approval is further indicated by the fact that a fetus-deforming effect that might show up if a thousand test animals were used is almost never picked up, since the studies are not conducted on that scale; yet if the material being tested turned out to have the same effect, quantitatively, on human beings, this would mean that it would cause between three and four thousand malformed babies to be produced each year. The teratogenic effects of 2,4,5–T on experimental animals used by the Bionetics people, however, were not on the order of one in a thousand. Even in the case of the lowest oral dose given rats, they were on the order of one in three.

Again, it is fair to say that what is applicable to rats in such tests may not be applicable to human beings. But it is also fair to say that studies involving rats are conducted not for the welfare of the rat kingdom but for the ultimate protection of human beings. In the opinion of Dr. Epstein, the fact that the 2,4,5-T used in the Bionetics study produced teratogenic effects in *both* mice and rats underlines the seriousness of the study's implications. In the opinion of Dr. McLaughlin, this is even further underlined by another circumstance—that the rat, as a test animal, tends to be relatively resistant to teratogenic effects of chemicals. For example, in the late nineteen-fifties, when thalidomide, that disastrously teratogenic compound, was being tested on rats in oral dosages ranging from low to very high, no discernible fetus-deforming effects were produced. And Dr. McLaughlin says that as far as thalidomide tests on rabbits were concerned, "You could give thalidomide to rabbits in oral doses at between fifty and two hundred times the comparable human level to show any comparable teratogenic effects." In babies born to women who took thalidomide, whether in small or large dosages and whether in single or multiple dosages, between the sixth and seventh weeks of pregnancy, the rate of deformation was estimated to be one in ten.

Because of the relatively coarse testing screen through which compounds like pesticides—and food additives as well—are sifted before they are approved for general or specialized use in this country, the Food and Drug Administration theoretically maintains a policy of stipulating, as a safety factor, that the maximum amount of such a substance allowable in the human diet range from one two-thousandth to one one-hundredth of the highest dosage level of the substance that produces no harmful effects in experimental animals. (In the case of pesticides, the World Health Organization takes a more conservative view, considering one two-thousandth of the "no-effect" level in animal studies to be a reasonable safety level for human exposure.) According to the standards of safety established by F.D.A. policy, then, no human being anywhere should ever have been exposed to 2,4,5-T, because in the Bionetics study of rats *every* dosage level produced deformed fetuses. A "no-effect" level was never achieved.

To make a reasonable guess about the general safety of 2,4,5-T for human beings, as the material has been used up to now, the most appropriate population area to observe is probably not the relatively healthy and well-fed United States, where human beings are perhaps better equipped to withstand the assault of toxic substances, but South Vietnam, where great numbers of civilians are half-starved, ravaged by disease, and racked by the innumerable horrors of war. In considering any potentially harmful effects of 2,4,5-T on human beings in Vietnam, some attempt has to be made to estimate the amount of 2,4,5-T to which people, and particularly pregnant women, may have been exposed as a result of the repeated defoliation operations. To do so, a comparison of known rates of application of 2,4,5-T in the United States and in Vietnam is in order. In this country, according to Dr. Tschirley, the average recommended application of 2,4,5-T in aerial spraying for woody-plant control is between three-quarters of a pound and a pound per acre. There are about five manufacturers of 2,4,5-T in this country, of which the Dow Chemical Company is one of the biggest. One of Dow Chemical's best-sellers in the 2,4,5-T line is Esteron 245 Concentrate, and the cautionary notes that a drum of Esteron bears on its label are hardly reassuring to anyone lulled by prior allegations that 2,4,5-T is a substance of low toxicity: Caution, May Cause Skin Irritation; Avoid Contact with Eyes, Skin, and Clothing; Keep out of the reach of children.

Under the word "Warning" are a number of instructions concerning safe use of the material, and these include, presumably for good reason, the following admonition:

"Do not contaminate irrigation ditches or water used for domestic purposes."

Then comes a "Notice":

"Seller makes no warranty of any kind, express or implied, concerning the use of

this product. Buyer assumes all risk of use or handling, whether in accordance with directions or not."

The concentration of Esteron recommended—subject to all these warnings, cautions, and disclaimers—for aerial spraying in the United States varies with the type of vegetation to be sprayed, but probably a fair average would be three-quarters to one pound acid equivalent of the raw 2,4,5–T per acre. In Vietnam, however, the concentration of 2,4,5–T for each acre sprayed has been far higher. In Agent Orange, the concentrations of 2,4,5–T have averaged *thirteen times* the recommended concentrations used in the United States. The principal route through which quantities of 2,4,5–T might be expected to enter the human system in Vietnam is through drinking water, and in the areas sprayed most drinking water comes either from rainwater cisterns fed from house roofs or from very shallow wells. It has been calculated that, taking into account the average amount of 2,4,5–T in Agent Orange sprayed per acre in Vietnam by the military, and assuming a one-inch rainfall (which is quite common in South Vietnam) after a spraying, a forty-kilo (about eighty-eight-pound) Vietnamese woman drinking two litres (about 1.8 quarts) of contaminated water a day could very well be absorbing into her system a hundred and twenty milligrams, or about one two-hundred-and-fiftieth of an ounce, of 2,4,5–T a day; that is, a daily oral dosage of three milligrams of 2,4,5–T per kilo of body weight. Thus, if a Vietnamese woman who was exposed to Agent Orange was pregnant, she might very well be absorbing into her system a percentage of 2,4,5–T only slightly less than the percentage that deformed one out of every three fetuses of the pregnant experimental rats. To pursue further the question of exposure of Vietnamese to 2,4,5–T concentrations in relation to concentrations officially considered safe for Americans, an advisory subcommittee to the Secretary of the Interior, in setting up guidelines for maximum safe contamination of surface water by pesticides and allied substances some time ago, recommended a concentration of one-tenth of a milligram of 2,4,5–T in one litre of drinking water as the maximum safe concentration. Thus, a pregnant Vietnamese woman who ingested a hundred and twenty milligrams of 2,4,5–T in two litres of water a day would be exposed to 2,4,5–T at six hundred times the concentration officially considered safe for Americans.

Moreover, the level of exposure of Vietnamese people in sprayed areas is not necessarily limited to the concentrations shown in Dr. Meselson's calculations. Sometimes the level may be far higher. Dr. Pfeiffer, the University of Montana biologist, says that when difficulties arise with the spray planes or the spray apparatus, or when other accidents occur, an entire thousand-gallon load of herbicidal agent containing 2,4,5-T may be dumped in one area by means of the thirty-second emergency-dumping procedure. Dr. Pfeiffer has recalled going along as an observer on a United States defoliation mission last March, over the Plain of Reeds area of Vietnam, near the Cambodian border, during which the technician at the spray controls was unable to get the apparatus to work, and thereupon dumped his whole load. "This rained down a dose of 2,4,5-T that must have been fantastically concentrated," Dr. Pfeiffer has said. "It was released on a very watery spot that looked like headwaters draining into the Mekong River, which hundreds of thousands of people use." In another instance, he has recalled, a pilot going over the area of the supposedly "friendly" Catholic refugee village of Ho Nai, near Bien Hoa, had serious engine trouble and dumped his whole spray load of herbicide on or near the village. In such instances, the concentration of 2,4,5-T dumped upon an inhabited area in Vietnam probably averaged about a hundred and thirty times the concentration recommended by 2,4,5-T manufacturers as both effective and safe for use in the United States.

Theoretically, the dangers inherent in the use of 2,4,5-T should have been removed by means of the steps promised in the White House announcement last October. A quick reading of the statement by Dr. DuBridge (who is also the executive secretary of the President's Environmental Quality Council) certainly seemed to convey the impression that from that day onward there would be a change in Department of Defense policy on the use of 2,4,5-T in Vietnam, just as there would be a change in the policies of the Departments of Agriculture and the Interior on the domestic use of 2,4,5-T. But did the White House mean what it certainly seemed to be saying about the future military use of 2,4,5-T in Vietnam? The White House statement was issued on October 29th. On October 30th, the Pentagon announced that no change would be made in the policy governing the military use of 2,4,5-T in South Vietnam, because—so the Washington *Post* reported on October 31st—"the Defense Department feels its present policy conforms to the new Presidential directive." The *Post* article went on:

"A Pentagon spokesman's explanation of the policy, read at a morning press briefing, differed markedly from the written version given reporters later.

"When the written statement was distributed, reporters were told not to use the spokesman's [previous] comment that the defoliant . . . is used against enemy 'training and regroupment centers.'

"The statement was expunged after a reporter asked how use against such centers conformed to the Defense Department's stated policy of prohibiting its use in 'populated areas.' "

But the statement wasn't so easily expunged. A short time later, it was made again, in essence, by Rear Admiral William E. Lemos, of the Policy Plans and National Security Council Affairs Office of the Department of Defense, in testimony before a subcommittee of the House Foreign Affairs Committee, the only difference being that the phrase "training and regroupment centers" became "enemy base camps." And in testifying that the military was mounting herbicidal operations on alleged enemy base camps Rear Admiral Lemos said:

"We know . . . that the enemy will move from areas that have been sprayed. Therefore, enemy base camps or unit headquarters are sprayed in order to make him move to avoid exposing himself to aerial observation."

If one adds to the words "enemy base camps" the expunged words "training and regroupment centers"—centers that are unlikely to operate without an accompanying civilian population—what the Defense Department seems actually to be indicating is that the "areas remote from the population" against which the United States is conducting military herbicidal operations are "remote from the population" at least in part *because* of these operations.

As for the Bionetics findings on the teratogenic effects of 2,4,5-T on experimental animals, the Department of Defense indicated that it put little stock in the dangers suggested by the report. A reporter for the *Yale Daily News* who telephoned the Pentagon during the first week in December to inquire about the Defense Department's attitude toward its use of 2,4,5-T in the light of the Bionetics report was assured that "there is no cause for alarm about defoliants." A week or so later, he received a letter from the Directorate for Defense Information at the Pentagon which described the Bionetics results as based on "evidence that 2,4,5-T, when fed in large amounts to highly inbred and susceptible mice and rats, gave a higher incidence of birth defects than was normal for these animals." After reading this letter, the *Yale Daily News* reporter again telephoned the Pentagon, and asked, "Does [the Department of Defense] think defoliants could be affecting embryo growth in any way in Vietnam?" The Pentagon spokesman said, "No." And that was that. The experimental animals were highly susceptible; the civilian Vietnamese population, which even under "normal" circumstances is the victim of a statistically incalculable but clearly very high abortion and infant-mortality rate, was not.

Nearly a month after Dr. DuBridge's statement, another was issued, this one by the President himself, on United States policy on chemical and biological warfare. The President, noting that "biological weapons have massive, unpredictable, and potentially uncontrollable consequences" that might "impair the health of future generations," announced it as his decision that thenceforward "the United States shall renounce the use of lethal biological agents and weapons, and all other methods of biological warfare." Later, a White House spokesman, in answer to questions by reporters whether this included the use of herbicidal, defoliant, or crop-killing chemicals in Vietnam, made it clear that the new policy did not encompass herbicides.

Since the President's statement did specifically renounce "all other methods of biological warfare," the reasonable assumption is that the United States government does not consider herbicidal, defoliant, and crop-killing operations against military and civilian populations to be part of biological warfare. The question therefore remains: What does the United States government consider biological warfare to consist of? The best place to look for an authoritative definition is a work known as the Joint Chiefs of Staff Dictionary, an official publication that governs proper word usage within the military establishment. In the current edition of the Joint Chiefs of Staff Dictionary, "biological warfare" is defined as the "employment of living organisms, toxic biological products, and plant-growth regulations to produce death or casualties in man, animals, or plants or defense against such action." But the term "plant-growth regulators" is nowhere defined in the Joint Chiefs of Staff Dictionary, and since a certain technical distinction might be made (by weed-control scientists, for example) between plant-growth regulators and defoliants, the question of whether the Joint Chiefs consider military defoliation operations part of biological warfare is left unclear. As for "defoliant agents," the Dictionary defines such an agent only as "a chemical which causes trees, shrubs, and other plants to shed their leaves prematurely." All this is hardly a surprise to anyone familiar with the fast semantic legerdemain involved in all official statements on biological warfare, in which defoliation has the bafflingly evanescent half-existence of a pea under a shell.

To find that pea in the official literature is not easy. But it is reasonable to assume that if the Department of Defense were to concede officially that "defoliant agents" were in the same category as "plant-growth regulators" that "produce death . . . in plants," it would thereby also be conceding that it is in fact engaging in the biological warfare that President Nixon has renounced. And such a concession seems to have been run to earth in the current edition of a Department of the Army publication entitled "Manual on Use of Herbicides for Military Purposes," in which "antiplant agents" are defined as "chemical agents which possess a high offensive potential for destroying or seriously limiting the production of food and defoliating vegetation," and goes on, "These compounds include herbicides that kill or inhibit the growth of plants; plant-growth

regulators that either regulate or inhibit plant growth, sometimes causing plant death. . . ." The admission that the Department of Defense is indeed engaging, through its defoliation and herbicidal operations in Vietnam, in biological warfare, as this is defined by the Joint Chiefs and as it has been formally renounced by the President, seems inescapable.

Since the DuBridge statement, allegations, apparently originating in part with the Dow Chemical Company, have been made to the effect that the 2,4,5-T used in the Bionetics study was unrepresentative of the 2,4,5-T generally produced in this country, in that it contained comparatively large amounts of a certain contaminant, which, according to the Dow people, is ordinarily present in 2,4,5-T only in trace quantities. Accordingly, it has been suggested that the real cause of the teratogenic effects of the 2,4,5-T used in the Bionetics study may not have been the 2,4,5-T itself but, rather, the contaminant in the sample used. The chemical name of the contaminant thus suspected by the Dow people is 2,3,6,7-tetrachlorodibenzo-*p*-dioxin, often referred to simply as dioxin. The 2,4,5-T used by Bionetics was obtained in 1965 from the Diamond Alkali Company, now known as the Diamond-Shamrock Company and no longer in the business of manufacturing 2,4,5-T. It appears that the presence of a dioxin contaminant in the process of manufacturing 2,4,5-T is a constant problem among all manufacturers. Three years ago, Dow was obliged to close down its 2,4,5-T plant in Midland, Michigan, for several months and partly rebuild it because of what Dow people variously described as "a problem" and "an accident." The problem—or accident—was that workers exposed to the dioxin contaminant during the process of manufacture came down with an acute skin irritation known as chlor-acne. The Dow people, who speak with considerable pride of their toxicological work ("We established our toxicology lab the year Ralph Nader was born," a Dow public-relations man said recently, showing, at any rate, that Dow is keenly aware of Nader and his career), say that the chlor-acne problem has long since been cleared up, and that the current level of the dioxin contaminant in Dow's 2,4,5-T is less than one part per million, as opposed to the dioxin level in the 2,4,5-T used in the Bionetics study, which is alleged to have been between fifteen and thirty parts per million. A scientist at the DuBridge office, which has become a coordinating agency for information having to do with the 2,4,5-T question, says that the 2,4,5-T used by Bionetics was "probably representative" of 2,4,5-T being used in this country—and presumably in Vietnam—at the time it was obtained but that considerably less of the contaminant is present in the 2,4,5-T now being produced. Evidently, the degree of dioxin contamination present in 2,4,5-T varies from manufacturer to manufacturer. What degree of contamination, high or low, was present in the quantities of 2,4,5-T shipped to South Vietnam at various times this spokesman didn't seem to know.

The point about the dioxin contamination of 2,4,5-T is an extremely important one, because if the suspicions of the Dow people are correct and the cause of the fetus deformities cited in the Bionetics study is not the 2,4,5-T but the dioxin contaminant, then this contaminant may be among the most teratogenically powerful agents ever known. Dr. McLaughlin has calculated that if the dioxin present in the Bionetics 2,4,5-T was indeed responsible for the teratogenic effects on the experimental animals, it looks as though the contaminant would have to be at least ten thousand times more teratogenically active in rats than thalidomide was found to be in rabbits. Furthermore, it raises alarming questions about the prevalence of the dioxin material in our environment. It appears that under high heat the dioxin material can be produced in a whole class of chemical substances known as trichlorophenols and pentachlorophenols. These substances include components of certain fatty acids used in detergents and in animal feed.

As a consequence of studies that have been made of the deaths of millions of young chicks in this country after the chicks had eaten certain kinds of chicken feed, government scientists are now seriously speculating on the possibility that the deaths were at the end of a chain that began with the spraying of corn crops with 2,4,5-T. The hypothesis is that residues of dioxin present in the 2,4,5-T remained in the harvested corn and were concentrated into certain by-products that were then sold to manufacturers of chicken feed, and that the dioxin became absorbed into the systems of the young chicks. One particularly disquieting sign of the potential of the dioxin material is the fact that bio-assays made on chick embryos in another study revealed that all the embryos were killed by one twenty-millionth of a gram of dioxin per egg.

Perhaps an even more disquieting speculation about the dioxin is that 2,4,5-T may not be the only material in which it appears. Among the compounds that several experienced biologists and toxicologists suspect might contain or produce dioxin are the trichlorophenols and pentachlorophenols, which are rather widely present in the environment in various forms. For example, a number of the trichlorophenols and pentachlorophenols are used as slime-killing agents in paper-pulp manufacture, and are present in a wide range of consumer products, including adhesives, water-based and oil-based paints, varnishes and lacquers, and paper and paper coatings. They are used to prevent slime in pasteurizers and fungus on vats in breweries and are also used in hair shampoo. Along with the 2,4,5-T used in the Bionetics study, one trichlorophenol and one pentachlorophenol were tested without teratogenic results. But Dr. McLaughlin points out that since there are many such compounds put out by various companies, these particular samples might turn out to be—by the reasoning of the allegation that the 2,4,5-T used by Bionetics was unusually dirty—unusually clean.

Dr. McLaughlin tends to consider significant, in view of the now known extreme toxicity and possible extreme teratogenicity of dioxin, the existence of even very small amounts of the trichlorophenols and pentachlorophenols in food wrappings and other consumer products. Since the production of dioxin appears to be associated with high-temperature conditions, a question arises whether these thermal conditions are met at *any* stage of production or subsequent use or disposal of such materials, even in minute amounts. One of the problems here seems to be, as Dr. Epstein has put it, "The moment you introduce something into the environment it's likely to be burned sooner or later—that's the way we get rid of nearly everything." And most of these consumer products may wind up in municipal incinerators, and when they are burned, the thermal and other conditions for creating dioxin materials may quite possibly be met. If so, this could mean a release of dioxin material into the entire environment through the atmosphere.

Yet so far the dioxin material now suspected of causing the fetus-deforming effects in experimental animals has never been put through any formal teratological tests by any company or any government agency. If the speculation over the connection between dioxin in 2,4,5-T and the deaths of millions of baby chicks in borne out, it might mean that, quite contrary to the assumptions made up to now that 2,4,5-T is rapidly decomposable in soil, the dioxin material may be extremely persistent as well as extremely deadly.

So far, nobody knows—and it is probable that nobody will know for some time—whether the fetus deformities in the Bionetics study were caused by the 2,4,5-T itself, by the dioxin contaminant, or by some other substance or substances present in the 2,4,5-T, or whether human fetuses react to 2,4,5-T in the same way as the fetuses of the experimental animals in the Bionetics study. However, the experience so far with the employment of 2,4,5-T and substances chemically allied to it ought to be instructive. The history of 2,4,5-T is related to preparations for biological warfare, although nobody in the United States government seems to want to admit this, and it has wound up being used for purposes of biological warfare, although nobody in the United States government seems to want to admit *this*, either. Since 2,4,5-T was developed, the United States government has allowed it to be used on a very large scale on our own fields and countryside without adequate tests of its effects. In South Vietnam—a nation we are attempting to save—for seven full years the American military has sprayed or dumped this biological-warfare material on the countryside, on villages, and on South Vietnamese men and women in staggering amounts. In that time, the military has sprayed or dumped on Vietnam *fifty thousand tons* of herbicide, of which twenty thousand tons have apparently been straight 2,4,5-T. In addition, the American military has apparently made incursions into a neutral country, Cambodia, and rained down on an area inhabited by thirty thousand civilians a vast quantity of 2,4,5-T. Yet in the quarter of a century since the Department of Defense first developed the biological-warfare uses of this material it has not completed a single series of formal teratological tests on pregnant animals to determine whether it has an effect on their unborn offspring.

Similarly, officials of the Dow Chemical Company, one of the largest producers of 2,4,5-T, although they refuse to divulge how much 2,4,5-T they are and have been producing, admit that in all the years that they had produced the chemical before the DuBridge statement they had never made formal teratological tests on their 2,4,5-T, which they are now doing. The Monsanto Chemical Company, another big producer, had, as far as is known, never made such tests, either, nor, according to an official in the White House, had any other manufacturer. The Department of Agriculture has never required any such tests from manufacturers. The Food and Drug Administration has never required any such tests from manufacturers. The first tests to determine the teratogenic effects of 2,4,5-T were not made until the National Institutes of Health contracted for them with Bionetics Laboratories. And even then, when the adverse results of the tests became apparent, it was, as Dr. Epstein said, like "pulling teeth" to get the data out of the institutions involved. And when the data were obtained and the White House was obliged, partly by outside pressure and publicity, to act, the President's science adviser publicly presented the facts in a less than candid manner, while the Department of Defense, for all practical purposes, ignored the whole business and announced its intention of going on doing what it had been doing all along.

There have been a number of reports from Vietnam both of animal abortions and of malformed human babies that are thought to have resulted from spraying operations in which 2,4,5-T was used. But such scattered reports, however well founded, cannot really shed much more light on the situation. The fact is that even in this country, the best-fed, richest, and certainly most statistics-minded of all countries on earth, the standards for testing materials that are put into the environment, into drugs, and into the human diet are grossly inadequate. The screening system is so coarse that, as a

teratology panel of the Mrak Commission warned recently, in connection with thalidomide, "the teratogenicity of thalidomide might have been missed had it not produced malformations rarely encountered." In other words, had it not been for the fact that very unusual and particularly terrible malformations appeared in an obvious pattern—for example, similarly malformed babies in the same hospital at about the same time—pregnant women might still be using thalidomide, and lesser deformations would, so to speak, disappear into the general statistical background. As for more subtle effects, such as brain damage and damage to the central-nervous system, they would probably never show up as such at all. If such risks existed under orderly, normal medical conditions in a highly developed country, how is one ever to measure the harm that might be done to unborn children in rural Vietnam, in the midst of the malnutrition, the disease, the trauma, the poverty, and the general shambles of war?

U.S. JURY INDICTMENT OF PRIDE, INC., EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a news story which appeared in today's Washington Post, titled "U.S. Jury Indicts Pride Employees," and I also ask unanimous consent to insert in the RECORD a news story which appeared in today's Washington Star, titled "17 at Pride Indicted in Pay Probe."

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

[From the Washington (D.C.) Post, Feb. 10, 1970]

U.S. JURY INDICTS PRIDE EMPLOYEES

(By Peter Osnos)

Seventeen present and former employees of Youth Pride, Inc., were indicted by a special federal grand jury here yesterday on charges stemming from alleged payroll irregularities that investigators said involved about $10,000.

The indictments were the first to result from a year-long investigation into the financial affairs of the multimillion dollar anti-poverty agency aimed at enlisting Washington's inner-city youths in various self-help and training programs.

The offenses are alleged to have taken place between Oct. 1, 1967, three months after Pride (Youth Pride, Inc.) was started, and Aug. 14, 1968. All 17 persons charged were in medium-level supervisory roles, according to the agency.

According to Marion Barry, Pride's operations director, four are still employed with the agency. They are: Charles Boykins, 23, of 4220 Wheeler Rd. SE; James E. Jenkins, 27, of 1451 Harvard St. NW; Roscoe V. Brockenberry, 29, of 2327 18th St. NW; and Roland G. Howard, 23, of 3726 Foote St. NE.

Charges against the 17 involve alleged instances of forging names on checks, drawing up false timecards and demanding kickbacks from lower ranking Pride members.

Each of the 17 has been charged with one or more of four offenses. These are:

Forgery.

Making a false statement or representation in a matter within the jurisdiction of a department or agency of the United States.

Willfully misapplying and obtaining by fraud moneys or funds which are the subject of a contract of assistance with a department or agency of the United States.

Inducing a person to give up money by threat of procuring his dismissal from employment in connection with a contract of assistance with a department or agency of the United States.

In a statement issued last night, Pride, Inc., said, "Although we have no official notification of the indictment we have been trying to reach those who have been charged. . . .

"Under our system of justice these men have only been charged and are presumed innocent until proven guilty . . . we hope others will reserve judgment until due process of law shall have had its opportunity to run its course."

The statement stressed that the 13 former employees "were terminated or resigned more than eight months ago." It said the average amount involved in 14 of the cases is less than $250.

Examples of the offenses charged by the grand jury are these:

"Roscoe V. Brockenberry made and caused to be made bi-weekly time and attendance reports representing that a designated employee was then employed by Youth Pride, Inc., and entitled to compensation . . . when said employee was not then employed."

"James E. Jenkins . . . falsely made and forged . . . various payee endorsements on the backs of certain commercial checks . . . Youth Pride, Inc., payroll checks."

"Charles R. Boykins . . . did willfully influence another employee of Youth Pride, Inc. . . . to give up one-half of all the moneys received by him as bi-weekly wages . . . by threat of procuring the dismissal (of the other employee)."

"Roscoe V. Brockenberry . . . did willfully misapply funds . . . by cashing and converting to his own use and benefit the proceeds of certain payroll checks." These resulted from allegedly false time cards.

As operations director, Barry oversees programs that by recent count involved about 900 inner-city young people, including members of street gangs, ex-convicts, parolees and the functionally illiterate.

Begun as a $300,000 federally-financed cleanup campaign, the organization has received more than $6.6 million to help finance such enterprises as a gas station, a landscaping company and a remedial education program.

The investigation of Pride, Inc., began in mid-1968, and was carried out by the General Accounting Office at the urging of Sen. Robert C. Byrd (D-W. VA.) and Rep. Joel T. Broyhill (R-Va.).

The GAO study turned up allegations of waste, theft, payroll padding and sloppy accounting during Pride's first year of operation, roughly the same period covered in the indictments.

By the time the GAO's final report came out on Jan. 16, 1969, the government agency noted that its recommendations for tighter controls had been adopted the previous September by Pride.

The Department of Labor also conducted an investigation of Pride in 1968.

Philip L. Kellogg, an assistant U.S. attorney, said yesterday that the GAO and Labor probes had turned up evidence of criminal activity in the payroll area and a special grand jury was empanelled last March 3 to hear testimony.

Kellogg said the payroll documents of Pride were subpoenaed and studied by a team of three FBI agents. He said the grand jury heard several dozen witnesses.

Officials in the U.S. atttorney's office declined to say yesterday whether there would be further indictments. Kellogg noted, however, that the grand jury had not been dismissed.

As recently as Dec. 30, courthouse sources said, the government had subpoenaed the payroll records of Youth Pride Economic Enterprises, Inc., a business-oriented independent branch of Youth Pride, Inc.

The four present employees of Pride are charged as follows: Brockenberry, making a false statement and wilfully misapplying funds; Howard, forgery; Jenkins, forgery; and Boykins, inducing a person to give up money.

The 13 others and the offenses they are charged with are Eddie Campbell, 23, 1475 Euclid St. NW, forgery; Paris A. Jones, 23, 3339 Clay Pl. NE, wilfully misapplying funds and forgery; Henry W. Banks, 27, 125 P St. SW, making a false statement, wilfully misapplying funds, forgery; Jerome Brown, 29, 2723 13th St. NW, forgery and making a false statement.

Also Edward B. Bundy Jr., 21, 1009 9th St. NE, willfully misapplying funds and forgery; Samuel A. Benson 718 Barnes St. NE, making a false statement, willfully misapplying funds and forgery; Theodore J. Hickerson, 28, federal penitenary, Lewisburg, Pa., making a false statement, willfully misapplying funds and forgery; Albert Davis, 30, 1816 16th St. NW, willfully misapplying funds; Harry C. Chase, 34, 1823 Monroe St. NW, making a false statement, wilfully misapplying funds and forgery.

Also, Winston Staton, 26, 3821 Halley St. SW, making a false statement, willfully misapplying funds and forgery; Leroy Buchanan, 23, 1413 Half St. NW, forgery; Herman Coefield, 23, 3004 Georgia Ave. NW, willfully misapplying funds and forgery; Robert L. Beasley, 29, 24A Bates St. NW, making a false statement, willfully misapplying funds, inducing a person to give up money and forgery.

[From the Evening Star, Feb. 10, 1970]

17 AT PRIDE INDICTED IN PAY PROBE

A U.S. District court grand jury has indicted 17 former and present members of Pride, Inc., the ghetto-based, economic self-help organization here, on charges of payroll irregularities.

The indictments handed up late yesterday were the culmination of a year-long investigation of Pride that was started under former U.S. Atty. David G. Bress and continued under his successor, Thomas A. Flannery.

The period covered was from Oct. 1, 1967, to Aug. 14, 1968, most of which was during the group's first full-year federal grant.

The 17 persons indicted—four of whom still are with the program, according to a Pride spokesman—were described by court officials as holding supervisory positions. Pride officials contended that only one could be considered an official of the organization.

Pride leaders, in a statement, also said that according to information available to them, the amounts in 14 of the cases average less than $250 each. In the indictments, the amount involved was specified in three of the cases—$1,137.90, $2,354.66, and $289.35.

Pride, in its 2½ years of existence, has received some $8.6 million in federal funds. It has often been the center of controversy.

The project was launched with a $300,000 Labor Department grant in August 1967, and within several months had put some 1,000 green-coveralled teenagers on the streets, primarily in cleanup programs.

That fall, the organization received $2 million from the department and began to expand and diversify its operation. Still paying hourly wages to students working part-time, the leaders of Pride started to concentrate on the hard-core "dudes" out of school and on the street corners.

SELF-SUFFICIENCY SOUGHT

The organization since has formed a number of economic units with a goal of eventual financial self-sufficiency.

Two of the group's most consistent critics, Rep. Joel T. Broyhill, R-Va., and Sen. Robert W. Byrd, D-W. Va., have expressed skepticism and have charged irregularities in the operation.

In the summer of 1968, auditors from the Labor Department and from the General Accounting Office began checking Pride's books, at the insistence of the Senate Appropriations Committee, which was considering a $3.8 million refunding.

GAO in an interim report cited allegations of payroll padding and turned information over to the FBI. However, in September, GAO certified that bookkeeping procedures had been tightened and the Pride operation was "in proper order."

CALLED TRAINEES

The federal probe was under way into the allegations of payroll kickbacks and forgeries by December 1968. The program currently is operating with $2.5 million granted in November.

Pride's statement said, "The 17 top officials indicted are in reality 17 Pride trainees, 17 of more than 3,000. Of those indicted, only 4 are still with Pride. The other 13 were terminated or resigned more than 8 months ago. . . .

"We shall withhold further comment, and we hope that others will withhold judgment until due process of law shall have had an opportunity to run its course," the Pride statement said.

One of those indicted, Winston L. Staton, 26, of the 1400 block of Harvard Street NW, was named chairman of the Pride board in the fall of 1967 after the resignation of Rufus Mayfield. He was charged with representing that certain persons were employed by Pride when they were not and forging names on the backs of paychecks.

OTHERS INDICTED

Most of the charges involved falsifying payroll records, forging endorsements, and fraud.

Those indicted, in addition to Staton, were: Eddie Campbell, 23, of the 1400 block of Euclid Street NW; Samuel A. Benson, 22, of the 700 block of Barnes Street NE; Charles R. Boykins, 23, of the 4200 block of Wheeler Road SE; James E. Jenkins, 27, of the 1400 block of Harvard Street NW.

Also, Leroy Buchanan, 23, of the 1400 block of Half Street SW; Jerome Brown, 29, of the 2700 block of 13th Street NW; Robert L. Beasley, 29, of the unit block of Bates Street NW; Albert Davis, 30, of the 1800 block of 16th Street NW; Theodore J. Hickerson, 28, Federal Penitentiary at Lewisburg, Pa.

Also, Edward B. Bundy Jr., 21, of the 1000 block of 9th Street NE; Henry W. Banks, 27, of the 100 block of P Street SW; Harry C. Chase, 34, of the 1800 block of Monroe Street NW; Herman Scofield, 23, of the 3000 block of Georgia Avenue NW.

Also, Roscoe V. Brockenberry, 29, of the 2300 block of 18th Street NW; Paris A. Jones, 23, of the 3300 block of Clay Place NE, and Roland G. Howard, 23, of the 3700 block of Foote Street NE.

AN EXTRA "RIGHT" IN NEW YORK?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a column written by David Lawrence, titled "An Extra 'Right' in New York?" the item having appeared in today's Washington Star.

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

AN EXTRA "RIGHT" IN NEW YORK?

(By David Lawrence)

All the states of the union are supposed to be equal. But somehow the people of the State of New York are today enjoying rights which the people of several states of the South apparently are being denied.

Many congressmen are calling attention to a statute passed by an overwhelming vote of both houses of the legislature of the State of New York and signed by Gov. Nelson Rockefeller, which became effective on Sept. 1, 1969. It provided that, except with the approval of a board of education the majority of whose members are elected:

"No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian."

This gives the parents of the children a chance to pick a school in their neighborhood and not be forced to send them elsewhere in order to fill racial quotas. A provision also was adopted making it clear that nothing in the law would impair the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of its own religion or denomination.

The effect of the legislation is to prevent appointed school boards and the state education commissioner from directing the assignment of pupils and altering school boundaries or attendance zones just to eliminate racial segregation. While the New York State Board of Regents called the new law "unsound" the legislature felt that it was reflecting the will of the people and that this was the desire of the electorate.

Congress now is being asked to pass a statute which will give the Southern states a similar privilege. This could be done by an amendment to the school-aid authorization bill at present before the Senate. Congress has the right under the Constitution to limit the appallate jurisdiction of the Supreme Court of the United States. In the Civil Rights Act of 1964, Congress declared that the law does not "empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance."

But some of the lower federal courts have ruled to the contrary, and there are cases pending which have not yet been passed upon by the Supreme Court. Many of the Southern senators feel that Congress should reiterate its declaration concerning the limitation of the jurisdiction of the Supreme Court so as to exclude rulings on busing to attain "racial balance."

The issue is whether the people shall have "freedom of choice"—the right to determine to what schools their children may be sent.

There are lots of areas in the country where busing is not popular. Many members of Congress, particularly those who represent suburban areas, would not wish to see children from their districts sent into the cities to achieve racial quotas in city schools, or vice versa. The theory behind the New York state law is that the parents shall have the right to decide where their children shall go to school.

"Freedom of choice" is open, of course, to Negro parents as well as to white. If they wish to have their children bused to a school outside their neighborhood, they may do so. The problem really arises when parents are required, against their will, to send their children to faraway schools.

Within the next few weeks, Congress will have to come to some solution of the problem and apply it to all states of the union.

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 concluded.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 514) to extend the programs of assistance for elementary and secondary education, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of the bill.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I am about to suggest the absence of a quorum, and it will be a live quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll and the following Senators answered to their names:

[No. 38 Leg.]

Allen	Hansen	Mansfield
Byrd, W. Va.	Holland	Pell
Cranston	Hughes	Schweiker
Dole	Jackson	Stennis
Ervin	Javits	Talmadge
Griffin	Jordan, Idaho	

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Washington (Mr. MAGNUSON) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senators from Oregon (Mr. PACKWOOD and Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Iowa (Mr. MILLER), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms is directed to request the attendance of absent Senators.

After some delay the following Senators entered the Chamber and answered to their names:

Aiken	Gore	Pearson
Anderson	Gravel	Percy
Baker	Harris	Proxmire
Bennett	Hart	Randolph
Bible	Hartke	Ribicoff
Boggs	Hollings	Russell
Byrd, Va.	Jordan, N.C.	Saxbe
Case	Kennedy	Scott
Church	Long	Smith, Maine
Cook	McCarthy	Spong
Cooper	McClellan	Symington
Cotton	McIntyre	Thurmond
Dominick	Metcalf	Tydings
Eagleton	Mondale	Williams, N.J.
Eastland	Montoya	Williams, Del.
Ellender	Moss	Yarborough
Fulbright	Muskie	Young, N. Dak.
Goodell	Nelson	Young, Ohio

The PRESIDING OFFICER (Mr. HOLLAND in the chair). A quorum is present.

Mr. ERVIN. Mr. President——

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. JAVITS. Will the Senator yield to let us get the yeas and nays?

The PRESIDING OFFICER. Does the Senator from North Carolina yield?

Mr. ERVIN. No; I do not yield.

The PRESIDING OFFICER. The Senator declines to yield.

The Senator from North Carolina is recognized.

Will the Senator yield so that the Senate may receive a message from the House of Representatives?

Mr. ERVIN. I yield for that purpose, provided I do not lose the floor.

The PRESIDING OFFICER. Without objection it is so ordered.

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, without amendment, the bill (S. 2214) to exempt potatoes for processing from marketing orders.

ELEMENTARY AND SECONDARY AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. ERVIN. Mr. President, I should like to request order in the Senate.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from North Carolina may proceed.

Mr. ERVIN. Mr. President, I should like to ask that the distinguished senior Senator from Georgia (Mr. RUSSELL), the distinguished junior Senator from North Carolina (Mr. JORDAN), and the distinguished junior Senator from Mississippi (Mr. STENNIS), be made cosponsors of amendments 471, 472, 473, 474, 475, and 486.

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

Mr. ERVIN. Mr. President, we live in what is presently a perplexing era. So far as I know, for the first time in the history of this Nation, which claims to be civilized, little children in one area of the country—some of them white and some of them black—are being made helpless and hapless subjects of a bureaucratic and judicial tyranny.

If I were to preach a sermon about the way these little children are being treated, I would take the words of the Master, in the 17th chapter of Luke, verses 1 and 2:

> Then said he unto the disciples, It is impossible but that offences will come: but woe unto him, through whom they come!
>
> It were better for him that a millstone were hanged about his neck, and he cast into the sea, than that he should offend one of these little ones.

Mr. President, during the past week, a Federal district court sitting in Charlotte, N.C., has entered an order requiring the busing of 5,000 little black children away from their neighborhood schools to other schools in remote areas of the city and county, and the busing of 5,000 little white children from their neighborhood schools into what are, to them, remote areas of the city and the county, all for the purpose of integrating their bodies rather than enlightening their minds.

To my mind, it is unspeakable tyranny in any government which undertakes to make such helpless and hapless pawns of little children.

After the busing order was entered in Charlotte, I received a telephone call from the father of a fifth-grade daughter in that city. He told me that he had recently moved to Charlotte and that he and his wife had searched for 4 months to find a home they were financially able to pay for near a school. He stated that at long last they found such a home within one block of a school, but that instead of allowing his little fifth-grade daughter to go to the school located within one block of his home, she will now be required to get on a bus and be carried across the city into a rural area of the county. He said that his little daughter will have to spend anywhere from 2 to 2½ hours a day riding on the bus.

Mr. President, I wish some human being could tell me how tyranny of that sort contributes toward education.

I wish someone would tell me how tyranny of that sort contributes to respect for the Federal courts of this country.

I wish someone would tell me why such tyranny as that should be tolerated in a land which boasts that it is the land of the free.

This situation in Charlotte which I have just related is being repeated throughout the Southern States in thousands and thousands of cases and I shall have a little more to say about that later in the course of my remarks.

Mr. President, it is strange that all of this busing and other means of forced integration is being done under the pretext that, somehow, the equal protection clause as set forth in the 14th amendment requires it, or at least justifies it.

Well, the equal protection clause is a wise provision of law. Properly interpreted, it is a clause which prevents a State from treating persons similarly situated in a different manner. It is such a wise clause that it should be applied nationally. Yet, we had on the floor of this Senate on yesterday some Senators trying to make a distinction between what they call de jure segregation in the schools and de facto segregation in the schools.

Well, every informed Senator knows that so far as the schools are concerned, in 1954, the Supreme Court of the United States, in the historic Brown case—now known as First Brown—outlawed de jure segregation in the schools, North, South, East, and West. But some persons who advocate not applying the principle of the equal protection clause to North and South still want to talk about de jure segregation which has not been in existence anywhere in this and, so far as the schools are concerned, since May of 1954.

Some of the old political philosophers, who did not read party platforms but who exercised their own intelligence, made some statements which illustrate wisdom. One of these old political philosophers was John Locke and he gave what I conceive to be the best exposition of what constitutes freedom under government. What he said bears repetition here because every fundamental principle set forth in that statement is being violated by the Federal Government in its dealings with the public schools of our land. John Locke said:

> Freedom of men under government is to have a standing rule to live by, common to everyone of that society, and made by the legislative power vested in it; a liberty to follow my own will in all things, when the rule prescribes not, and not to be subject to the inconstant, uncertain, unknown and arbitrary will of another man.

Let us examine what John Locke said. If we are going to have freedom under government, he said we must have a standing rule to live by, common to everyone of the society which establishes the rule. This principle is violated every day with respect to the public schools in our land. I say this because we have one rule for the South and another rule for the other areas of the country. And those who distort and pervert the equal protection clause of the Constitution and the 14th amendment continue to insist that the spirit of the equal protection clause be violated and that we have one rule for one area of the country and another rule for another area of the country.

These policies to face integration which are instituted by Federal bureaucrats and the Federal courts also violate the second rule laid down by John Locke as a fundamental condition for freedom of men under government. This principle is

that the rules which are to be common to all men in the society, North, South, East, and West, must be made by the legislative power vested in the government of that society.

These policies and rules to bus students and to force integration which are being enforced in such a harsh manner are not rules made by the legislative body of this Nation. They are rules made by faceless bureaucrats over in the Department of Health, Education, and Welfare, who are elected by nobody and cannot be identified by anyone, and who have not been entrusted with any power by the American people.

They are rules and policies made out of the head and from the imagination of Federal judges exercising the most unbounded discretion that any judges have ever exercised at any time in the history of this Nation, and exercising a discretion which might be becoming to totalitarian countries, but which are entirely alien to free people.

And so, John Locke emphasizes the fact that the rules which given men not only must be common to every member of the society and applied in like manner, just as the equal protection clause obligates the States to apply those rules, but also it must be a rule established by the legislative power because freedom does not exist in any government if the people are subject to the inconstant, the uncertain, the unknown, and the arbitrary will of other men.

The inconstant, the uncertain, the unknown, and the arbitrary will of other men is precisely what the helpless little children of the Southern States and their parents are being subjected to at this time by HEW bureaucrats and by judicial activists, rather than the acts of Congress or the legislature.

One of the great English jurists, Sir Charles Pratt, had something to say about the discretion of a judge which should be repeated here today because Federal judges are now exercising unbounded discretion, defined by no law, but only by the inconstant, uncertain, unknown, and arbitrary wills of the Supreme Court Justices.

Sir Charles Pratt stated in the case of Hindson against Kersey:

> The discretion of a judge is a law of tyrants. It is always unknown. It is different in different men. It is casual and depends upon constitution, temper, and passion. At the best it is oftentimes caprice; in the worse it is every vice, folly, and passion to which human nature is liable.

We are told that these policies with respect to southern schools were laid down by the Supreme Court of the United States. It is time for Congress to take some action which will give some freedom to the children of this land and not subject them to the policies of this Nation laid down by the Supreme Court of the United States which causes little children to be bused around like cattle and pawns in a chess game.

The Supreme Court is supposed to be a judicial tribunal. It is not supposed to be a school board. It is not supposed to make laws. It is supposed to interpret the Constitution according to its language and its history, as I shall remark further in this discourse.

If there is any provision in the Constitution which is plain and unambiguous and which he who runs may read and not err in so doing, it is the equal protection clause, the 14th amendment.

All that the 14th amendment says is that no State shall deny to any person within its boundaries the equal protection of the laws. This provision was inserted in the 14th amendment to prevent a State from applying its laws to one person or to one group of people in one way and to another person or another group of people in another way when that person or that group of persons were similarly situated.

All that the equal protection clause does is to forbid the States of this Union to deny to any person within their jurisdiction due process of law or equal protection under law or their privileges and immunities as citizens of the United States. There is not a syllable in the equal protection clause which authorizes Congress, or authorizes the Supreme Court, or authorizes the Department of Health, Education, and Welfare to put a single limitation upon the freedom of any individual. And yet, as the Senator from West Virginia pointed out yesterday on the floor of the Senate in one of the soundest and most eloquent speeches I have ever been privileged to hear, the equal protection clause, after being interpreted by the Supreme Court in 1954 to give each child the right not to be excluded from any school operated by a State for which he is otherwise eligible on the basis of his race, is now being distorted and pervaded by Federal courts to deny helpless and hapless little children of the right to attend their neighborhood schools, and is compelling them to be transported hither and yon to other schools simply because they want to change the racial composition of the neighborhod schools or simply because they want to change the racial composition of the schools to which they are transported.

In other words, as the Senator from West Virginia so eloquently pointed out yesterday, the Federal courts are perverting and distorting the equal protection clause of the 14th amendment to deny helpless little children of their freedom to attend their neighborhood school, and this is occurring despite the fact that, there is not a syllable in the equal protection clause of the 14th amendment which authorizes Congress, or the Department of Health, Education, and Welfare, or the President, or the Supreme Court, or any other power under heaven to deny a single individual anywhere in the United States, be he a schoolchild or school parent, or anyone else, of his freedom.

A great Republican, Abraham Lincoln, said something about allowing the policies of the Government to be fixed by the Supreme Court. At this point I quote his remark:

> If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned this government into the hands of that eminent tribunal.

At this point, I wish to explain what I shall call, for the sake of brevity, my proposed amendments to the pending bill, H.R. 514. I call these my amendments for the sake of brevity because they are not simply my amendments. They are cosponsored by the distinguished junior Senator from Alabama (Mr. ALLEN), the distinguished senior Senator from Mississippi (Mr. EASTLAND), the distinguished junior Senator from Florida (Mr. GURNEY), the distinguished senior Senator from Florida (Mr. HOLLAND), by my distinguished colleague from North Carolina (Mr. JORDAN), the distinguished senior Senator from Georgia (Mr. RUSSELL), the distinguished senior Senator from Alabama (Mr. SPARKMAN), the distinguished junior Senator from Mississippi (Mr. STENNIS), the distinguished junior Senator from Georgia (Mr. TALMADGE), and the distinguished senior Senator from South Carolina (Mr. THURMOND).

However, I shall designate them as my amendments merely for convenience of expression during the remainder of my remarks. These amendments bear the numbers 471, 472, 473, 474, 475, and 486. They would restore to local school boards their constitutional power to administer the public schools committed to their charge; they would confer upon parents the right to choose the public schools their children attend; they would secure to children the right to attend the public schools chosen by their parents; and they would make effective the right of public school administrators and teachers to serve in the schools in which they contract to serve.

These amendments are identical with bills designated as S. 3114 and S. 3278 which I have heretofore introduced.

I have divided these bills into these amendments in the hope that some Senators who might be opposed to one of the provisions of my bill could support the other provisions of these measures. In presenting the case for these amendments I shall disobey Mark Twain's admonition, "Truth is precious. Use it sparingly." Indeed, I will use truth in quantities which may embarrass and displease some judicial activists and crusading bureaucrats.

THE OBJECTIVES OF THE AMENDMENTS

These are the objectives of the amendments:

First. To restore to local school boards the power to administer the public schools committed to their charge.

Second. To confer upon parents the right to choose the public schools their children attend.

Third. To secure to children the right to attend the public schools chosen by their parents.

Fourth. To make effective the right of administrators and teachers of public schools to serve in the schools in which they contract to serve.

Fifth. To end the perversion of the equal protection clause of the 14th amendment by judicial activists and crusading bureaucrats.

Sixth. To end the disobedience of acts of Congress by judicial activists and crusading bureaucrats.

Let me explain what I mean by the term "judicial activists" and the term "crusading bureaucrats."

It is the function of judges to interpret the Constitution and the laws, not to amend them. To interpret the Constitution or a law is to ascertain its meaning, and to amend the Constitution or a law is to change its meaning.

Most judges rightly regard themselves as the servants of the Constitution and the laws, and not their masters. Consequently, the number of judicial activists is comparatively small.

Judicial activists are judges who undertake to amend the Constitution or the laws while professing to interpret them. In so doing, they actually substitute their personal notions for constitutional principles and rules of law.

Judicial activists are motivated by good intentions. Daniel Webster undoubtedly had them in mind when he made this trenchant statement:

> Good intentions will always be pleaded for every assumption of authority—it is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

Judicial activists labor under the delusion that there was little, if any, wisdom on earth before their arrival. As a consequence, they lay the flattering unction to their souls that the amendments they usurp the power to make improve the Constitution and the laws. For this reason, they believe the ends they have in view excuse the unjustified means they employ to accomplish them.

Let me make it plain that all the Federal judges who do the things of which I complain are not judicial activists. The Federal judiciary is structured as a hierarchy in which the judges in one echelon are compelled to follow the rulings of judges in higher echelons, no matter how much they may disagree with them. As a consequence, many Federal judges in lower echelons, who rightly regard judicial activism as a cardinal judicial sin, are forced to do the will of more highly placed judicial activists to escape the charge of judicial insubordination.

Crusading bureaucrats are power-hungry officers of the executive branch of the Government who steal a mile of authority for every inch given them by law.

EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT

If we are to understand the conditions out of which the necessity for the amendments arise, we must understand the equal protection clause of the 14th amendment which prohibits a State from denying to any person within its jurisdiction the equal protection of the laws.

While the opinions of judicial activists and the guidelines of crusading bureaucrats tend to shroud this clause in obscurity, the true meaning of the clause is simple and readily understandable. The clause means simply that all persons subjected to State action shall be treated alike under like conditions, both in the rights conferred and in the obligations imposed.

In interpreting this clause in *Brown* v. *Board of Education of Topeka*, 347 U.S. 483, the Supreme Court held that a State denies the equal protection of the laws to black children if it denies them admission to its public schools attended by white children under State laws requiring or permitting segregation according to race. One of the intellectual and legal giants of our age, the late Chief Judge John J. Parker of the U.S. Court of Appeals for the Fourth Circuit, corrrectly explained what the Supreme Court decided in the Brown case in his per curiam opinion in *Briggs* v. *Elliott*, 132 F. Supp. 776, 777:

> Having said this, it is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the federal courts are to take over or regulate the public schools of the states. It has not decided that the states must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the state may not do directly or indirectly; but if the schools which it maintains are open to children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools, as they attend different churches. Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The Fourteenth Amendment is a limitation upon the exercise of power by the state or state agencies, not a limitation upon the freedom of individuals.

What Judge Parker said in the Briggs case correctly interprets the ruling in the Brown case. Circuit Judge Wisdom's attempt in *U.S.* v. *Jefferson County Board of Education*, 372 F. 2d 836, 862, to dismiss what Judge Parker declared in the Briggs case as "pure dictum" is not even plausible. The Briggs case was one of the four cases consolidated for hearing and decision in the Brown case, and Judge Parker was applying that decision to the Briggs case on its remand to the three-judge district court sitting in the eastern district of South Carolina.

It is as clear as the noonday sun in a cloudless sky that Judge Parker's assertion that when a State opens its schools to children of all races and grants to them freedom to choose the schools they attend, its action in so doing does not violate the equal protection clause of the 14th amendment and is absolutely sound. This is so because when it takes such action, the State treats all persons of all races exactly alike under like conditions, and thus fulfills both the letter and the spirit of the equal protection clause. No amount of judicial or bureaucratic jargon and sophistry can erase this obvious truth.

Moreover, Judge Parker's declaration is faithful to the proposition that the Constitution decrees that Americans are citizens of a free society and not the hapless and helpless subjects of judicial and bureaucratic oligarchies.

It is worthy of observation at this point that when the Brown case itself was remanded to the court in which it originated, the three-judge U.S. district court sitting in the District of Kansas revealed itself to be in complete agreement with Judge Parker's analysis of the Brown case by making the following statement:

> It was stressed at the hearing that such schools as Buchanan are all-colored schools and that in them there is no intermingling of colored and white children. Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color.
>
> If it is a fact, as we understand it is, with respect to Buchanan School that the district is inhabited entirely by colored students, no violation of any constitutional right results because they are compelled to attend the school in the district in which they live. (139 F. Supp. 468, 470)

It is noted, in passing, that in *Bell* v. *School City of Gary*, 324 F. 2d 209, *Deal* v. *Cincinnati Board of Education*, 369 F. 2d 55, and other well-considered cases, able Federal courts rendered decisions in full harmony with the sound views expressed by Judge Parker in the Briggs case.

CIVIL RIGHTS ACT OF 1964

Congress enacted the Civil Rights Act of 1964 in part to implement the equal protection of the laws clause of the 14th amendment as interpreted by the Supreme Court in the Brown case. In so doing, Congress accepted the view that the equal protection clause prohibits a State from taking into consideration the matter of race in assigning children to public schools and, for this reason, forbids a State to deny to any child admission to any public school solely because of the child's race.

This conclusion is made manifest by section 401 of title IV which is concerned with desegregation of public education, and section 602 of title VI which relates to nondiscrimination in federally assisted programs.

I will analyze these and other relevant sections of titles IV and VI in subsequent remarks, and for that reason forego elaboration of this point at this time.

The legislative history of the Civil Rights Act of 1964 likewise makes this conclusion abundantly clear.

During the course of the debate on the bill which became the Civil Rights Act of 1964, Senator BYRD of West Virginia addressed this question to Senator Humphrey, the floor manager of the bill, and received this reply from Senator Humphrey:

> Mr. BYRD of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under Title VI school children may not be bussed from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?
>
> Mr. HUMPHREY. I do.

Senator Humphrey made these further statements relating to the purposes of the bill:

> Mr. HUMPHREY. Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts,

and I understand that other Senators will cite the particular cases.

I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas: "Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color." Brown v. Board of Education, D.C. 139 F. Supp. 468, 470.

In *Briggs* v. *Elliott* (EDSC), 132 Supp. 776, 777, the Court said: "The Constitution, in other words, does not require integration. It merely forbids discrimination." In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic *Brown* case of 1954.

THE PERVERSION OF THE EQUAL PROTECTION CLAUSE AND THE CIVIL RIGHTS ACT OF 1964

Before the advent of the judicial activists, the equal protection clause of the fourteenth amendment was uniformly interpreted in multitudes of decisions to be merely prohibitory in nature and operation, and to impose upon a State no duty whatever except the duty to refrain from the specified prohibited action, that is, denying persons within its jurisdiction the equal protection of the laws. This is manifestly the right interpretation of the clause because this is exactly what it says.

But this interpretation is not pleasing to judicial activists, who are afflicted in virulent form with the disease of tyrants which George Washington diagnosed in his farewell address as "love of power and proneness to abuse it."

As a consequence, the judicial activists now pervert the equal protection clause and the Civil Rights Act of 1964, and declare that they not only outlaw State imposed segregation in public schools, but also thrust upon a State the affirmative obligation to use compulsory methods to mix black and white children in public schools, regardless of the desires of such children and their parents, and regardless of the impact of the compulsion upon the schools as educational institutions.

In so doing, the judicial activists undertake to add to the equal protection clause things which expand their power and subtract from it things which limit their power.

Lack of time precludes me from stating in detail the specious reasons advanced by the judicial activists in support of their declaration that the equal protection clause now requires the compulsory integration of public schools. I must refer those interested in this phase of the subject to the 69 page opinion of Circuit Judge Wisdom in *U.S.* v. *Jefferson County Board of Education,* 372 F.2d 836, and the 118-page opinion of Circuit Judge Wright in *Hobson* v. *Hansen,* 200 F. Supp. 401, where these reasons are presented with profuseness.

Some of the Federal courts inferior to the Supreme Court are now attempting to rob school children and their parents of the liberty to select schools embodied in the freedom of choice concept. For example, the Fourth Circuit Court of Appeals declared on July 11, 1969, in the case entitled Hawthorne against Luneberg, that "the famous Briggs against Elliott dictum—adhered to by this court for many years—that the Constitution forbids segregation but does not require integration, is now dead."

In this quotation from the Hawthorne case, the Fourth Circuit Court of Appeals was referring to the constitutional principle enunciated by Judge Parker in these words: "Nothing in the Constitution—takes away from the people freedom to choose the schools they attend." *Briggs* v. *Elliott,* 132 F. Supp. 776, 777.

I make this observation: If this constitutional principle is now dead, it was murdered by judicial activists in violation of the equal protection clause of the 14th amendment itself. This is so because no man who is willing to give words their obvious meaning can find anything in the equal protection clause which deprives any individual in the United States of the freedom to choose the public school he attends or any other freedom. Indeed, as I have pointed out, this clause relates solely to State and not to individual action, and does not undertake to limit the freedom of any individual.

Judicial activists cite the opinion of Justice Brennan in *Green* v. *County School Board of New Kent County,* 391 U.S. 430, as a pronouncement of the Supreme Court that the Brown case requires all public schools to be compulsorily integrated if both black and white children of school age are obtainable and that all "freedom of choice" plans are automatically unconstitutional.

However, as the distinguished Senator from Kentucky (Mr. COOPER) and I have agreed, in colloquy which will appear in the RECORD after my prepared remarks, the Green case does not hold at all that freedom of choice plans are unconstitutional. I shall not undertake to say what the Green case holds. If one desires to speak with assurance concerning it, he must limit his remarks to these observations: Its facts are plain; its verbiage is ambiguous and murky; it lays down no understandable or workable rule.

New Kent County is a rural county in eastern Virginia which possesses only two schools. One of these schools, the New Kent School, is designated by the opinion as a "white" school, and the other, the Watkins School, is designated by the opinion as a "Negro" school. Three years before the opinion was written, the school board of New Kent County completely removed from its school system all State-imposed segregation, and adopted a "freedom of choice" plan which allowed each black and white schoolchild in New Kent County to attend whichever school he chose to attend.

The district court and the Fourth Circuit Court of Appeals adjudged this freedom of choice plan valid, and the Supreme Court reversed their ruling and remanded the case to the district court with a statement that the school board must be required to "fashion steps which promise realistically to convert promptly to a system without a 'white' school and a 'Negro' school but just schools." I will not undertake to determine whether the case constitutes a solemn adjudication that the words "just schools" imply that all schools must be black and white schools where black and white children are available for coercive mixing.

I will make certain comments, however, concerning the only real reason given by the opinion for the rejection of the school board's "freedom of choice" plan.

The opinion declares that such plan did not constitute an "adequate compliance" with the responsibility imposed upon the school board by the second decision in the *Brown* case (347 U.S. 294, 300–301), "to achieve a system of determining admission to the public schools on a nonracial basis" because not a single one of the 550 white children in the county had chosen to attend Watkins School, and only 115 of the 740 black children in the county had chosen to attend the New Kent School.

This ruling to the contrary notwithstanding, it is as clear as the noonday sun in a cloudless sky that the most effective way "to achieve a system of determining admission to the public schools on a nonracial basis" is to open the public schools to children of all races, and allow them or their parents to choose the schools they attend. Oceans of judicial sophistry cannot wash out this plain truth.

If the Green case means anything, it means that freedom of choice plans are valid if black and white children choose to mix themselves in public schools in proportions pleasing to Supreme Court Justices, but are invalid if black and white children exercise their freedom of choice in a manner displeasing to Supreme Court Justices.

Obviously, the United States cannot continue to boast that it is a free country if the freedom of its people hangs on such an arbitrary and tenuous judicial thread.

(At this point Mr. HUGHES took the chair as Presiding Officer.)

Mr. ERVIN. Mr. President, I wish to call to the attention of the Senate a cartoon and editorial which appeared in the Washington Star on June 23, 1968, and which are highly pertinent to the subject under consideration. The cartoon depicts a black-robed Federal judge who presides over a classroom inhabited by small children, banging his gavel on the teacher's desk and declaring in stern judicial language: "This court will come to order."

I deeply regret that the format of the CONGRESSIONAL RECORD does not permit reproduction of the cartoon for the edification of Senators. Fortunately, however, I can read the editorial into the RECORD.

The editorial is entitled "Our Judges Should Stick to Their Judging."

I shall read the editorial:

Eleven months ago the American Association of School Administrators, with some 17,000 members around the country, strongly urged that an appeal be taken from Judge Skelly Wright's decision in the District school case.

The association said that the decision "usurps the prerogatives of boards of education and school administrators" and, further, that Judge Wright's educational theories are "wrong and dangerous."

Now, a year after the ruling, an appeal will be heard this week by the United States

Court of Appeals. What the result will be is, of course, uncertain. But one may at least hope that the appellate judges will return control of the Washington schools to the school authorities, and that Judge Wright will be encouraged to devote himself to his judicial knitting.

Judge Wright has not been the only federal judge to get into the business of running or trying to run public school systems. The Supreme Court and the Fourth Circuit Court of Appeals also got in a few whacks this year.

The case of Brown vs. Board of Education was decided by the Supreme Court in 1954 and an implementing decision, known as Brown II, came down a year later.

The 1954 Brown ruling held that segregated public school systems imposed or required by state or local law were in violation of the Fourteenth Amendment and therefore unconstitutional. Brown II decreed that such segregated systems must be abolished. The court did not say, however, that compulsory segregation must be replaced by compulsory integration.

John J. Parker, then chief judge of the Fourth Circuit construed the Brown decision in this language: "It (the court) has not decided that the states must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains. * * * Nothing in the Constitution or in the decision of the Supreme Court takes away from the people the freedom to choose the schools they attend."

Chief Judge Parker was a distinguished jurist, not a man to bypass or undermine Supreme Court rulings. A few years before his death in 1958 he was awarded the American Bar Association's gold medal for "conspicuous service to American jurisprudence." But in undertaking to construe Brown, Judge Parker spoke too soon. He couldn't foresee, of course, what the Supreme Court would say in May 1968 in the case of Virginia's New Kent County, and he would have been horrified to read that opinion.

New Kent is a small rural county with only two schools for its 740 Negro and 550 white pupils—New Kent School on the east side of the county for whites and George W. Watkins School on the west for Negroes. There is no residential segregation in the county.

New Kent, as it had to do, went along for several years after Brown with the Virginia Legislature's various efforts to avoid school desegregation. But three years ago the county adopted a freedom of choice plan. There has been no claim that the plan did not offer a truly free choice or that it was applied in any discriminatory way. No white children transferred to the Watkins School. But in 1967 a total of 115 Negro children applied for and were enrolled in New Kent. This was up from 35 in 1965 and 111 in 1966. To sum it up, no white children have gone to the "colored" school, but slightly more than 15 percent of the Negro children were attending the "white" school at the end of this year's term.

In an ambiguous opinion, Justice Brennan said this was not good enough.

He did not, and indeed he could not, properly say that a bona fide freedom of choice plan, such as New Kent's, is unconstitutional. In fact, he did not cite any specific constitutional basis for holding that the New Kent system wouldn't do.

He said the plan placed a "burden" on children and their parents—the burden of applying for admission to one school or the other if they wanted to switch. He did not stress the point that the parents of 115 Negro children did not find this too burdensome last year. He also suggested that the county should adopt some kind of "zoning" system, although he was very vague about this. And without more ado, he set aside a ruling by the Fourth Circuit which had upheld the New Kent plan.

So much for that. But what is it that New Kent County is supposed to do that will satisfy the learned justices of the Supreme Court when they doff their judicial robes and sit as a local school board? Justice Brennan didn't say. The county authorities are left in the dark. But we have several suggestions. (1) The ruling applies only to states whose schools formerly were segregated by law, which means the southern and border states. If this is what the law now requires in those states, why is it not required in all states? (2) This decision, although it doesn't spell it out, clearly commands compulsory integration, and this without specifying any constitutional basis for the command. Judge Brennan did cite some language from Brown II, but Brown II is not the Constitution. (3) The court is saying, though not in so many words, that some white children in New Kent County, regardless of their wishes, must be compelled by the local authorities to attend the "colored" school, and that more than 115 Negro children, regardless of their desires, must be compelled to attend the "white" school. Precisely what racial "mix" will be satisfactory? Again, the justices in their infinite wisdom did not say. We suspect they haven't the foggiest notion. We also suspect that what they have done will play hob with New Kent County's public school system and the education of both its black and white children.

Another judicial shocker, which reinforces our belief that judges, especially eager-beaver judges, should stay out of the schoolroom, has just come down from the Fourth Circuit.

The effect of this 5-to-2 ruling in a Norfolk case is to cut down the neighborhood school concept. Again, the court majority uses weasel words. It says that the assignment of pupils to neighborhood schools is a sound concept. But it adds that this is not true if purely *private* discrimination in housing keeps Negroes out of a given residential area. How does private discrimination, as distinguished from public or state discrimination, offend the Constitution? The majority judges, of course, do not say. But we note with interest the dissenting opinion by Judge Albert V. Bryan, who said the court was guilty of "usurpation," and that the majority through its decision "once again acts as a school board and as a trial court, and now is about to act as a city planning commission." This last presumably refers to the problem of how to bus pupils in Norfolk, which has no school bus system.

To sum it up, federal judges have a constitutional duty and the competence to strike down any law which imposes school segregation. They have neither the duty nor the competence to demand compulsory integration and to run the schools by judicial fiat. The sooner the judges recognize this, if they ever recognize it, the better it will be for our system of public education.

Mr. President, in passing from this phase of my remarks, I note that since it is authorized by congressional legislation to extend Federal financial aid to public school activities, the Department of Health, Education, and Welfare administers the provisions of title VI of the Civil Rights Act of 1964, which deals with nondiscrimination in federally assisted programs. I content myself with the observation at this time that the crusading bureaucrats in HEW have allied themselves with the judicial activists. As a consequence, they pervert congressional intent expressed in titles IV and VI of the Civil Rights Act of 1964, and use Federal funds appropriated by Congress for educational purposes to compel school boards to operate public schools as integrating rather than educating institutions.

A FEDERAL JUDGE'S ANALYSIS OF JUDICIALLY FORCED INTEGRATION

What I am trying to say has been much better said by an observant and wise Federal district judge, J. Robert Elliott, of the middle district of Georgia, who performs his task where people live, move, and have their being rather than in some remote judicial ivory tower.

A short time ago, the Fifth Circuit Court of Appeals remanded the case of United States against Board of Education of Crisp County, Ga., to the U.S. District Court for the Middle District of Georgia with directions that Judge Elliott reconsider his former ruling in the "light of the most recent decisions of the court of appeals and the Supreme Court dealing with school desegregation."

In an order requiring the school board to submit a new plan of desegregation, Judge Elliott made an accurate and penetrating analysis of the tragic impact of judicially coerced integration upon law and public school education. I quote his words:

A review of these decisions shows that it is intended that integration be brought about in some way by school administrators as the first order of business. Problems of money, problems of transportation, problems of finding competent teachers willing to staff completely integrated schools, problems of political and emotional ramifications and the myriad frustrating difficulties peculiar to public education, and even the substantial objections of those thought to be benefited, are either ignored or brushed aside. We are told not to be "color blind", but to be "color conscious". The three R's long thought to be the reason for the existence of the public school system have been eclipsed by the one big R—Race. Integration is primary. Education is secondary. And through it all is the clear implication that Federal Courts are competent to design, supervise and administer plans for the integration of all school systems within our jurisdiction regardless of the diverse and complex problems presented. As for myself, I disavow any such occult power and am convinced that a fairly administered freedom of choice plan is the best answer and that the "immediate total integration at any cost" approach must inevitably result in serious damage to the public school system. However, we are bound by the decisions of the Supreme Court and the Court of Appeals for the Fifth Circuit, so we will make one more drag of the judicial claw across this sensitive area.

HOW THE PERVERTED VERSIONS OF THE EQUAL PROTECTION CLAUSE AND THE CIVIL RIGHTS ACT OF 1964 ARE ENFORCED

The judicial activists and the crusading bureaucrats have virtually taken over the public schools of the South. Their inconsistent professions remind me of Aesop's Fable entitled "The Man and The Satyr," which goes like this:

A man had lost his way in a wood one bitter winter's night. As he was roaming about, a Saytr came up to him and finding that he had lost his way, promised to give him a lodging for the night, and guide him out of the forest in the morning. As he went along to the Satyr's cell, the man raised both his hands to his mouth, and kept blowing at them. "What do you do that for," said the Satyr. "My hands are numb with the cold," said the man, "and my breath warms them."

After this they arrived at the Satyr's home, and soon the Satyr put a smoking dish of porridge before him. But when the man raised his spoon to his mouth, he began blowing upon it. "And what do you do that for," said the Satyr. "The porridge is too hot, and my breath will cool it." "Out you go," said the Satyr. "I will have nought to do with a man who can blow hot and cold with the same breath."

The judicial activists and the crusading bureaucrats blow hot and cold with the same breath. At one moment they accept as valid the ruling in the Brown case and the congressional definition of desegregation, and assert that school boards are forbidden by the Constitution to consider race in assigning faculty members and pupils to public schools. The next moment they declare that school boards must take race into consideration in assigning faculty members and pupils to public schools because the Constitution obligates them to mix black and white faculty members and pupils in public schools.

In thus blowing hot and cold with the same breath, the judicial activists and crusading bureaucrats exemplify the moral taught by another fable of Aesop; namely, the fable of "The Wolf and the Lamb," which proclaims the truth that "any excuse will serve a tyrant."

Let me recount with succinctness what Federal judges and officials of the Department of Health, Education, and Welfare do to public school boards, public school administrators, public schoolteachers, public schoolchildren, the parents of public schoolchildren, and taxpayers to enforce the fallacious interpretations which the judicial activists and crusading bureaucrats put upon the equal protection clause of the 14th amendment and the Civil Rights Act of 1964.

They arbitrarily establish numerical or percentage quotas based on race for specified schools, and compel school boards to assign black and white administrators and teachers, and black and white children, to these schools in numbers or percentages sufficient to meet these racial quotas. In so doing, they compel school boards to breach the provisions of contract giving the affected administrators and teachers the legal right to teach in other schools.

If neighborhood schools are located in racially mixed school districts, they compel school boards to force children residing in the districts to attend their neighborhood schools even in instances where some of the children have valid reasons for assignment to schools elsewhere.

If neighborhood schools are not located in racially mixed districts, they compel school boards to resort to geographical rezoning, to bus schoolchildren from one school to another or from one school district to another, and to "pair schools." The sole objective of each of these courses of action is to mix black and white children in the same schools, and each of them requires that substantial numbers of black and white children be denied the freedom to attend the neighborhood schools nearest their homes because children of their race are needed to integrate schools elsewhere.

Let me explain what each of these courses of action involves.

In geographical rezoning, Federal judges and HEW officials compel school boards to create new geographical districts or zones, gerrymandered if necessary for the purpose, to embrace racially mixed residential areas, and to make arbitrary assignments of black and white children to the various schools within the newly created districts or zones, even though such arbitrary assignments deny substantial numbers of the children the right to attend the neighborhood schools nearest their homes and require them to travel substantial distances to reach the schools to which they are assigned.

Some of the judicially and bureaucratically imposed geographical zoning plans thrust grave hardships upon schoolchildren and their parents. Others are irrational. Moreover, some imposed in the fifth circuit where judicial activism runs rampant even imperil the safety of schoolchildren.

I mention only a few of the numerous instances which prove the validity of these observations.

The school board of Raleigh, the capital of North Carolina, was coerced by HEW to adopt new geographical zoning by the threat of cutting off Federal funds otherwise available to it. Under the HEW coerced geographical rezoning plan, the school board in Raleigh had to deny to numerous children, both black and white, the right to attend their neighborhood schools, and to assign them to schools located substantial distances from their homes. Two boys who reside only four blocks from a high school were assigned to another high school 4½ miles distant from their home. When their father made requests in their behalf that they be assigned to their neighborhood high school instead of the distant high school, he received this response from the school authorities in respect to each of his sons:

I regret to inform you that your request for transfer of school assignment * * * for your child has been denied. * * * Honoring your request would have resulted in exposing your child to fewer students of a different race than he would be exposed to in the school to which he has been assigned for the next year.

The father wrote me a letter in which he pointed out that the denial of his request for the transfer of his sons to their neighborhood high school compelled them to walk 9 miles daily to and from the distant high school, despite the intervening traffic hazards. He then put to me a question which I now in turn put to the Senate: Why should children "be herded around like cattle and shifted like pawns in a chess game?"

I will now call attention to a few judicial decisions in the fifth circuit where the courts are dominated by judicial activists of highly immoderate attitudes. They compel school boards to create geographical zones sufficient to "produce integration of faculties, staff, facilities, transportation, and school activities such as athletics, along with the integration of students" (*Adams* v. *Matthews*, 403 F. 2d 181), even though the geographical districts are so irrational as to compel little children to imperil their safety by crossing hazardous railroad tracks, bridges, and bayous (*U.S.* v. *Indianola Municipal School District*, CA–5, April 11, 1969, No. 25,665; *U.S.* v. *Greenwood Municipal School District*, CA–5, February 4, 1969, No. 25,714); ignore the density of population in the zones, the proximity of the residences of schoolchildren to schools, and natural boundaries created by God; and deprive school boards of the ability to make maximum use of existing school buildings (*U.S.* v. *Indianola Municipal School District*, supra; *Henry* v. *Clarksdale Municipal School District*, CA–5, March 6, 1969, No. 23,255).

Indeed, the court of appeals for the fifth circuit intimates in the Greenwood Municipal School District case that the equal protection clause of the 14th amendment requires school boards to give "all Negro students a desegregated education," regardless of what burdens such action would impose upon them, their parents, other schoolchildren, the parents of other schoolchildren, and the taxpayers.

Moreover, the same court makes the astounding declaration in the Indianola Municipal School District case that even nondiscriminatory action of a school board is unconstitutional if it fails to result in substantial desegregation.

When they require school boards to resort to the busing of students, Federal judges and HEW officials compel the school boards to deny to substantial numbers of black and white children the right to attend their neighborhood schools, and to transport them by bus to other schools in the district in which they reside, or to other schools in other districts for the purpose of altering the racial composition of their neighborhood schools, or the racial composition of the schools to which they are transported.

When they require the pairing of schools, Federal judges and HEW officials compel school boards to swap certain grades in a school located in a predominately black residential area for certain other grades in a school located in a predominately white residential area. For example, they may require a school board to transfer grades one through four from school A to school B, and grades five through eight from school B to school A.

In their zeal for compulsory integration of schools, Federal judges and HEW officials have even assumed overlordship over the property of the public schools of the States. In many cases, they compel school boards to close public schools attended in predominate numbers by children of one race, and to transfer such children to other public schools attended in predominate numbers by children of the other race. In so doing, they regard with utter distain the fact that the schools which are closed were built with the hard-earned dollars of the taxpayers, and the further fact that the closing of such schools deprive the people of the community of any community center.

During last year, under pressure from HEW, the school board of Hyde County, N.C., undertook to close two schools black children had been attending and to force the black children to attend a predomi-

nately white school located elsewhere in the county. This action evoked violent demonstrations by black citizens of Hyde County who demanded that the closed schools be reopened and that their children be permitted to attend them. Events of this nature have been inspired by similar action in other areas.

In the recent unreported case entitled Swann against the Charlotte Mecklenburg Board of Education, the District Court of the Western District of North Carolina ordered the school board not to divest itself of any land, options, rent arrangements, or other access to or control over real estate which it may have in the second ward area until it could be determined whether a midcity high school would prove most desirable for desegregation purposes.

Sometimes one encounters statements in desegregation cases that courts only enforce plans for desegregation presented to them by school boards. Candor compels me to say that these statements savor of hypocrisy. The truth is that the plans are dictated by Federal judges, and are presented by school boards simply because their members sit beneath Damoclean swords. The members of the school boards know they are subject to being fined or jailed for contempt of court if their official action is displeasing to Federal judges. As a consequence of this, it requires great patriotism for any person to serve on a school board nowadays.

Even apart from constitutional considerations, Federal judges and HEW officials ought to stop taking over and exercising the functions of school boards. This is so because they lack the competence to operate schools. The validity of this observation is made manifest by the arbitrary guidelines of HEW, which exhalt the integration of the bodies of schoolchildren above the enlightenment of their minds; and the decisions of judicial activists which mommick educational processes almost as badly as they mangle the Constitution.

I yield at this point to the temptation to comment briefly upon one of these decisions, *Hobson* v. *Hansen,* 269 F. Supp. 401, where Judge Wright uses 118 pages to instruct the Board of Education of the District of Columbia as to how it should perform its constitutional obligation to abolish de facto segregation produced in the public schools of the District by prevalent residential patterns, and as to how it should teach the children of the District after its schools are desegregated. Judge Wright adjudges, in essence, among other things, that the Constitution now forbids a public school to extend to bright or diligent students any opportunity to learn anything more than it attempts to teach to dull or lazy students.

I challenge the validity of this adjudication. Gov. Charles Brantley Aycock, of North Carolina, was right when he asserted that the highest of the inalienable rights of the American people is the "right of each individual to make of himself all that God gave him any possibility of being." I deny that the Constitution of my country undertakes to rob children of this right by imposing upon them the equality of inferiority.

THE ACTIONS OF JUDGES AND HEW OFFICIALS VIOLATE THE CONSTITUTION AND ACTS OF CONGRESS

Since they treat all parents and children of all races alike under like conditions, freedom-of-choice plans are in perfect accord with the equal protection clauses of the 14th amendment, which merely forbids States to treat differently persons similarly situated. This being so, Federal judges and HEW officials violate the equal protection clause when they nullify freedom-of-choice plans and undertake to impose on State school boards affirmative obligations to commingle black and white children in public schools.

It is obvious, moreover, that Federal judges and HEW officials actually force school boards to violate the equal protection clause as interpreted by the Supreme Court in the Brown case when they compel school boards to employ such programs as large-scale geographic rezoning, the busing of children, or the pairing of schools. These programs require school boards to deny to substantial numbers of children the freedom to attend their neighborhood schools and assign them to other schools because children of their race are needed to desegregate the other schools. Consequently, these programs discriminate against the children affected by them because they deny those children admission to their neighborhood schools on account of their race.

Furthermore, when Federal judges and HEW officials undertake to produce desegregation of facilities of public schools by compelling school boards to force administrators or teachers to serve in schools other than those in which the administrators or teachers have contracted to serve, they compel school boards to violate the spirit, if not the letter, of article I, section 10 of the Constitution, which provides that "No State shall pass any law impairing the obligation of contracts."

In addition to being repugnant to the equal protection clause of the 14th amendment, the actions of Federal judges and HEW officials, which I have previously recounted, violate laws made by the Congress.

The first of these laws is the Civil Rights Act of 1964. In title IV of that act, Congress undertakes to enforce the interpretation placed upon the equal protection clause by the Supreme Court in the Brown case. In so doing, Congress uses the term "desegregation" and "discrimination" interchangeably to express the concept made familiar by the prevalent use of the word "discrimination" to mean State action denying persons admission to public colleges or public schools because of their race.

This observation is made indisputable to all except judicial activists and crusading bureaucrats by section 401(b) which expressly declares that "desegregation" merely means "the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin"; section 407(a)(1)(2) which refer to children who "are being deprived by a school board of the equal protection of the laws" and individuals who have "been denied admission" to a public college or permission "to continue at a public college by reasons of race, color, religion, or national origin"; and section 409 which directs its attention to "discrimination in public education." There is not a single syllable in title IV of the Civil Rights Act of 1964 giving any support to a different interpretation.

Section 401(b) merits further consideration because it specifies not only what Congress means by the term "desegregation," but also what Congress does not mean by that term.

Section 401(b) consists of two clauses. The first clause provides that "desegregation" as used in title IV "means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin," and the second clause provides that "desegregation" as used in title IV "shall not mean the assignment of students to public schools in order to overcome racial imbalance."

As a law made by Congress, title IV is binding on Federal judges, and defines their jurisdiction in respect to public schools operated by public school boards acting as State agencies.

The first clause of section 401(b) simply commands school boards to ignore race, color, religion, and national origin as factors in assigning students to public schools. Hence, it is self-evident that a school board complies with every jot and title of this clause if it opens the schools it operates to children of all races, colors, religions, and national origins, and allows them or their parents to choose the schools they attend.

Since Federal judges have no power to add anything to the laws they enforce, this clause merely confers upon Federal judges the limited jurisdiction to enforce its command by decrees which prevent recalcitrant school boards from denying otherwise eligible children admission to schools on account of their race, color, religion, or national origin.

Since Federal judges do not have power to subtract anything from laws they enforce, the second clause of section 401(b) denies to Federal judges jurisdiction to compel school boards to assign "students to public schools in order to overcome racial imbalance." By this clause, Congress, forbids Federal judges to make decrees compelling school boards to take affirmative steps to commingle black and white children in public schools in proportions satisfactory to judicial activists, even in cases where judicial activists assert that such action is necessary to achieve what they speciously, sententiously, and unrealistically call a unitary nonracial system free of the vestiges of State-imposed segregation.

This interpretation of section 401(b) is completely confirmed by sections 407 and 409 of title IV.

Before the enactment of title IV of the Civil Rights Act of 1964, only the individuals aggrieved thereby had legal standing to make complaint in Federal

courts concerning State-imposed segregation in public education. They were restricted to seeking relief for themselves and their children. They did not have the right to demand that Federal courts should substitute federally coerced integration for State-imposed segregation.

When it drafted title IV, Congress decided to extend to the Attorney General standing to sue for "such relief as may be appropriate" in behalf of two groups of people if he believes their complaints to be "meritorious" and concludes that they are "unable to initiate and maintain appropriate legal proceedings for "their own relief." These groups of people are described, in essence, as children who "are being deprived by a school board of the equal protection of the laws" and individuals who have been "denied admission" to a public college or "permission to continue in attendance at a public college by reason of race, color, religion, or national origin." To this end, Congress inserted section 407(a) in title IV.

At the same time, however, Congress decided to preserve intact the existing rights of individuals to sue in their own behalf for relief against State-imposed segregation. To accomplish this purpose, Congress stipulated in section 409 that nothing in title IV "shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education."

Congress was determined, however, not to increase the powers of Federal judges when it gave the Attorney General standing to seek relief against discrimination in public education in behalf of the aggrieved persons designated in section 409(a). It made this purpose manifest by inserting in the section language expressly providing "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

Federal judges are violating these provisions of title IV of the Civil Rights Act of 1964 with constantly increasing frequency and intensity.

Section 601 of title VI of the Civil Rights Act of 1964, which is designed to insure "nondiscrimination in federally assisted programs" rather than to achieve the desegregation of public schools, provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Since it is empowered by certain statutes enacted by Congress to extend Federal financial assistance to certain programs conducted by public schools, the Department of Health, Education, and Welfare is empowered by section 602 of title VI to do these things:

First. To effectuate the provisions of section 601 with respect to such programs "by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken."

Second. To enforce compliance with requirements embodied in such rules, regulations, or orders by withholding Federal financial assistance from "the particular program, or part therefor," in which noncompliance with title VI is found.

Notwithstanding title VI does not commission them to compel school boards to desegregate public schools, notwithstanding none of the statutes authorizing them to extend Federal financial assistance to programs conducted by public schools have as their objective the achievement of compulsory integration in public schools, notwithstanding section 407(a) of title IV expressly forbids them "to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance," and notwithstanding their power to withhold Federal financial assistance is expressly limited to "the particular program, or part thereof," in which noncompliance with title VI is found, crusading officials of the Department of Health, Education, and Welfare avidly seized upon title VI as a pretext for forcing school boards to desegregate public schools in a manner pleasing to them. To accomplish this purpose, these HEW officials compelled school boards to employ geographic rezoning, the busing of children, the pairing of schools, and other artificial methods to mix black and white school administrators, teachers, and children in public schools in proportions dictated by them as conditions precedent to obtaining Federal financial assistance for school programs, regardless of whether the programs were, in whole or in part, in noncompliance with title VI.

When protests were made against these violations of titles IV and VI, the HEW officials advanced specious arguments to justify their illegalities and continued to preserve in them.

Congress thereupon inserted this provision in the Elementary and Secondary Education Act of 1965, the principal statute which empowers the Department of Health, Education, and Welfare to extend Federal financial assistance to public schools:

> Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel of any school system. * * * or to require the assignment or transportation of students or teachers in order to overcome racial imbalance. (P.L. 89–10, Title VIII, Section 804; 20 U.S.C. Section 884)

The crusading HEW officials ignored this statutory prohibition and proceeded to violate it as well as titles IV and VI of the Civil Rights Act of 1964.

This contumacy prompted Congress to enact this provision in 1968 and insert it as an amendment in the act making appropriations for the Department of Health, Education, and Welfare for the fiscal year 1969:

> No part of the funds contained in this act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school in order to overcome racial imbalance as a condition precedent to obtaining federal funds otherwise available to any state, school district or school. (P.L. 90–557; 82 Stat. 995)

Despite this statutory inhibition, HEW steadfastly continues its efforts to compel school boards to mix black and white administrators, teachers, and students in public schools in a manner pleasing to them.

I put this question to the Senate: How can America expect murderers, robbers, and thieves to obey the law when Federal judges and HEW officials treat acts of Congress with contempt and violate them with impunity?

In virtually all instances, the actions of Federal judges and HEW officials, which I have recounted, were strongly opposed by substantial numbers of the black and white parents and other black and white residents of the communities affected by them.

Some weeks ago a Federal district judge, who had signed a compulsory desegregation decree, had this question put to him:

> If the whites don't want it and the blacks don't want it, why do we have to have it?

The judge answered, in substance, that the Constitution requires it.

If the judge had replied that the judicial activists demand it, he would have been right. But he erred in saying the Constitution requires it.

There is nothing in the Constitution which requires, or even authorizes, Federal judges and HEW officials to substitute federally coerced school integration for outlawed State-imposed school segregation. Moreover, there is nothing in the Constitution which confers upon Federal judges or HEW officials the autocratic power to deprive schoolchildren and their parents of the freedom to determine for themselves how their constitutional and legal rights are to be exercised. Yet this is precisely what Federal judges and HEW officials do when they assume authority to nullify freedom of choice plans, deny schoolchildren the liberty to attend their neighborhood schools, and compel them to attend schools other than those chosen by them or their parents.

THE ACTIONS OF FEDERAL JUDGES AND HEW OFFICIALS ARE UNJUST AND UNWISE

The actions of Federal judges and HEW officials, which I have enumerated, are unjust and unwise as well as unconstitutional.

Governmental action which visits the sins of the guilty upon the innocent is repugnant to justice. Yet that is what HEW officials intend to do when they deny the benefits of Federal financial assistance to innocent children merely because the members of public school boards charged by law with the duty of operating public schools with wisdom disagree with their self-manufactured views and arbitrary guidelines in respect to the desirability of compulsory desegregation or the particular methods of achieving it.

In so doing, they not only punish the innocent children for things for which they are not remotely responsible, but they thwart the primary purpose Congress had in mind in authorizing Federal financial assistance to public schools; that is, the promotion of the education and welfare of disadvantaged children. As every intelligent man knows, disadvantaged children suffer the most when HEW officials deny Federal financial assistance to the school systems operating the schools they attend.

On occasions the HEW bureaucrats engage in the unspeakable act of denying food to hungry children to impose their self-manufactured notions on the school boards and the general public.

When HEW officials cut off Federal funds and they and Federal courts deny to children the freedom to attend their neighborhood schools, and herd them around like cattle and shift them about like pawns in a chess game, they seriously impede their education. Moreover, their efforts to compel administrators and teachers to serve in schools other than those in which they contract to serve is driving untold numbers of gifted administrators and teachers either from public school work entirely or from the particular schools which stand in sorest need of their talents.

On August 2, 1969, the Washington Post carried an article by Eric Wentworth entitled "Integration of Teachers is Aim of U.S. Drive for Equal Schooling," in which he made observations on this point.

I ask unanimous consent that a portion of this article be printed at this point in the body of the RECORD.

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

The scope of this task is already being demonstrated as the federal government turns its civil-rights artillery increasingly toward urban school systems outside the Deep South. In case after case, one of the Government's key targets is the segregation of teachers—too many black teachers in black schools, too many white teachers in white schools.

Not only is this a noxious color scheme, the government contends, but to some extent at least the mostly-black faculties tend to have teachers with less impressive academic credentials—and vice-versa.

However, when it comes to schemes for enforcing a better balance of black and white teachers in these schools, the obstacles are immense. A lot of teachers simply don't want to comply.

Desegregating the pupils is one thing—after all, the law requires them to stay in school. But there's no law requiring a teacher to teach, especially to teach in a particular school system he thinks is trying to push him around.

For example, after Indianapolis ordered mandatory transfers for 204 teachers last September to meet the demands of a desegregation order, it discovered that 55 of them had resigned by the end of the year.

More recently, when Memphis sought to transfer nearly 400 teachers to comply with a federal court order, the teachers threatened at one point to go to court themselves.

The highest hurdles to forced teacher desegregation have been erected where the ever-heftier teachers' trade union movement has taken hold. One of the basic protections espoused by the American Federation of Teachers and sought by its affiliates in contracts with school boards is the right to voluntary transfers.

"Forced transfers have been tried in a number of instances," the AFT asserted recently, "and they have brought about increased teacher turnover and a general increase in the teacher shortage."

Transfer rights are a key issue in Chicago, where the Justice Department has threatened court action unless the Windy City's school board takes quick steps to break up its "segregated pattern of faculty assignments."

The Chicago Board, hoping to promote voluntary transfers, has asked Washington among other things for money to offer $1,000 bonuses to teachers willing to work in ghetto schools. It has also proposed lowering its ceiling on the number of fully-certified teachers in each school to spread those less qualified more evenly through the system.

But federal officials doubt they have authority at present to fund ghetto "combat pay"—which teachers unions eye askance in any event. And to lower the ceiling would require rewriting the Chicago board-union contract.

Atop these other obstacles, systemwide desegregation faces still another, relatively new challenge—the mounting clamor for decentralized, neighborhood control from parents fed up with fighting officialdom downtown. And here especially, if there are white parents who want white teachers there are also black parents today who want black teachers.

Judge Wright, while noting two years ago "a significant if not startling" correlation between the races of pupils and their teachers in D. C. schools, stopped short at the time of ordering mandatory faculty shifts.

Mandatory transfers would almost certainly bring a new confrontation between the school board and the Washington Teachers Union. Such a development could only add to the confusion, inner conflict and consequent low morale of a school system that already provides ample proof that the nation's capital is hardly the nation's showplace.

Mr. ERVIN. Mr. President, while the judicial activists and the crusading bureaucrats have made some threats to the Chicago School Board as set forth in Mr. Wentworth's article, they have thus far virtually concentrated all of their efforts upon the public school systems of the South.

Knowing as I do the insatiable hunger of nonelective Federal officials for power, I give this warning to those who live in the North, in the East, and in the West. When the judicial activists and crusading bureaucrats reduce the South to a state of vassalage, they will not sit down like Alexander the Great and weep because they can find no other worlds to conquer. They will turn their attention to the North, the East, and the West, take over and exercise the functions of their school boards, and herd their children around like cattle and shift them about like pawns in a chess game.

For this reason, it is highly advisable for northern Senators and Representatives to join me in my effort to put an end to judicial and bureaucratic tyranny, and restore to the States their right to operate their public schools in a manner consistent with wisdom and the true interpretation of the equal protection clause of the 14th amendment.

WHAT MY AMENDMENTS DO

Let me enumerate the things my amendments are designed to accomplish.

If they are enacted, these amendments will restore to the local school boards of the States their constitutional power to administer the public schools committed to their charge without impairing in anyway their constitutional obligation under the equal protection clause of the 14th amendment to treat all schoolchildren and all parents of all races in like manner under like conditions. In so doing, the amendment honors and enforces the truth proclaimed by the Supreme Court in *Texas* v. *White*, 19 L.Ed. 227, 237, that "the Constitution in all its provisions, looks to an indestructible union composed of indestructible states."

If they are enacted, my amendments will confer on parents the right to choose the public schools their children attend. In so doing, the amendment will honor and enforce the truth proclaimed by the Supreme Court in *Pierce* v. *Society of Sisters*, 268 U.S. 510, that parents have a right to a voice in the upbringing and education of their children. After all, God gives the children to parents and not to judicial activists and crusading bureaucrats, and parents have more interest in their upbringing and education than any other human beings anywhere on the face of this earth.

If they are enacted, my amendments will secure to children the right to attend the public schools chosen by their parents. In so doing, the amendment recognizes the further truth proclaimed by the Supreme Court in Pierce against Society of Sisters, supra, that children are not the mere creatures of the State. After all, the father of the schoolboys in Raleigh, N.C., was right when he declared that children ought not "to be herded around like cattle and shifted like pawns in a chess game" to satisfy the undefined notions of judicial activists and crusading bureaucrats concerning compulsory integration.

If they are enacted, my amendments will make effective the right of public school administrators and teachers to serve in the schools in which they contract to serve instead of being compelled by judicial or bureaucratic fiat to serve in other schools in violation of other contracts and contrary to their conveniences and desires.

If they are enacted, my amendments will end the perversion of the equal protection clause of the 14th amendment and the disobedience of the acts of Congress by judicial activists and crusading bureaucrats.

The amendments are in perfect accord with the Constitution. Moreover, they make a substantial contribution to the constitutional ideals that all Americans of all races shall be members of a free society and that none of them shall be the hapless and helpless subjects of judicial or bureaucratic oligarchies.

The amendments are designed to accomplish these things by restoring freedom of choice to its rightful place in the law of the land, and by placing certain prohibitions upon Federal judges and executive officials with respect to the busing of children, and the assignment of members of the faculties of public schools to schools other than those in which they contract to teach.

Let me explain the amendments.

Amendment No. 471 provides that—

"Freedom of choice" means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

Amendments Nos. 471, 472, and 473 forbid the Department of Health, Education, and Welfare to do any of these things:

First. To withhold, or threaten to withhold, Federal financial assistance from any public school operating under a freedom of choice plan "on account of the racial composition of its student body."

Second. To withhold, or threaten to withhold, Federal financial assistance from any public school "to coerce or induce the school board operating the public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school."

Third. To withhold, or threaten to withhold, Federal financial assistance from any school board operating any public school to coerce or induce the school board to transfer any member of any faculty from the public school in which the member of the faculty contracts to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school.

Amendment No. 474 empowers any school board or any parent of any student affected or to be affected by any violation or threatened violation of any of the provisions of amendments Nos. 471, 472, or 473 to sue the United States in the district court of the United States, and obtain such relief "as may be necessary or appropriate to redress the violation or prevent the threatened violation."

Amendment No. 475 specifies that:

No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system as defined in amendment 471, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system as defined in amendment 471, or requiring any school board to close any school and transfer any students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract.

Amendment No. 486 is similar to No. 475, but it limits the jurisdiction of the Federal courts in only one area. That is, the amendment withdraws jurisdiction from the Federal courts to make any decision under any judgment, or issue any order requiring any school board to transport students from one public school to any other public school for the purpose of altering in any way the racial composition of the student body. Beyond limiting busing by the courts, amendment No. 486 also prohibits it from being done by any Federal agency.

Amendments Nos. 475 and 486 are sanctioned by article III of the Constitution which empowers Congress to regulate the appellate jurisdiction of the Supreme Court and both the original and appellate jurisdiction of all Federal courts inferior to the Supreme Court.

In order that the complete text of these amendments may be made available to all Members of the Senate, I ask unanimous consent that they be printed in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, these amendments may seem to some to be strong legislative medicine. Be this as it may, their provisions must be prescribed by Congress to protect public school systems, administrators, teachers, and children from "the love of power and proneness to abuse it" of judicial activists and crusading bureaucrats. The amendments would do this by granting to parents of all races the freedom to choose the public schools their children attend and by depriving Federal judges and the Department of Health, Education, and Welfare of the power to deny to any child of any race the freedom to attend the public school chosen by his parents. In so doing, the amendments would exalt freedom above governmental tyranny and make effective to a substantial degree the constitutional objective that Americans of all races shall be members of a free society. Moreover, they would do these things in complete harmony with the equal protection clause of the 14th amendment whose only command is that States treat in like manner all persons similarly situated.

My amendments merit the support of every Senator and Representative who believes that it is either unconstitutional or unwise for Federal judges and bureaucrats to herd children around like cattle or shift them about like pawns in a chess game.

EXHIBIT 1

AMENDMENT No. 471

At the end thereof add the following new title and sections:

TITLE IX

SEC. 901. As used in this title—

(a) "State" means any State, District, Commonwealth, territory, or possession of the United States.

(b) "Public school" means any elementary or secondary educational institution, which is operated by a State, subdivision of a State, or governmental agency within a State, or any elementary or secondary educational institution which is operated, in whole or in part, from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(c) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

(d) "Student" means any person required or permitted by State law to attend a public school for the purpose of receiving instruction.

(e) "Parent" means any parent, adoptive parent, guardian, or legal or actual custodian of a student.

(f) "Faculty" means the administrative and teaching force of a public school system or a public school.

(g) "Freedom of choice system" means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

SEC. 902. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, such financial assistance from any such program or activity on account of the racial composition of the student body at any public school or in any class at any public school in any case whatever where the school board operating such public school or class maintains in respect to such public school and class a freedom of choice system as defined in section 901(g).

AMENDMENT No. 472

At the end thereof add the following new title and section:

TITLE IX

SEC. 903. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

AMENDMENT No. 473

At the end thereof add the following new title and section:

TITLE IX

SEC. 904. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school system to transfer any member of any public school faculty from the public school in which the member of the faculty contracts

to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school.

AMENDMENT NO. 474

At the end thereof add the following new title and section:

TITLE IX

SEC. 905. Whenever any department, agency, officer, or employee of the United States violates or threatens to violate section 902, section 903, or section 904 of this Act the school board aggrieved by the violation or threatened violation, or the parent of any student affected or to be affected by the violation or threatened violation, or any student affected or to be affected by the violation or threatened violation, or any member of any faculty affected or to be affected by the violation or threatened violation may bring a civil action against the United States in the district court of the United States complaining of the violation or threatened violation, and the district court of the United States shall have jurisdiction to try and determine the civil action irrespective of the value or the amount involved in it and enter such judgment or issue such order as may be necessary or appropriate to redress the violation or prevent the threatened violation. Any civil action against the United States under this section may be prosecuted in the judicial district in which the school board aggrieved by the violation or threatened violation has its principal office, or in the judicial district in which any school affected or to be affected by the violation or threatened violation is located, or in the judicial district in which a parent of a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a member of a faculty affected or to be affected by the violation or threatened violation resides, or in the judicial district encompassing the District of Columbia. The United States hereby expressly consents to be sued in any civil action authorized by this section, and hereby expressly agrees that any judgment entered or order issued in any such civil action shall be binding on the United States and its offending department, agency, officer, or employee, subject to the right of the United States to secure an appellate review of the judgment or order by appeal or certiorari as is provided by law with respect to judgments or orders entered against the United States in other civil actions in which the United States is a defendant.

AMENDMENT 475

At the end thereof add the following new title and section:

TITLE IX

SEC. 906. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system as defined in section 901(g) of this Act, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system as defined in section 901(g) of this Act, or requiring any school board to close any school and transfer the students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract.

AMENDMENT NO. 486

Adding at the end thereof the following new title and sections:

TITLE IX

SEC. 901. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any Federal financial assistance from any such program or activity, at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to affect a change in the racial composition of the student body at any school or place or in any school district.

(The following proceedings, which took place during the delivery of Mr. ERVIN's address, are printed at this point in the RECORD by unanimous consent.)

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. ERVIN. I am glad to yield to the distinguished Senator from Georgia, with the understanding that the act of so doing will not lose me my right to the floor, that my prior and subsequent remarks will not be construed to be more than one speech on the same subject on the same day, and that the colloquy of the distinguished Senator from Georgia and myself will appear in the RECORD at the conclusion of my remarks, in order not to disturb their continuity.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, it is so ordered.

Mr. TALMADGE. Is it not a fact that the Brown against Board of Education case in 1954 held that all States must be color blind with reference to their schools, and that any child must be admitted to any school?

Mr. ERVIN. The Senator from Georgia is eminently correct. The Brown case held, in substance, that in assigning pupils to public schools, those who had the power to make the assignments shou'd totally ignore and leave out of all consideration the race of the children concerned.

Mr. TALMADGE. Is it not a fact that at the present time the promulgations and regulations of the Department of Health, Education, and Welfare, and later Supreme Court decisions, have held that you must no longer be color blind, but that now you must be color conscious?

Mr. ERVIN. Yes.

Mr. TALMADGE. And that you must go out and find the exact percentage of white students and white teachers in a given school, the exact percentage of black students and black teachers in a given school, and that you must get some kind of a computer, mix them up, and assign them under some mathematical formula that they think wise?

Mr. ERVIN. Absolutely. The judicial activists have abandoned the decision in the Brown case, and hold now that the primary consideration in assigning teachers or assigning students to schools shall be the race of the teacher or the race of the child.

In other words, the Federal courts are now practicing a complete perversion of the Brown case; and also, as I intimated awhile ago in my remarks, it is a complete perversion and distortion of the provision of the Constitution; namely, the equal protection clause of the 14th amendment, under which they profess to act, because it robs the teachers of the right to teach in the schools which they have contracted to teach, and robs the children of their right to go to their neighborhood schools. In other words, it does something the 14th amendment does not justify: It places limitations upon the freedom of individuals.

Mr. TALMADGE. What the Senator is saying, as I understand it, is that the very acts they are doing now are violative of the predicate to the Brown decision, which is the 14th amendment, and the equal protection clause thereof?

Mr. ERVIN. Absolutely. It is a violation of the interpretation of the equal protection clause upon which the decision in the Brown case is based, and of the plain words of the equal protection clause itself.

Mr. TALMADGE. Unfortunately, some of our colleagues, when we try to point that out to the Senate, look with some ridicule and some scorn upon southern Senators who try to uphold the Constitution. They think they are acting wisely and in the interest of the Negroes of the South and the Nation.

I hold in my hand a clipping from this morning's Washington Post. It appears on page 2 and quotes from news sources. The last paragraph of this item reads as follows:

> A boycott by the 1600 pupils at all-black Spalding School in Lamar, S.C., was virtually 100 percent effective. They are protesting a court-ordered desegregation plan that would move about 500 Negro pupils to a predominantly white school. About 121 whites are to be transferred to Spalding.

In other words, these 1,600 Negro pupils of the Spalding School in Lamar, S.C., are violently objecting to that court decree, which transfers them from their school, to which their parents have decided to send them, to a different school, which they do not want to attend.

Does the distinguished Senator from North Carolina agree with me that that is violative of the 14th amendment and the equal protection of the law for the 1,600 black students of that school?

Mr. ERVIN. Absolutely. It is an absolute violation of the interpretation placed upon that clause in the Brown case, and

it is an absolute violation of the words of the clause itself.

Mr. TALMADGE. I agree with the Senator, and I congratulate him on the point he is making.

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

Mr. ERVIN. Mr. President, I ask unanimous consent that I may yield to the Senator from South Carolina for a question or an observation and for colloquy between him and myself, without my losing the right to the floor, with the understanding that any subsequent remarks I may make after the colloquy between me and the Senator from South Carolina shall not be counted as an additional speech by me on the subject matter, and with the understanding that anything which may be said by the Senator from South Carolina and myself will be printed at the conclusion of my remarks, so as to preserve the continuity of my prepared statement.

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

Mr. THURMOND. Mr. President, I wish to commend the distinguished Senator from North Carolina. He is an able lawyer. He has served faithfully and well in this body, and he has given a great deal of attention to these school questions, which affect not only his State but the entire Nation as well.

I should like to ask the distinguished Senator this question: Is it not true that when Congress passed the Civil Rights Act of 1964, which is being invoked to such an extent to try to bring about integration of the races, that act contained no provision that a racial balance shall be achieved?

Mr. ERVIN. As a matter of fact, the Civil Rights Act of 1964 expressly declares that no action shall be taken to achieve racial balance or to correct racial imbalance. And the act states in plain words that in assigning students to schools, the public school boards shall wholly ignore the race of those children and shall not assign any child to any school because of race.

Mr. THURMOND. Since a matter might come up at a later date, did that act not include a definition of desegregation to the effect that it would not mean the assignment of students to public schools in order to overcome racial imbalance?

Mr. ERVIN. Congress took particular pains to define what desegregation should be and to define what desegregation should not be. In declaring what would constitute desegregation, it declared, in effect, that school authorities should not take into consideration the race of any child in making an assignment of that child to a school. In defining what segregation is not, it particularly said children should not be assigned to schools to overcome a racial imbalance.

In a further provision of this act, it says that no Federal officer or Federal court should require the busing of children in order to achieve a racial balance. Yet, in the past week, in Charlotte, N.C., a Federal judge—acting, I will have to say, under some orders of the higher echelons of the Federal judiciary—entered an order requiring the busing of 10,000 children to achieve a racial balance in the schools of that city.

Mr. THURMOND. Was that not only a violation of the 1964 Civil Rights Act but also a violation of the provision in the last appropriations measure for the Department of Health, Education, and Welfare, in which it was provided that the funds would not be used to force busing of students or abolishment of schools or to force any student attending an elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance?

Mr. ERVIN. Congress has declared expressly in three separate acts that the Department of Health, Education, and Welfare shall not do what it is actually doing. Congress also declared the same thing impliedly in another act.

One thing that puzzles me is this: How can Congress, how can the President, how can the people of the United States expect people who are at heart murderers and burglars and robbers and arsonists and thieves to obey the law, when the officers and employees of the Department of Health, Education, and Welfare are flouting acts of Congress every day? It certainly does not set an example of law enforcement or of obedience to the law, when officers and employees of the Department of Health, Education, and Welfare do every day what they are forbidden to do by at least three express acts of Congress to the contrary.

Mr. THURMOND. Is it not also true that the last appropriations measure provided that the funds could not be used to bring about a forced busing of students, and other purposes, as a condition precedent to obtaining Federal funds otherwise available to any State or school district or school?

Mr. ERVIN. The act of Congress from which the Senator from South Carolina has quoted ought to be intelligible to anybody who can read and write, and I am satisfied that it is intelligible to the faceless bureaucrats in the Department of Health, Education, and Welfare.

How can one expect the lawless element to obey the law, when the officers and employees of one of the executive branches of the Federal Government violate the law with impunity and treat the acts of Congress with contempt?

Mr. THURMOND. I should like to inquire of the distinguished Senator if he does not feel—I think he has put his finger on it—that the real point here, which seems to have been overlooked, since the courts have referred in the Brown case and subsequent cases to desegregating schools, is that it was the intention that no child of any race should be denied attendance at any school, but that is far different from forced integration or forced busing, which is a separate matter entirely.

Mr. ERVIN. The difference between those two propositions is as wide and as deep as the gulf which yawns between Lazarus and Abraham's bosom and dives in Hell. One of them is a recognition of what the court declared to be the constitutional right of a child, and the other is the denial of the constitutional right of a child.

Mr. THURMOND. In other words, the court, in the Brown decision and subsequent decisions, held that it would be discrimination to prohibit any child of any race from attending any school, but the courts have gone further now, and the Supreme Court seems to be upholding orders which not only do that through forced integration, but are upholding orders of the court below which seem to be following the Supreme Court, so that they can require children to be picked up here and transferred there and swapped back and forth, and that this is being done with the approval of the Court and that this is now the policy, rather than desegregation.

Mr. ERVIN. Yes. As a matter of fact, no man willing to face reality will deny that the recent actions of the Court are disruptive of public education in Southern States. How can it be other than disruptive when teachers are taken off their assignments and sent from one school to another in the middle of the year and little children are transferred from their neighborhood schools to distant schools on the first day of March, the first day of April, or the first day of May. There is no question about it disrupting the education of those children. This is the reason I said that those who seek to bring about forced integration, under the circumstances, are more interested in the integration of the bodies of little black and white children than they are in the enlightenment of their minds.

Mr. THURMOND. As the distinguished Senator has said, it is applicable in my State right now in at least two counties, Greenville and Darlington; and in the school in Lamar, which the distinguished Senator from Georgia referred to as being in Darlington County, they are now bringing about forced integration in order to try to get racial balance. Is that not what is going on in the South but not in other parts of the country?

Mr. ERVIN. That was illustrated in debate when the legislature of the great Empire State of New York passed a law by approximately 2-to-1 majority in both houses of its legislature to prohibit schoolchildren in New York from being treated as the schoolchildren in the South are being treated now. That great libertarian, Governor Rockefeller, signed that legislative proposal into law.

Mr. THURMOND. Is it not true that those who are proposing the Stennis amendment, upon which the Senator from North Carolina, the Senator from South Carolina and others join, are merely trying to give the Nation the same law and the same equality that the Legislature of the State of New York tried to give to the people of New York.

Mr. ERVIN. That is precisely what those of us who are supporting the Stennis amendment are trying to do. In other words, we are trying to give schoolchildren in the South, who are supposed to be a part of the Union and citizens of the Union, the same right the New York Legislature has given the schoolchildren of New York.

Some people prate about equality, but it is a strange thing that the very ones who prate the most seem to be willing to give equality to schoolchildren else-

where that they are not willing to extend to schoolchildren in the South.

Mr. THURMOND. Is it not true that there has been objection in many parts of the North as well as in the South to busing and forced integration of the races?

Mr. ERVIN. There is no question about that. As a matter of fact, I am certain that a great majority of the people of this Union are opposed to busing and are opposed to the taking of little children and making them hapless and helpless puppets of the judicial and bureaucratic oligarchies.

Mr. THURMOND. Blacks comprise only 13 percent of the population of Illinois, Indiana, Michigan, New York, Ohio, and Pennsylvania, yet, according to figures from the HEW report of January 2, 75 percent of the blacks in these States are in schools that are over one-half black, and 48 percent, almost half, are in schools over 95 percent black. Does that sound like the same kind of treatment they are trying to invoke and impose upon the South?

Mr. ERVIN. I stated at the beginning of my remarks that while many tyrannies are being perpetrated by the Federal courts and HEW bureaucrats under the equal protection clause, those who sanction such tyrannies are not willing to have equality of laws applied North and South in this particular area of national life.

Mr. THURMOND. Is it not the purpose of those who are cosponsors, those who are supporting the Stennis amendment, simply to give the little children of the South and the people of the South the same opportunities, the same privileges, and the same rights that are now being enjoyed by people in the North.

Mr. ERVIN. I would say that those who support the Stennis amendment, and those who support the amendments which I and many other colleagues have proposed, are trying to give, by law, to all children of all races, North, South, East, and West, equality of freedom to attend their neighborhood school. That is all we are trying to do. We are trying to protect the rights of little children in all areas of the country so that they will not have imposed upon them the tyrannies now being imposed upon them in the South.

Mr. THURMOND. Is it not true that those who have taken a position against this amendment have misjudged or misread it and are not willing to have the children of the South kept on the same plane and the same position as the children of the North?

Mr. ERVIN. I would refrain from attempting to diagnose the mental state of those in opposition to my amendments, because I cannot understand how anyone who believes in the American principle that the most precious value of civilization is the freedom of the individual, and who profess the equality of all men before the law, would oppose a legislative proposal which merely undertakes to give equality of freedom to the parents and children of all races throughout the United States.

Mr. THURMOND. In my State of South Carolina, every school is desegregated, and a child of any race can attend any school. There is no discrimination. Does the Senator feel that that is true freedom and meets the requirements of the Constitution?

Mr. ERVIN. It certainly meets the requirements of the Brown case. The Brown case undertook to enforce what it said was the constitutional right of a schoolchild; that is, to not be denied the right to attend a public school on account of race. Now, instead of having the Brown case applied, we have an attempt made to rob children of the right to exercise their constitutional rights; because those children today, black and white, in Southern States, are being robbed of their constitutional rights which the Brown case held they possess.

Mr. THURMOND. As I understand it, and I want to make this clear, the position of those who favor the Senator's amendment, and the position of the Senator from North Carolina, is in favor of desegregation, is opposed to any discrimination, but is in opposition to forced integration, and forced busing, which is an entirely different principle altogether.

Mr. ERVIN. I am advocating legislative proposals which would give to every child of every race the absolute right to attend the public school suitable for a child of his age and educational advancement, without hindrance from the Department of Health, Education, and Welfare, or without hindrance from the Federal courts. In other words, I am trying to make America once again a free land.

How anyone can object to a parent having the right to select a school for his child to attend exceeds my comprehension.

Mr. THURMOND. So what the Senator from North Carolina is advocating is true freedom of choice, and this is represented by the Stennis amendment, which does not favor discrimination but favors allowing any child of any race to attend any school in the school district in which he lives.

Mr. ERVIN. Yes. I say to the Senator from South Carolina that we in the South are held to be evil people, practicing intimidation against black children. But I should like to call attention to a provision of title I of an act prescribing penalties for certain acts of violence and intimidation, and for other purposes, which became the law on April 11, 1969.

I read from section 101(b) of that statute:

> Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with . . . any person because of his race, color, religion, or national origin and because he is or has been enrolling in or attending any public school or public college . . . shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily harm results shall be fined not more than $10,000, or imprisoned not more than 10 years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

If the Department of Justice does its duty and enforces the law which I have just read, there will be no threats of violence anywhere in the South or interference with the right of any child to enroll or attend any schools.

Mr. THURMOND. Mr. President, I was pleased to join the Senator from North Carolina on his amendments and the Senator from Mississippi on his amendments. These amendments, as I construe them, would provide for freedom of choice without forced integration or forced busing, which to my way of thinking is true freedom. I believe all the people of this Nation favor such a course.

Mr. ERVIN. Mr. President, I say to the Senator from South Carolina that we have an amendment that would prohibit busing. Everyone will be given an opportunity to vote on it when the debate is ended.

Mr. COOPER. Mr. President, will the Senator yield to me for questions and discussion without losing his right to the floor?

Mr. ERVIN. Mr. President, I yield to the Senator from Kentucky with the understanding, first, that I will not lose my right to the floor, that he may ask me any questions, make any observation, or engage in such colloquy as he sees fit with the Senator from North Carolina, and that any remarks the Senator from Kentucky may make or that the Senator from North Carolina may make in this connection may be printed at the conclusion of my remarks so as not to interfere with the continuity of my speech.

Mr. JAVITS. Mr. President, reserving the right to object, what was the unanimous-consent request? I could not hear it.

The PRESIDING OFFICER. The unanimous-consent request was that the Senator not lose his right to the floor while the Senator from Kentucky made his comments, and that questions may be asked.

Mr. JAVITS. Mr. President, could we find out if this will take any length of time?

Mr. COOPER. Mr. President, I do not think our colloquy will take a great deal of time.

Mr. JAVITS. That will be all right.

Mr. COOPER. Mr. President, the Senator from North Carolina's stipulation covers every possible circumstance to prevent him from losing the floor and to limit my questions. He is a good lawyer.

I do not intend now to discuss the social implications of the pending amendment. My purpose is to find out as simply as I can what it intends. I do so because in the time I have had the opportunity to hear the debate, and from reading the RECORD, if I may say so, I do not think the intent of the amendment—and the distinction between its two objectives—has been made very clear.

Mr. President, in 1964 I was very interested in the development of the Civil Rights Act, and I maintain my interest.

The Senator may remember that in 1964 when the civil rights bill was before the Senate, a number of Senators who favored the bill were managers of certain titles.

It happened that former Senator Douglas of Illinois and I were charged with managing on the floor title IV of the bill which dealt with education.

I have read the 1964 RECORD and many

of the questions raised in this debate were raised then. Of course, many things have changed since that time and many circumstances have occurred and court decisions rendered which bring about new questions and further interpretation.

Is it correct that amendment No. 481, to the pending bill, deals with two distinct propositions? The first concerns itself with the subject popularly called busing or more accurately compulsion upon a student to attend a public school to overcome a so-called racial imbalance. Am I correct?

Mr. ERVIN. Mr. President, the Senator from Kentucky is absolutely correct. As I construe the pending amendment, it provides two things. One is a prohibition upon busing to achieve or correct a racial imbalance. The other is to assure that no child shall be assigned to any particular school because of race. That is the reverse of the Brown case.

Mr. COOPER. Lines 11 through 14 of page 2 of the amendment read:

Provided, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

This language goes to the so-called freedom of choice.

Mr. ERVIN. The Senator is correct.

Mr. COOPER. The first objective of the amendment would be to prohibit compulsion. As I recall—and I know I am correct because I have read the record of the debate in 1964, the Senator and a number of other Senators—I remember particularly former Senator Olin Johnston who is now dead—directed questions to former Senator Douglas and me as managers of title IV, asking whether it intended busing or the forced assignment of students to secure a racial balance. My answer was "No."

I ask the Senator if it is not correct that title IV of the Civil Rights Act of 1964 specifically provided that the desegregation of schools did not mean compulsory assignment of students, which is popularly called busing.

Mr. ERVIN. Mr. President, I would say, if the Senator from Kentucky will pardon my making a personal allusion to him, that the Senator from Kentucky is one of the great American patriots and one of the great American lawyers.

Mr. COOPER. The Senator is mighty kind.

Mr. ERVIN. The Senator from Kentucky made it very plain in 1964 that title IV of the bill was attempting to implement the interpretation put upon the equal protection clause by the Supreme Court in the first Brown case.

And so there was written into that law in section 401(b), these words:

"Desegregation" means the assignment of students to public schools and within such schools without regard to race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Then further this provision was inserted in title IV of the Civil Rights Act of 1964:

Nothing herein shall empower any official or any court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of students from one school to another or from one school district to another in order to achieve such racial balance or otherwise enlarge the existing power of the court to assure compliance with the constitutional standards.

Mr. COOPER. That was the wording of the Civil Rights Act of 1964. But since that time, is it not correct that considering that general principle, the Court has had to look at the so-called "freedom of choice" not generally and in all cases as a violation of that section, but as to whether or not the "freedom of choice" as a Government-applied rule in some cases—on the facts the case—would violate the Brown against Board of Education case.

Mr. ERVIN. Yes. The courts have said that where you do not have true freedom of choice, where you have freedom of choice to circumvent the Brown decision, that freedom of choice is unconstitutional.

Mr. COOPER. I am trying to get the distinction clear.

Mr. ERVIN. Yes.

Mr. COOPER. Of course, with regard to freedom of choice, it is said that it is not truly a constitutional question unless there is a State-imposed rule which would bring it into violation of the Brown case.

Mr. ERVIN. Yes. In what I consider to be a very ambiguous and murky decision, Green against New Kent County, the Court held that State school plans were not constitutional.

Mr. COOPER. But a specific plan for desegregation is looked upon to determine whether the school board of a district had imposed such a rule of freedom of choice that did not go toward the objective of desegregation but, in fact, would continue segregation.

Mr. ERVIN. Yes.

Mr. COOPER. Having asked these questions, I now come to the conclusion. In the Senators' opinion, would the language on page 2, lines 11 to 14—and this is the language which gives me trouble—enable a school district in any section of the United States, under the guise of freedom of choice to evade the law of the Brown case, and to relieve itself of the responsibility to move toward what the courts have said must be accomplished, and that is desegregation? Would this language give an outlet or an escape as it seems to me it would?

Mr. ERVIN. I understand the Senator is referring to amendment 481, section 2?

Mr. COOPER. Yes.

Mr. ERVIN. I think the controlling provision in the amendment is section 2 which states:

No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

I think subsection (2) on page 2 is in complete harmony with that because it states that no student shall be compelled or forced to attend a certain school because of race. In other words, it is preserving the constitutional right of the child which is declared in section 2 on page 1.

Mr. COOPER. It is my view at the present time, unless I hear something new in the debate that the language on page 2, up to the word "provided" is the law today; that it is the law Congress passed, and it is written into title IV of the Civil Rights Act.

Mr. ERVIN. That is the law passed by Congress but it is not the law enforced by the courts because of that most famous case—or to use a more unsavory term, that notorious case—of Green versus New Kent County. How it reached its conclusion I do not know because the State had abolished all vestiges of State imposed segregation 3 years before the opinion was written. They had only two schools in the county and they said to the children of the county, "You can go to either of the schools you wish." There was no coercion. The white students did not elect to go to what had been a black school and only a small percentage of the blacks elected to go to a white school. The effect of that decision is that the school board of that county was compelled to force some white children to go to a black school and some black children to go to a white school; and that was perfectly inconsistent with the Civil Rights Act of 1964.

Mr. COOPER. But the Court held in that case that freedom of choice was not necessarily unconstitutional and was not necessarily constitutional.

Mr. ERVIN. That is correct.

Mr. COOPER. It depended on the effect of the freedom of choice decision made by the particular school district and whether it was for the purpose of evading or did factually evade the Civil Rights Act of 1964 in pursuing segregation. The Court held in that case it was not permissible.

Mr. ERVIN. I do not believe the Court mentioned the Civil Rights Act of 1964 in the Green case.

Mr. COOPER. It did not.

Mr. ERVIN. The only interpretation I place on the Green case is that children can have freedom of choice provided they exercise their freedom in a manner pleasing to a majority of Supreme Court Justices but they cannot have freedom of choice if they exercise their freedom of choice in a manner displeasing to a majority of Supreme Court Justices. I cannot get any other meaning out of the case except that.

Mr. COOPER. It is a difficult case and it is difficult to understand. Apparently the Court was saying that if a governmental body, such as a school board, should direct a course which resulted in segregation it should not be approved.

I have one other question. My judgment at present is that the last section of the amendment should be stricken because it would seem to me that it would leave a loophole for freedom of choice to be used to circumvent the provisions of the Brown case, rather than leaving it to the District court to approve or disapprove the plan as provided in the Brown case.

Mr. ERVIN. I construe the second provision on page 2 as being in perfect harmony with the Civil Rights Act of 1964, because, as we agreed a while ago, the Civil Rights Act of 1964 in title IV provided that no student shall be assigned to any school on account of his race, color, or creed, or previous condition of servitude.

This section states that:

No student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance at any school, of persons of more than one particular race, creed, color, or national origin.

I construe that to be in perfect harmony with the Civil Rights Act of 1964.

Mr. COOPER. I thank the Senator.

Mr. ERVIN. It is subject only to one change. This does say the school board can exercise some discretion in the matter. The exception clause is in the first sentence.

Mr. COOPER. I wish to address a question to amendment 463. I find no fault with the amendments' statement of policy—that is, the Civil Rights Act of 1964—with respect to public elementary and secondary education shall be applied uniformly throughout the United States. I see nothing wrong with that principle.

Mr. ERVIN. That is in full accord with the fundamental principle that all laws should apply in like manner to all people in like circumstances.

Mr. COOPER. Admitting the principle and not only admitting it but believing in it, I think it is the correct principle. But it is difficult of achievement. What would the Senator do with a school district or school districts, in my State of Kentucky, or some State in the North, such as New York, where de facto segregation exists to accomplish desegregation? Should we require Federal compulsion to send students from one school district or several school districts to another school district in which they did not reside in order to accomplish desegregation. Is there some contradiction in the two amendments? In amendment 463 the Senate would say that we ought to deal with de facto segregation. I see no simple way of dealing with it unless Federal compulsion is used to transfer children from one district to another; and that is not permitted under the Civil Rights Act of 1964. I do not approve Federal compulsion and I do not think the Senator would approve. It may be that it is a matter for the States to determine.

Mr. ERVIN. I think every child ought to have an absolute right to attend his neighborhood school, the school nearest his home which is adapted for the education of children of his age and his educational attainments. I would not impose any compulsion at all. I would give freedom to everybody to go to any school he wanted to that was suitable to his age and educational standards. I would not exercise any compulsion at all, because I do not think this is a problem which can be solved by compulsion. I think problems of this kind have to be solved by the persuasive powers of religion, and not by the coercive powers of laws.

Mr. COOPER. We have argued that problem for years, and I agree fundamentally it should be the perfect answer, but the Congress has acted and the courts have ruled that a governmental body cannot sustain segregation and prevent desegregation. Our argument on this may be legalistic, but I do not think it is wholly legalistic, because, as I view the Green case, it says that freedom of choice in itself is not prohibited, but that if freedom of choice is imposed by a school district to prevent desegregation and continue discrimination, then it is prohibited.

The problem which worries me about the second portion of the amendment offered by the distinguished Senator from Mississippi (Mr. STENNIS) is that it might provide a complete escape from the Brown case and the 1964 act.

Mr. ERVIN. I would say to the Senator from Kentucky that I think the Civil Rights Act of 1964 would permit compulsion in only one case, and that is where a threat was made to deny a child admittance to a school because of race, creed, or national origin. It absolutely prohibits that. It says desegregation shall not consist in the admittance of children to schools on account of their race, creed, or national origin. In other words, the only compulsion that is permitted by the Civil Rights Act of 1964 is compulsion under the principle enunciated in the Brown case that no child shall be prevented from attending any school on account of race. It absolutely prohibits denial of admission on account of race.

Mr. COOPER. I thank the Senator.

Mr. ERVIN. I know the position the Senator from Kentucky took in the debate on the 1964 Civil Rights Act. I think, largely as a result of his efforts, title IV of the 1964 act was written in harmony with the provision of the Brown case on the equal protection of the laws.

Mr. COOPER. I may say that Senator Douglas, who was with me, and who was a strong supporter throughout the years of civil rights, as the Senator knows—and I may say I have been—agreed with that interpretation at that time. The interpretation is in the CONGRESSIONAL RECORD of the debate.

Mr. ERVIN. I would say that Senator Douglas was one of the most sincere men I have ever known. I admired him very much and had much affection for him, nothwithstanding the fact that he and I disagreed very frequently on some of these problems.

Mr. COOPER. Mr. President, I ask unanimous consent that there be included in the RECORD at this point the following materials: First, the Supreme Court decision of Green against County School Board; second, a comment on this case appearing in the Harvard Law Review of November 1969; and third, statements made by former Senator Douglas and myself on the floor of the Senate as managers of title IV of the Civil Rights Act of 1964, on April 3, 1964, at pages 6820 and 6839 of the RECORD.

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

[Supreme Court of the United States No. 695, October Term, 1967]

CHARLES C. GREEN ET AL. *v.* COUNTY SCHOOL BOARD OF NEW KENT COUNTY, VIRGINIA, ET AL. (ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT)

[May 27, 1968.]

Mr. Justice Brennan delivered the opinion of the Court.

The question for decision is whether, under all the circumstances here, respondent School Board's adoption of a "freedom-of-choice" plan which allows a pupil to choose his own public school constitutes adequate compliance with the Board's responsibility "to achieve a system of determining admission to the public schools on a nonracial basis. . . ." *Brown* v. *Board of Education*, 349 U.S. 294, 300–301 (*Brown II*)

Petitioners brought this action in March 1965 seeking injunctive relief against respondent's continued maintenance of an alleged racially segregated school system. New Kent County is a rural county in Eastern Virginia. About one-half of its population of some 4,500 are Negroes. There is no residential segregation in the county; persons of both races reside throughout. The school system has only two schools, the New Kent school on the east side of the county and the George W. Watkins school on the west side. In a memorandum filed May 17, 1966, the District Court found that the "school system serves approximately 1,300 pupils, of which 740 are Negro and 550 are white. The School Board operates one white combined elementary and high school [New Kent], and one Negro combined elementary and high school [George W. Watkins]. There are no attendance zones. Each school serves the entire county." The record indicates that 21 school buses—11 serving the Watkins school and 10 serving the New Kent school—travel overlapping routes throughout the county to transport pupils to and from the two schools.

The segregated system was initially established and maintained under the compulsion of Virginia constitutional and statutory provisions mandating racial segregation in public education, Va. Const. Art. IX, § 140 (1902); Va. Code. § 22–221 (1950). These provisions were held to violate the Federal Constitution in *Davis* v. *County School Board of Prince Edward County*, decided with *Brown* v. *Board of Education*, 347 U.S. 483, 487 (*Brown I*). The respondent School Board continued the segregated operation of the system after the *Brown* decisions, presumably on the authority of several statutes enacted by Virginia in resistance to those decisions. Some of these statutes were held to be unconstittuional on their face or as applied.[1] One statute, the Pupil Placement Act, Va. Code § 22–232.1 *et seq.* (1964), not repealed until 1966, divested local boards of authority to assign children to particular schools and placed that authority in a State Pupil Placement Board. Under that Act children were each year automatically reassigned to the school previously attended unless upon their application the State Board assigned them to another school; students seeking enrollment for the first time were also assigned at the discretion of the State Board. To September 1964, no Negro pupil had applied for admission to the New Kent school under this statute and no white pupil had applied for admission to the Watkins school.

[1] *E.g., Griffin* v. *County School Board of Prince Edward County*, 377 U.S. 218; *Green* v. *School Board of City of Roanoke*, 304 F. 2d 118 (C.A. 4th Cir. 1962); *Adkins* v. *School Board of City of Newport News*, 148 F. Supp. 430 (D.C.E.D. Va.), aff'd, 246 F. 2d 325 (C.A. 4th Cir. 1957); *James* v. *Almond*, 170 F. Supp. 331 (D.C.E.D. Va. 1959); *Harrison* v. *Day*, 200 Va. 439, 106 S.E. 2d 636 (1959).

The School Board initially sought dismissal of this suit on the ground that petitioners had failed to apply to the State Board for assignment to New Kent school. However on August 2, 1965, five months after the suit was brought, respondent School Board, in order to remain eligible for federal financial aid, adopted a "freedom-of-choice" plan for desegregating the schools.[2] Under that plan, each pupil may annually choose between the New Kent and Watkins schools and, except for the first and eighth grades, pupils not making a choice are assigned to the school previously attended; first and eighth grade pupils must affirmatively choose a school. After the plan was filed the District Court denied petitioner's prayer for an injunction and granted respondent leave to submit an amendment to the plan with respect to employment and assignment of teachers and staff on a racially nondiscriminatory basis. The amendment was duly filed and on June 28, 1966, the District Court approved the "freedom-of-choice" plan as so amended. The Court of Appeals for the Fourth Circuit, *en banc*, 382 F. 2d 326, 338,[3] affirmed the District Court's approval of the "freedom-of-choice" provisions of the plan but remanded the case to the District Court for entry of an order regarding faculty "which is much more specific and more comprehensive" and which would incorporate in addition to a "minimal, objective time table" some of the faculty provisions of the decree entered by the Court of Appeals for the Fifth Circuit in *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836, aff'd *en banc*, 380 F. 2d 385 (1967). Judges Sobeloff and Winters concurred with the remand on the teacher issue but otherwise disagreed, expressing the view "that the District Court should be directed . . . also to set up procedures for periodically evaluating the effectiveness of the [Board's] 'freedom of choice' [plan] in the elimination of other features of a segregated school system." 382 F. 2d, at 330. We granted certiorari, 389 U.S. 1003.

The pattern of separate "white" and "Negro" schools in the New Kent County school system established under compulsion of state laws is precisely the pattern of segregation to which *Brown I* and *Brown II* were particularly addressed, and which *Brown I* declared unconstitutionally denied Negro school children equal protection of the laws. Racial identification of the system's schools was complete, extending not just to the composition of student bodies at the two schools but to every facet of school operations—faculty, staff, transportation, extracurricular activities and facilities. In short, the State, acting through the local school board and school officials, organized and operated a dual system, part "white" and part "Negro."

It was such dual systems that 14 years ago *Brown I* held unconstitutional and a year later *Brown II* held must be abolished; school boards operating such school systems were *required by Brown II* "to effectuate a transition to a racially nondiscriminatory school system." 349 U.S., at 301. It is of course true that for the time immediately after *Brown II* the concern was with making an initial break in a long-established pattern of excluding Negro children from schools attended by white children. The principal focus was on obtaining for those Negro children courageous enough to break with tradition a place in the "white" schools. See, *e.g., Cooper v. Aaron*, 358 U.S. 1. Under *Brown II* that immediate goal was only the first step, however. The transition to a unitary, nonracial system of public education was and is the ultimate end to be brought about; it was because of the "complexities arising from the transition to a system of public education freed of racial discrimination" that we provided for "all deliberate speed" in the implementation of the principles of *Brown I*. 349 U.S., at 299–301. Thus we recognized the task would necessarily involve solution of "varied local school problems." *Id.*, at 299. In referring to the "personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis," we also noted that "[t]o effectuate this interest may call for elimination of a variety of obstacles in making the transition. . . ." *Id.*, at 300. Yet we emphasized that the constitutional rights of Negro children required school officials to bear the burden of establishing that additional time to carry out the ruling in an effective manner "is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date." *Ibid.* We charged the district courts in their review of particular situations to "consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system." *Id.*, at 300–301.

It is against this background that 13 years after *Brown II* commanded the abolition of dual systems we must measure the effectiveness of respondent School Board's "freedom-of-choice" plan to achieve that end. The School Board contends that it has fully discharged its obligation by adopting a plan by which every student, regardless of race, may "freely" choose the school he will attend. The Board attempts to cast the issue in its broadest form by arguing that its "freedom-of-choice" plan may be faulted only by reading the Fourteenth Amendment as universally requiring "compulsory integration," a reading it insists the wording of the Amendment will not support. But that argument ignores the thrust of *Brown II*. In the light of the command of that case, what is involved here is the question whether the Board has achieved the "racially nondiscriminatory school system" *Brown II* held must be effectuated in order to remedy the established unconstitutional deficiencies of its segregated system. In the context of the state-imposed segregated pattern of long standing, the fact that in 1965 the Board opened the doors of the former "white" school to Negro children and of the "Negro" school to white children merely begins, not ends, our inquiry whether the Board has taken steps adequate to abolish its dual, segregated system. *Brown II* was a call for the dismantling of well-entrenched dual systems tempered by an awareness that complex and multifaceted problems would arise which would require time and flexibility for a successful solution. School boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch. See *Cooper* v. *Aaron*, *supra*, at 7; *Bradley* v. *School Board*, 382 U.S. 103; cf. *Watson* v. *City of Memphis*, 373 U.S. 523. The constitutional rights of Negro children articulated in *Brown I* permit no less than this; and it was to this end that *Brown II* commanded school boards to bend their efforts.[4]

In determining whether respondent School Board met that command by adopting its "freedom-of-choice" plan, it is relevant that this first step did not come until some 11 years after *Brown I* was decided and 10 years after *Brown II* directed the making of a "prompt and reasonable start." This deliberate perpetuation of the unconstitutional dual system can only have compounded the harm of such a system. Such delays are no longer tolerable, for "the governing constitutional principles no longer bear the imprint of newly enunciated doctrine." *Watson* v. *City of Memphis*, *supra*, at 529; see *Bradley* v. *School Board*, *supra*; *Rogers* v. *Paul*, 382 U.S. 198. Moreover, a plan that at this late date fails to provide meaningful assurance of prompt and effective disestablishment of a dual system is also intolerable. "The time for mere 'deliberate speed' has run out," *Griffin* v. *County School Board*, 377 U.S. 218, 234; "the context in which we must interpret and apply this language [of *Brown II*] to plans for desegregation has been significantly altered." *Goss* v. *Board of Education*, 373 U.S. 683, 689. See *Calhoun* v. *Latimer*, 377 U.S. 263. The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*.

The obligation of the district courts, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation. There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing state-imposed segregation. It is incumbent upon the district court to weigh that claim

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[2] Congress, concerned with the lack of progress in school desegregation, included provisions in the Civil Rights Act of 1964 to deal with the problem through various agencies of the Federal Government. 42 U.S.C. §§ 2000c *et seq.*, 2000d *et seq.*, 2000h–2. In Title VI Congress declared that

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

The Department of Health, Education, and Welfare issued regulations covering racial discrimination in federally aided school systems, as directed by 42 U.S.C. § 2000d–1, and in a statement of policies, or "guidelines," the Department's Office of Education established standards according to which school systems in the process of desegregation can remain qualified for federal funds. 45 CFR §§ 80.1–80.13, 181.1–181.76 (1967). "Freedom-of-choice" plans are among those considered acceptable, so long as in operation such a plan proves effective. 45 CFR § 181.54. The regulations provide that a school system "subject to a final order of a court of the United States for the desegregation of such school . . . system" with which the system agrees to comply is deemed to be in compliance with the statute and regulations. 45 CFR § 80.4c. See also 45 CFR § 181.6. See generally Dunn, Title VI, the Guidelines and School Desegregation in the South, 53 Va. L. Rev. 42 (1967); Note, 55 Geo. L. J. 325 (1966); Comment, 77 Yale L. J. 321 (1967).

[3] This case was decided *per curiam* on the basis of the opinion in *Bowman* v. *County School Board of Charles City County*, 382 F. 2d 326, decided the same day. Certiorari has not been sought for the *Bowman* case itself.

[4] "We bear in mind that the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discriminations in the future." *Louisiana* v. *United States*, 380 U. S. 145, 154. Compare the remedies discussed in, *e. g.*, *NLRB* v. *Newport News Shipbuilding & Dry Dock Co.*, 308 U. S. 241; *United States* v. *Crescent Amusement Co.*, 323 U. S. 173; *United States* v. *Standard Oil Co.*, 221 U. S. 1. See also *Griffin* v. *County School Board*, 377 U. S. 218, 232–234.

in light of the facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness. Where the court finds the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system "at the earliest practicable date," then the plan may be said to provide effective relief. Of course, where other, more promising courses of action are open to the board, that may indicate a lack of good faith; and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method. Moreover, whatever plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed. See No. 805, *Raney* v. *Board of Education, post,* at p. 5.

We do not hold that "freedom of choice" can have no place in such a plan. We do not hold that a "freedom-of-choice" plan might of itself be unconstitutional, although that argument has been urged upon us. Rather, all we decide today is that in desegregating a dual system a plan utilizing "freedom of choice" is not an end in itself. As Judge Sobeloff has put it:

" 'Freedom of choice' is not a sacred talisman; it is only a means to a constitutionally required end—the abolition of the system of segregation and its effects. If the means prove effective, it is acceptable, but if it fails to undo segregation, other means must be used to achieve this end. The school officials have the continuing duty to take whatever action may be necessary to create a 'unitary, nonracial system.' " *Bowman* v. *County School Board,* 382 F. 2d 326, 333 (C. A. 4th Cir. 1967) (concurring opinion). Accord, *Kemp* v. *Beasley,* 389 F. 2d 178 (C. A. 8th Cir. 1968); *United States* v. *Jefferson County Board of Education, supra.*

Although the general experience under "freedom of choice" to date has been such as to indicate its ineffectiveness as a tool of desegregation,[5] there may well be instances in which it can serve as an effective device. Where it offers real promise of aiding a desegregation program to effectuate conversion of a state-imposed dual system to a unitary, nonracial system there might be no objection to allowing such a device to prove itself in operation. On the other hand, if there are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, "freedom of choice" must be held unacceptable.

The New Kent School Board's "freedom-of-choice" plan cannot be accepted as a sufficient step to "effectuate a transition" to a unitary system. In three years of operation not a single white child has chosen to attend Watkins school and although 115 Negro children enrolled in New Kent school in 1967 (up from 35 in 1965 and 111 in 1966) 85% of the Negro children in the system still attend the all-Negro Watkins school. In other words, the school system remains a dual system. Rather than further the dismantling of the dual system, the plan has operated simply to burden children and their parents with a responsibility which *Brown II* placed squarely on the School Board. The Board must be required to formulate a new plan and, in light of other courses which appear open to the Board, such as zoning,[6] fashion steps which promise realistically to convert promptly to a system without a "white" school and a "Negro" school, but just schools.

The judgment of the Court of Appeals is vacated insofar as it affirmed the District Court and the case is remanded to the District Court for further proceedings consistent with this opinion.

It is so ordered.

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[5] The views of the United States Commission on Civil Rights, which we neither adopt nor refuse to adopt, are as follows:

"Freedom of choice plans, which have tended to perpetuate racially identifiable schools in the Southern and border States, require affirmative action by both Negro and white parents and pupils before such disestablishment can be achieved. There are a number of factors which have prevented such affirmative action by substantial numbers of parents and pupils of both races:

"(a) Fear of retaliation and hostility from the white community continue to deter many Negro families from choosing formerly all-white schools;

"(b) During the past school year [1966–1967], as in the previous year, in some areas of the South, Negro families with children attending previously all-white schools under free choice plans were targets of violence, threats of violence and economic reprisals by white persons and Negro children were subjected to harassment by white classmates notwithstanding the conscientious efforts by many teachers and principals to prevent such misconduct;

"(c) During the past school year, in some areas of the South public officials improperly influenced Negro families to keep their children in Negro schools and excluded Negro children attending formerly all-white schools from official functions;

"(d) Poverty deters many Negro families in the South from choosing formerly all-white schools. Some Negro parents are embarrassed to permit their children to attend such schools without suitable clothing. In some districts special fees are assessed for courses which are available only in the white schools;

"(e) Improvements in facilities and equipment . . . have been instituted in all-Negro schools in some school districts in a manner that tends to discourage Negroes from selecting white schools."

Southern School Desegregation, 1966–1967, at 88 (1967). See *id.,* at 45–69; Survey of School Desegregation in the Southern and Border States 1965–1966, at 30–44, 51–52 (U.S. Comm'n on Civil Rights 1966).

[6] "In view of the situation found in New Kent County, where there is no residential segregation, the elimination of the dual school system and the establishment of a 'unitary, non-racial system' could be readily achieved with a minimum of administrative difficulty by means of geographic zoning—simply by assigning students living in the eastern half of the county to the New Kent School and those living in the western half of the county to the Watkins School. Although a geographical formula is not universally appropriate, it is evident that here the Board, by separately busing Negro children across the entire county to the 'Negro' school, and the white children to the 'white' school, is deliberately maintaining a segregated system which would vanish with non-racial geographic zoning. The conditions in this county present a classical case for this expedient." *Bowman* v. *County School Board, supra,* n. 3, at 332 (concurring opinion).

Petitioners have also suggested that the Board could consolidate the two schools, one site (e.g., Watkins) serving grades 1–7 and the other (e.g., New Kent) serving grades 8–12, this being the grade division respondent makes between elementary and secondary levels. Petitioners contend this would result in a more efficient system by eliminating costly duplication in this relatively small district while at the same time achieving immediate dismantling of the dual system.

These are two suggestions the District Court should take into account upon remand, along with any other proposed alternatives and in light of considerations respecting other aspects of the school system such as the matter of faculty and staff desegregation remanded to the court by the Court of Appeals.

[From the Harvard Law Review]

EQUAL PROTECTION

1. Free Choice and Free Transfer Plans for School Desegregation.—In *Green v. County School Board* [1] the Court severely restricted the availability of "freedom of choice" as a device for desegregating southern schools. Kent County in Virginia is a rural county with roughly equal numbers of Negroes and whites and no residential segregation. Before 1954 the County operated two schools, one in its eastern part for all grades of white pupils and another in its western part for all grades of Negroes. School buses used overlapping routes to take pupils to and from school. There was no desegregation of the county schools during the decade following *Brown v. Board of Education* [2] when Virginia was massively resisting integration. In August 1965 Kent County adopted a desegregation plan which permitted Negro and white parents to choose which school their children would attend. Since then approximately fifteen percent of the Negroes had attended the formerly all-white school, but no white families had chosen to send their children to the all-Negro school. Petitioners sought to enjoin operation of this allegedly segregated school system. Speaking unanimously through Mr. Justice Brennan, the Court held the free choice plan inadequate because eighty-five percent of the Negro pupils continued to attend an identifiable "Negro" school and because more effective means to eliminate such racially identifiable schools were reasonably available. In school systems formerly segregated by law, school boards have an affirmative duty to eliminate the vestiges of racial discrimination "root and branch." This duty is not discharged by offering to Negro and white families freedom to choose which school their children will attend unless the exercise of this freedom actually leads to conversion of the existing "dual" school system (part white and part Negro) to a "unitary" system.[3]

Freedom of choice plans became widespread in the South after pupil-placement laws and other anti-integration measures were struck down,[4] and after the Department of Health, Education and Welfare announced that such plans would satisfy the duty of school boards to desegregate in order not to be cut off from federal aid.[5] By the 1966–67 school year such plans were in use in the overwhelming majority of southern school districts desegregating by voluntary plan or under court order.[6] In practice, freedom of choice has produced very little integration.[7]

Until *Green,* the constitutional status of freedom of choice plans was unclear because of confusion, still not wholly resolved, over the nature of the evil condemned in *Brown* and the remedial duty imposed on states and school boards. The Fourth Circuit [8] took the view that institution of a free choice plan satisfies the full duty of school boards subject to *Brown* regardless of the amount of integration achieved. The Fifth Circuit [9] and, in a recent decision, the Eighth [10] held, to the contrary, that desegregation means integration and that the adequacy of free choice is to be tested by the amount of integration it produces.

At issue in *Green* was not the pace of "desegregation" achieved by the respondent school board, but the very meaning of "desegregation" under *Brown.* The school board argued not that it was desegregating at an adequate pace, but that it had "desegregated" completely. The board contended that *Brown* condemned only the assignment of pupils to schools by the state on the basis of race. The full duty of a state is fulfilled when state laws and practices compelling segregation are respectively repealed and terminated. Free choice is particularly unobjectionable

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Footnotes at end of article.

since it affirmatively provides "equal educational opportunity" by giving Negro and white children an equal opportunity to choose which school they will attend.

The Solicitor General, as amicus curiae, contended that *Brown* imposes on states formerly segregated by law the duty not only to end state compelled segregation, but also to take affirmative steps to undo the racial separation which remains as an effect of past practice, and that that duty is not fulfilled while racially identifiable schools remain.[13] The possible implications of this theory are broad indeed: it might impose on southern states the duty to eliminate racially identifiable schools even where their preservations results from educationally sound pupil assignment policies. Moreover, beyond the field of education, the argument might require southern states to take affirmative action to eliminate racially separate use of any facilities formerly segregated by law. The Solicitor General and petitioners also offered the Court a narrower ground of decision by presenting evidence to the effect that generally throughout the South the choice given to Negroes under free choice plans is not perceived by them to be, and is not in fact, free, and that given the context of traditional white and Negro schools in the South, the "free choice" of whites is really foreordained.[13] The Court alluded to this evidence but "neither adopt[ed] nor refuse[d] to adopt" it.[14]

The Court also did not unambiguously endorse the broader theory. Its only explanation of why the Negroes in Kent County who chose to go to the Negro school were denied equal protection was that the county school system remained a "dual" one. But the Court did not explain how "dual" systems are to be distinguished from "unitary" ones. At various points in his opinion Mr. Justice Brennan suggested that several factors were relevant to the decision: a long record of bad faith on the part of the school board charged with implementing desegregation, the past history of racial identification attaching to the schools in question, the lack of educational or administrative reasons for adoption of the free choice plan, the affirmative activities of the board to facilitate racial separation under the free choice plan, the actual enrollment figures, the undoubted perceptions and attitudes of the Negro and white communities toward the schools, and the availability of alternative methods which would provide greater racial mixing.

It may also have been important to the decision that the county population was not predominately Negro, and that therefore the goal of an integrated education for all Negro pupils was feasible absent white withdrawal. Because all these factors pointed in the same direction *Green* was an easy case: all the Justices could concur in the opinion, but perhaps only because the opinion does not set forth any doctrine indicating which of the many relevant factors are crucial.

In more difficult cases, where not all the factors point the same way, the Court will have to refine its analysis of the concepts "dual system," "unitary system," "segregated," "integrated," and "racially identifiable." And it will have to begin facing some of the hard questions involved in implementing *Brown:* in formulating desegregation plans, what weight is to be given to sound policies of education and school administration;[15] what weight to wishes of southern black nationalists for separation, even where by the lights of the larger community the result will be "inferior" education; what weight to such evidence as exists that once the ratio of Negro pupils to whites passes beyond a critical point the educational benefits from integration are reduced or lost altogether? Since *Brown*, the lower courts have been grappling with these issues largely without guidance from the Supreme Court. In *Green* the Court missed an important opportunity to provide guidance by re-articulating the reasons for and the very meaning of "desegregation."[16]

Free choice remains a theoretically permissible system of pupil assignment in the South, but the Court has at least made it clear than an end to avoidable racially identifiable schools is a primary goal of desegregation, and that free choice cannot be employed if more effective means of achieving this goal are reasonably available. In many southern communities, methods more effective than free choice are available:[17] in *Green*, a division of Kent County into two geographic attendance zones might have achieved substantially more integration; in the companion *Monroe* case, use of a "feeder system"[18] appeared to be an effective method; in other communities the redrawing of attendance zones, judicious location of new school facilities, or enlargement of old ones can be effective in promoting an end to racially identifiable schools.[19] Since such a large variety of techniques is available to school boards now required to take affirmative action to eliminate racial separation and since free choice plans place considerable administrative burdens on school boards and thus are not likely to be favored by the boards themselves,[20] *Green* probably sounds the knell for free choice in the South.[21]

The Court struck down free choice in Kent County without commenting on the genuineness of the expressed "preferences" of most of the county's Negroes for separation. Has the Court taken judicial notice that "free choice" by southern Negroes is a myth? Or has it merely placed the burden on school boards—at least in the South—to show that the choice was truly free? Or has the Court resolved to ignore even strong preferences of black nationalists on the theory that school boards must eliminate segregated schools even if Negro parents wish them to survive? If, on the other hand, the Court is prepared to distinguish between separatist preferences flowing from militant nationalism and those flowing from traditions of deference fostered by caste systems, how will it develop techniques for applying the distinction? Once again, *Green* raises more questions than it answers.

Since the decision applies only to school districts formerly segregated by discriminatory state action,[22] it does not directly address the problem of "de facto" segregation. The Court expressly rejected the suggestion that a decision for petitioners would entail that the Constitution "universally requir[es] 'compulsory integration.'"[23] Moreover, the failure of the Court to articulate more fully its concept of equal educational opportunity and its understanding of the relationship between integration and equality will prolong uncertainty as to the constitutional status of free choice plans, community control, and unrevised neighborhood attendance zones in the North. In condemning racial separation in *Green* the Court gave no hint whether outside the South separate public education of Negroes and whites might in some contexts satisfy the equal protection clause. But since *Green* did strike down free choice in a county representative of large parts of the South and did so without developing principles applicable to the North, the decision may be a step toward the ironic result of required integration in the South coexistent with continued racial separation in the North. As predictable resistance to *Green* grows in the South, the irony may become politically intolerable, and pressure may grow for the Court to grant certiorari in a northern school case.[24]

Finally, the Court's steadfast refusal to prescribe a minimum acceptable rate of integration leaves unresolved questions as to the relation between the duty imposed by *Brown* and *Green* and the requirements of the Guidelines[25] issued by the Office for Civil Rights of the Department of Health, Education, and Welfare pursuant to Title VI of the Civil Rights Act of 1964.[26] The 1965 Guidelines, issued by the Office of Education, accepted free choice as a technique of desegregation and set the fall of 1967 as the target date for total desegregation.[27] The revised Guidelines promulgated in 1966 retreated from the established target date by providing for detailed percentage of integration as targets of desegregation plans.[28] The new 1968 Guidelines continue to adhere to the basic principle that the test of whether free choice "works" is the extent to which pupils in minority groups actually transfer out of segregated schools, but they establish a new target date for full integration—fall 1969.[29] The existence of parallel administrative and judicial requirements for desegregation has created problems for both HEW and the Courts and has engendered considerable discussion.[30] Prior to *Green* the Fifth Circuit had sought to resolve these problems by adopting, with only marginal change,[31] the 1966 HEW standards as minimum requirements for all court-approved free choice plans in the circuit.[32] Other Circuits had reached other accommodations, giving the Guidelines greater or lesser weight in the appraisal of desegregation plans.[33] In directing the remand in *Green* the Court missed an opportunity to guide the lower courts in their reliance on the Guidelines.

FOOTNOTES

[1] 391 U.S. 430 (1968).

[2] 347 U.S. 483 (1954) (Brown I); 349 U.S. 294 (1955) (Brown II).

[3] In the companion case of Raney v. Board of Educ., 391 U.S. 443 (1968), the Court held that, in accordance with Brown v. Board of Educ., 349 U.S. 294, 299–301 (1955), district courts should retain jurisdiction in cases involving a desegregation plan in order to ensure the constitutionality of the plan and of its execution. In the second companion case, Monroe v. Board of Commr's, 391 U.S. 450 (1968), the Court held that the adequacy of "free transfer" plans is to be tested in the same way as that of "free choice" plans. A free transfer plan differs from a free choice plan in that the former permits a choice only after an initial assignment on some basis other than choice (*e.g.*, geographic districts), whereas the latter permits a choice of the initial assignment.

[4] The antecedents of free choice in Virginia were recounted by the majority in *Green*. The history in other states which have recently turned to free choice is parallel. *See, e.g.*, Clark v. Board of Educ., 369 F.2d 661 (8th Cir. 1966) (Arkansas anti-integration efforts culminating in free choice); United States v. Jefferson County Bd. of Educ., 372 F.2d 836, 878 (1966), *aff'd with modifications on rehearing en banc*, 380 F.2d 385 (5th Cir.), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967) (origins of free choice in the 5th Circuit). *See generally* Dunn, *Title VI, The Guidelines and School Desegregation in the South*, 53 Va. L. Rev. 42 (1967).

[5] *See* note 25 *infra*.

[6] United States Commission on Civil Rights, Southern School Desegregation 1966–67 at 45–46, 87 (1967).

[7] On the ineffectiveness of free choice as a method of achieving integration, consult *id.* at 45–69. The difficulty of providing a genuinely free choice in a community overwhelmingly opposed to integration is suggested in Coppedge v. Franklin County Bd. of Educ., 273 F. Supp. 289 (E.D.N.C. 1967).

[8] *See* Bowman v. County School Bd., 382 F. 2d 326 (4th Cir. 1967) (*en banc*); Bradley v. School Bd., 345 F.2d 310 (4th Cir. 1965), *vacated and remanded on other grounds*, 382 U.S. 103 (1965). The Fourth Circuit thus in effect, though not expressly, adopted the famous dictum in Briggs v. Elliott, 132 F. Supp. 776, 777 (E.D.S.C.) 1955) that "[t]he Constitution . . . does not require integration. It does not forbid such segregation as occurs as the result of voluntary action. It

merely forbids the use of governmental power to enforce segregation."

[9] United States v. Jefferson County Bd. of Educ., 372 F.2d 836 (1966), *aff'd with modifications on rehearing en banc*, 380 F.2d 385 (5th Cir.), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967); Singleton v. Jackson Municipal School Dist., 355 F.2d 865 (5th Cir. 1966).

[10] Kemp v. Beasely, 389 F.2d 178, 181 (8th Cir. 1968); Kemp v. Beasley, 352 F.2d 14, 20–21 (8th Cir. 1965). *But see* Kelley v. Altheimer School Dist., 378 F.2d 483, 490 (8th Cir. 1967) (*rehearing en banc denied*) (rejection of request that school board be ordered to integrate classes immediately, the court stating: ". . . we are not prepared to hold at this time . . . that desegregation . . . cannot be accomplished if students are permitted to attend the schools of their choice"); Clark v. Board of Educ., 369 F.2d 661, 666 (8th Cir. 1966) ("[T]he constitutionality of [a desegregation] plan does not necessarily depend upon favorable statistics indicating positive integration of the races . . . The [free choice] system is not subject to constitutional objection simply because large segments of whites and Negroes choose to continue attending their familiar schools").

[11] Brief for Respondents at 8–13, Green v. County School Bd., 391 U.S. 430 (1968).

[12] Memorandum for the United States as Amicus Curiae at 3–6, Green v. County School Bd., 391 U.S. 430 (1968).

[13] *Id.* at 7–9. Brief for Petitioners at 21–25, Green v. County School Bd., 391 U.S. 430 (1968). The evidence is presented in UNITED STATES COMMISSION ON CIVIL RIGHTS, SOUTHERN SCHOOL DESEGREGATION 1966–67, at 47–69 (1967).

[14] 391 U.S. at 440 n. 5.

[15] *E.g.*, the policy of assigning children to the school nearest their home; tracking systems designed to segregate pupils on the basis of ability to learn.

[16] Since *Brown* the Court has never stated unambiguously whether such terms as "segregation," "dual system," and "racially identifiable schools" refer to physical separation of the races or to racial separation attributable to discriminatory state action. The existence and celebrity of the *Briggs* dictum, *see* note 8 *supra*, testify to the Court's unwillingness to identify desegregation squarely with integration. Since the Court has not identified with precision the evil condemned in *Brown*, its own formulations of the remedial duty in terms of "desegregation" or "conversion to a unitary system" can be read as merely conclusory terms, whose connection with actual racial mixing is unclear. *But see* United States v. Jefferson County Bd., of Educ. 372 F.2d 836, 846 n. 5 (1966), *off'd with modifications on rehearing en banc*, 380 F.2d 385 (5th Cir.), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967).

[17] Throughout the South, any potentially "effective" desegregation plan runs the risk that white pupils will flee the public schools altogether. It would be unseemly for courts to allow threats of white withdrawal to set an effective maximum on the amount of integration they will order. But the results of this approach may be, especially in countries with a predominantly Negro population, that if the courts order more integration than the white community regards as tolerable, there will be no integration at all. To avoid this result the courts may be forced to find some means to close off the exit to private and parochial schools or to bring these schools within the ambit of the public system.

[18] The feeder system is a commonly used method of pupil assignment whereby pupils graduating from a specified school at one level are automatically assigned to a specified school at the next higher level.

[19] For a brief survey of techniques for promotion of integration, consult Fiss, *Racial Imbalance in the Public Schools: The Constitutional Concepts*, 78 HARV. L. REV. 564, 570–74 (1965).

[20] The burdens and uncertainties which a free choice plan introduces into the process of school administration are discussed in Moses v. Washington Parish School Bd., 276 F. Supp. 834, 850–52 (E.D. La. 1967). After surveying the disadvantages of free choice plans the court concluded that no good reason could be advanced for their adoption other than as a merely transitional step in the very early stages of desegregation. It was in such a context that free choice was ordered for the state of Alabama in Lee v. Macon County Bd. of Educ., 267 F. Supp. 458 (M.D. Ala.), *aff'd sub nom.* Wallace v. United States, 389 U.S. 215 (1967) (mem.), where the court evidently sought to find a uniform plan which had some chance of achieving integration throughout the state regardless of local conditions. In that case the court retained jurisdiction for periodic redeterminations of the effectiveness of the plan.

[21] However, the demise of free choice will not occur until after the 1968–69 school year. In suits instituted by the Justice Department after the decision in *Green*, the Fifth Circuit has held that it is too late to alter plans for the administration of schools for the coming academic year. *See* N.Y. Times, Aug. 7, 1968, at 27, col. 7.

[22] "State action" in this context includes the compulsory segregation statutes which existed in 17 states at the time of *Brown* and actions of state officials, such as gerrymandering of attendance zones, taken deliberately to foster segregation. For an example of the latter, consult Clemons v. Board of Educ., 228 F. 2d 853 (6th Cir.), *cert. denied*, 350 U.S. 1006 (1956) Hillsboro, Ohio).

[23] 391 U.S. at 437.

[24] All of the Supreme Court opinions dealing with school desegregation have involved schools in states which formerly imposed segregation by law. The Court has thus far not determined what the duty of a school board is with respect to racial imbalance not attributable to state compulsion or encouragement. It denied certiorari in Bell v. School City, 213 F. Supp. 819 (N.D. Ind.), *aff'd*, 324 F. 2d 209 (7th Cir. 1963), *cert. denied*, 377 U.S. 924 (1964) (where segregation of schools occurs without deliberate intent of state or school officials, there is no state action in violation of the equal protection clause and no duty to correct racial imbalance).

[25] U.S. Office for Civil Rights, HEW, Policies on Elementary and Secondary School Compliance with Title VI of the Civil Rights Act of 1964, 33 Fed. Reg. 4955 (1968).

[26] 42 U.S.C. § 2000d (1964). HEW issued a general regulation proscribing discrimination in any program it administers. 45 C.F.R. §80.1–.13 (1964). Guidelines for school desegregation were subsequently issued by the Office of Education, and now by the Office for Civil Rights.

[27] Office of Education, HEW, Desegregation of Elementary and Secondary Schools; General Statement of Policies under Title VI of the Civil Rights Act of 1964, 30 Fed. Reg. 9981, 9982–83 (1965).

[28] Office of Education, HEW, Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964, 31 Fed. Reg. 5623, 5628–29 (1966).

[29] 33 Fed. Reg. 4955, 4956 (1968). The new Guidelines add: "If, under a free choice plan, vestiges of a dual school structure remain, the school system is responsible for taking whatever additional steps are necessary to complete the desegregation of its schools." *Id.*

[30] *See, e.g.*, Dunn, *Title VI, The Guidelines and School Desegregation in the South*, 53 VA. L. REV. (1967); Note, *The Courts, HEW, and Southern School Desegregation*, 77 YALE L.J. 321 (1967); 81 HARV. L. REV. 474 (1967); 64 MICH. L. REV. 340 (1965).

[31] *See* 81 HARV. L. REV. 474, 475 & n.7 (1967).

[32] United States v. Jefferson County Bd. of Educ., 372 F.2d 836 (1966), *aff'd with modifications on rehearing en banc*, 380 F.2d 385 (5th Cir.), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967).

[33] *See* 81 HARV. L. REV. 474, 475 & nn.8, 9 (1967).

[From the CONGRESSIONAL RECORD, vol. 110, pt. 5, p. 6820]

Mr. DOUGLAS:

TECHNICAL ASSISTANCE

In addition to this, the Commissioner of Education is authorized to make grants or contracts with institutions of higher education for special institutions to give training to school teachers and supervisors and other personnel to help them in dealing with the problems which might follow upon desegregation. It also provides that grants may be made for inservice training for school personnel and in employing specialists to advise in problems concerning desegregation.

As I previously pointed out, this technical assistance would not only be available to a school or district where desegregation has been ordered under a plan, but where the desegregation was voluntary as well.

RACIAL IMBALANCE EXCLUDED

Finally, there is nothing in this title dealing with so-called racial imbalance in the public schools. There is nothing in this title which would require the busing of students, to transfer white students from predominately white schools to Negro schools. There is nothing to require the transfer of Negroes into predominately white schools.

The provisions with respect to racial imbalance were specifically excluded from the House bill and are not a part of this bill, contrary to some of the propaganda and publicity which has gone out about it.

Let me read from the bottom of page 13, and the top of page 14, of the bill:

" 'Desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance."

It would be possible for States and localities to follow such policies as they thought wise and proper, but it would not be a requirement of Federal law. This is one of the issues with which we are trying to deal in Chicago. The Hauser report has been very well received by the press of Chicago and by a very large section of public opinion in Chicago. It may be put into effect.

[From the CONGRESSIONAL RECORD, vol. 110, pt. 5, p. 6839]

Mr. KEATING. Mr. President, will the Senator yield, before he passes from section 407, regarding the powers of the Attorney General?

Mr. COOPER. I yield.

Mr KEATING. First, I commend the distinguished Senator from Kentucky for the excellent analysis which he has made of title IV, in his affirmative presentation to the Senate. Many misleading charges have appeared regarding the education section. It has been said that the bill would give to the Attorney General inordinate control over the operation of public schools. I do not believe that any of us wants to give the Attorney General authority to operate our public schools. It is said that if this bill is enacted he could establish and enforce a racial quota system in the schools. Would the Senator comment on that point, and tell us whether there is anything in the section which would give any such power to the Attorney General?

Mr. COOPER. I do not believe there is any provision, or language, in the bill which would give the Attorney General any such authority. The only authority he would have would be to initiate a suit and attempt to achieve the desegregation of schools which school boards had refused to do. I do not

see how he can reach into the operation of the schools or have anything to do with its facilities, or its teachers, or the courses it offers or anything else.

Mr. KEATING. It has been charged that the boards of trustees of schools would be denied the right to handle students and teaching staffs in any way they saw fit. Is there anything in the bill which would lend justification to a charge of that kind?

Mr. COOPER. I have been unable to find anything to that effect. I have given this kind of legislation some thought for several years. In 1960, I offered an amendment to the civil rights bill. It was substantially the same as the section now under consideration. In 1961, 1962, and 1963. I offered the same amendment, and at times I have been joined by the distinguished Senator from New York [Mr. KEATING], the distinguished Senator from New York [Mr. JAVITS], and last year with the Senator from Connecticut [Mr. DODD] as chief cosponsor. We were joined by 15 other Members of the Senate as cosponsors. It contained substantially the same language as the section we are considering. For 4 years I have been offering the section now under consideration, as either an amendment or a bill. I have spoken on the need for this kind of legislation every year. I have studied section 407 as it is now presented. I have never been able to find anything in it except what the language provides. It would give the Attorney General the right to initiate an action to secure desegregation of schools.

Mr. KEATING. Is this section not very much less comprehensive than the so-called part III, which was actually adopted in the House bill in 1957 and eliminated in the Senate?

Mr. COOPER. There is no comparison at all between the two. We are considering a specific case; namely, a right which has already been declared by the Supreme Court of the United States to exist. It is known. It is the right of an individual not to be discriminated against in admittance to a public school because of race or color. Title III embraced any number of known rights. It was even said that it included some unknown claimed rights. This section deals with a right that has been established and has been known and recognized throughout the country, except in some 11 States.

Mr. KEATING. Finally, a number of letters have come to me from the city of New York, as I presume they have come to other Senators who represent large metropolitan centers, concerning specifically the proposal of the New York City Board of Education, that students be moved from one area of the city to another to overcome an alleged racial imbalance. Would the bill in any way authorize the Attorney General to force or to finance such a program; or would it give the Federal Government any authority or power whatever in that direction?

Mr. COOPER. No. Title IV, section 401(b) contains a definition of desegregation with this condition:

"'Desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance."

Mr. KEATING. In other words, there is a definite prohibition against the use of any Federal funds or any injuction by the Federal Government which would move children from one area to another for that purpose?

Mr. COOPER. I am sure the Senator is correct. I am sure the language which I have just read would apply to the first sections of this title, sections 401 to 406, which deal with technical assistance, grants, training, and so forth. Training, grants, and assistance could not be withheld in an effort to achieve desegregation based upon the racial imbalance in schools under this bill.

The language of section 401(b) would also apply to section 407. The Attorney General would have no authority to institute action for the purpose of trying to correct racial imbalance but to secure the right against discrimination. The language speaks for itself.

Mr. KEATING. Except with regard to the provisions prohibiting discrimination in employment generally, which are dealt with in another title, would private schools in any way be affected by the passage of the bill so far as the education section is concerned?

Mr. COOPER. It is my judgment that they would not be affected.

Mr. KEATING. In other words, the Senator feels that except for the provision relating to employment, which provides that an employer cannot discriminate with regard to race generally in any activity, there would be nothing in this section which would deal with private schools in any way?

Mr. COOPER. That is my understanding.

Mr. KEATING. In this title?

Mr. COOPER. That is correct. The section gives a definition of the schools to be covered. The bill in section 401(c) defines "public schools" and public colleges.

Mr. KEATING. I have asked these questions of the Senator because of his comprehensive study of this problem. I agree with the answers which he has given. It might seem to the Senator that the Senator from New York is rather obtuse in this matter. However, all these questions are raised by information contained in the pamphlet called, "Unmasking the Civil Right Act." This pamphlet has been widely circulated all over the Nation and in the State of New York by people who are completely misinformed regarding the contents of the bill. All of the allegations to which I have referred are contained in mail which I have received on this subject.

I agree with the Senator on the answers which he has given. My purpose in asking the questions is to place in the RECORD the views of one who is charged with the responsibility of having detailed knowledge on this title, and one who is widely respected by Senators on both sides of the aisle for his deep study and clear understanding of the issue to which he devotes himself.

Mr. COOPER. I thank the Senator. I realize that the Senator knows the answers to the questions which he has asked me. The questions and answers might seem simple. However, I think it is necessary for the Senator and all of us to keep asking these questions because they are being asked throughout the country. That is the reason I speak today at some length on what are accepted principles; namely, the power of the Supreme Court to interpret the Constitution; and the fact that the Brown case is the law of the land, and not merely the law of the case. I speak on those matters because this kind of talk is heard throughout the country.

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

Mr. ERVIN. Mr. President, I ask unanimous consent to yield to the distinguished junior Senator from Alabama for questions or observations or colloquy on these conditions: First, that I shall not lose my right to the floor; and second, that anything which may be said by the Senator from Alabama or by the Senator from North Carolina shall be printed at the conclusion of my prepared remarks, so as to preserve the continuity of my prepared remarks in the RECORD.

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

Mr. ALLEN. The Governor of the State of Florida, the Honorable Claude Kirk, acting on behalf of the people of Florida, filed an original proceeding in the Supreme Court of the United States, as he is permitted to do under the Constitution of the United States, alleging that the people of the State of Florida are being denied the equal protection of the laws guaranteed by the Constitution, by reason of the Federal school policy that allows segregation in the North and requires instant desegregation in the South.

That petition was thrown out by the Supreme Court, causing Governor Kirk to say that a convicted felon, by writing some memorandum on the back of an envelope, could get the attention of the Supreme Court, but that the people of Florida could not.

The Governor of the State of Alabama, the Honorable Albert P. Brewer, acting on behalf of the State of Alabama and her people, filed a similar petition in the Supreme Court, averring that the people of Alabama are being denied of the equal protection of the laws guaranteed by the U.S. Constitution on the same grounds; and that petition was thrown out by the Supreme Court. This caused Governor Brewer to remark that a Communist can get the ear of the Supreme Court, but 3.5 million to 4 million Alabamians are unable to get the ear of the Supreme Court on this subject.

Does the Senator think it was right for the Supreme Court of the United States to deny the people of Alabama and the people of Florida a hearing on this matter before that so-called august body?

Mr. ERVIN. I will have to confess that, as a lawyer, and as one who spent a large part of his life in administering justice, I have been sadly disappointed by recent actions of the Supreme Court in refusing to hear causes brought in behalf of the Southern States. We are all accustomed to the old aphorism that justice is blind, but the recent actions of the Supreme Court of the United States, I say with all due deference, would indicate that justice is not only blind, but deaf also.

When the Court dismissed these cases, it had just about enough time to read the preamble to the case. The Justices dismissed them without hearing. I had always heard that every man is entitled to due process. Of course, the Supreme Court said, in the voting rights decision, that seven Southern States are not entitled to due process, that their people are not protected by the prohibition against a bill of attainder. If that means what it says, we could be abolished by court action without even notice or an opportunity of being heard.

I was almost as shocked by the action the Court took in the case of Mississippi, wherein the Department of Justice had recommended a delay. The Justices said, in effect, as I recall the decision, that they would go ahead and order desegregation and the Court could hear complaints later.

I could not help but think, when I read that memorandum decision, of an old couplet I have heard all my life:

> I oft have heard of Lydford Law,
> How in the morn they hang and draw,
> And sit in judgement after.

I never thought the Supreme Court would get to the point where they would apply Lydford Law, but they certainly did in that case; and as a result of it, we have a disruption of the educational process. Teachers are being shifted in violation of their contracts with school boards from one school to another in

the middle of the term, and little children are being denied their right to attend their neighborhood schools and being transferred elsewhere in the middle of the term.

That is the reason why I say that those who fanatically advocate forced integration are more interested in the integration of the bodies of little black children than they are in the enlightenment of their minds.

I hate to make such caustic comments about the Supreme Court of the United States, because I was taught by my father to revere the Supreme Court. He brought me up here when I was a small boy, took me to the old Supreme Court Chamber, and pointed out the busts of the great justices of the past, and he said to me, in a tone of awe, "This Court would enforce the Constitution though the heavens fall."

As a lawyer, I am forced to say that in recent years they have sometimes mangled the Constitution instead of enforcing it. But I do not hesitate to say these things, because I believe tyranny on the bench is just as bad as tyranny on the throne.

Mr. ALLEN. I appreciate the able explanation of the distinguished Senator from North Carolina, who has served on the Supreme Court of his State, and who is certainly one of the most eminent lawyers in the entire country.

I wonder if the term "constitutional lawyer" is really going to have any meaning in years to come, because the Supreme Court has gotten the law into such a state of confusion that I am sure they do not know what the law is and, while a constitution lawyer knows what the law should be stated to be by the Supreme Court, they very seldom agree with eminent constitutional lawyers on these subjects.

Mr. ERVIN. I might interject at this point to mention to the distinguished Senator from Alabama what a great law teacher in North Carolina, Dean Mordecai of the old Trinity Law School, now Duke University Law School, said about the law making quite different requirements of different classes of men. He said that the law required a layman to know all the law, every jot and title of it, and that it required a lawyer to know a reasonable amount of the law, but that it did not require a judge to know a damn thing.

Mr. ALLEN. Does the Senator think that the members of the Supreme Court might live up to that third requirement he sets out?

Mr. ERVIN. No, I am not going to say that about the Supreme Court. I have the highest respect for the Supreme Court as an institution.

I have said that the controlling element on the Supreme Court in recent years has been composed of judicial activists, and judicial activists are men of good intentions. They think that they can improve on the Constitution that we have, and so they exercise their power and undertake to change the meaning of the Constitution to reflect their personal views while they are professing to interpret the Constitution. I think every informed lawyer in the United States will admit that to be true privately, and I think that most intellectually honest lawyers will admit it publicly.

Mr. ALLEN. I ask the distinguished Senator from North Carolina, since we are speaking of legal precedents and decisions of the Supreme Court, what legal precedents, if any, were cited by the Supreme Court in handing down the 1954 decision in Brown against Board of Education.

Mr. ERVIN. There were no legal decisions cited as precedents. As a matter of fact, the Court said that the decision that was handed down in 1927 in Gong Lum against Rice, where they held exactly the opposite, did not raise the validity of the separate-but-equal doctrine, though the Chief Justice of the United States at that time, Chief Justice Taft, who wrote the opinion in that case, said in express words twice that the only question involved in the case was the validity of the separate-but-equal doctrine.

All of the legal precedents that were cited they rejected or attempted to distinguish. The case was based fundamentally on the fact that since Plessy against Ferguson, there had been some new books and treatises written on psychology, and the case contains a remarkable statement to the effect that we cannot turn the clock back to 1868 or to 1896, when Plessy against Ferguson was decided; while the effect of the decision was that it was the duty of the Court to turn the clock back to 1868, when the 14th amendment became a part of the Constitution, and ascertain from the history what it was intended to do.

So that laid down the premise which I think is improper, and which actuated the decisions of the Warren court, that the Constitution from time to time changes its meaning without any change in its phraseology being authorized by the only people who can change its meaning, the States and Congress, and that a majority of the Supreme Court justices are the sole judges of when these automatic changes occur and what the nature of the changes are, which means that we have no constitutional government in America under that kind of a provision.

Mr. ALLEN. Actually, then, the only work of a literary or legal nature that was cited by the Supreme Court in support of this decision in Brown against Board of Education was a work by a Swedish sociologist?

Mr. ERVIN. Yes, Myrdal's "The American Dilemma," I believe it is called.

While I accept the decision that no child should be excluded from any school on account of his race—and that is involved in the freedom of choice provision—that case has always left me with the misgiving that perhaps whenever new books on psychology are written, the Constitution automatically changes its meaning, which is a fearful doctrine.

But I might state that it started a series of precedents which show that the Supreme Court, as recently constituted, has the feeling that it has the power to change the meaning of the Constitution, notwithstanding the fact that the Constitution itself provides that its meaning can be changed in only one way, which is by an amendment under article V. In fact, that was the reason why I opposed the elevation of Justice Fortas to be Chief Justice, because he made speeches in which he said that the words of the Constitution had no fixed and unchanging meaning, that the words of the Constitution were just as impermanent as the hand that wrote them.

Mr. ALLEN. I invite the attention of the Senator from North Carolina to the fact that on last Sunday, in the great port city of Mobile, Ala., a meeting was held by four southern Governors—Gov. Albert P. Brewer, of Alabama; Gov. John McKeithen, of Louisiana; Gov. John Bell Williams, of Mississippi; and Gov. Lester Maddox, of Georgia—and at the conclusion of their meeting, they announced a statement of principles to which they subscribe. I should like to read that statement of principles—it is not long—and ask the distinguished Senator from North Carolina if he would tell us whether this statement is in conformity with his views. They said:

> We reaffirm our belief in the absolute necessity for quality public education, administered and controlled by local citizens.
>
> We reaffirm our belief that the problems of our schools should be solved through orderly, democratic processes and not through violence.
>
> We reaffirm our determination that no child in any State or in any school system shall be mandatorily assigned or bused for the sole purpose of achieving racial balance in our public schools. We believe that the same standards for the operation of schools applied in other States should be applied in the Southern States. We resent the fact that we have been singled out in our respective States for punitive treatment.
>
> We support the commitment given by President Nixon in the presidential campaign of 1968 to the principle of freedom of choice and maintenance of neighborhood schools.

Does the Senator from North Carolina subscribe to that statement of principle?

Mr. ERVIN. Yes. I think that that statement of principles is a good statement of the things that the Senator from Alabama and I and other Senators who are supporting these amendments are fighting for on the floor of the Senate.

Mr. ALLEN. Is that statement not pretty well embodied in the Stennis amendments?

Mr. ERVIN. Yes.

Mr. ALLEN. And in the amendment of the distinguished Senator from North Carolina?

Mr. ERVIN. Cosponsored by the distinguished Senator from Alabama.

Mr. ALLEN. I should like to propound this question to the distinguished Senator from North Carolina. It involves statistics, comparing some Alabama attendance figures with figures in other sections of the country. These figures are given by the Department of Health, Education, and Welfare, and I assume they are correct.

According to the figures of HEW, 91.7 percent of the Negroes in Alabama attend schools that are a majority black. The same figures show that in the city

of Los Angeles, 95.3 percent of the Negroes attend majority black schools. In Newark, N.J., 97.9 percent of the Negroes—nearly all of them—attend schools that are a majority black. In Gary, Ind., 96.9 percent of the Negroes attend majority black schools. In other words, there is a higher percentage of segregation in Los Angeles, Newark, N.J., and Gary, Ind., than in the State of Alabama.

I should like the Senator to explain to me, if he can, why it is the policy of the Federal Government to push for desegregation on a crash basis in Alabama but to completely ignore the situation in Los Angeles; Newark, N.J., and Gary, Ind., where there is more segregation than in Alabama.

Mr. ERVIN. In reply to that, I will say something I dislike to say, because it is a very unfortunate truth in our national life today: that it is politically profitable in some areas of this country to browbeat the South. I would say that if the Northern States were treated the same as the Southern States are treated in this field, it would not take more than 24 hours and the suspension of the rules to get a freedom of choice bill passed by Congress. I realize that I have no license to be a prophet, but I nevertheless would usurp and exercise the right to make that prophecy.

Mr. ALLEN. I appreciate the information the Senator has given.

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

Mr. ERVIN. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Florida under the following conditions: First, that I will not lose my right to the floor; second, that I may yield to the Senator from Florida for a question or for observations or for colloquy; and third, that any matters which may transpire between the Senator from Florida and myself will be printed in the RECORD after the conclusion of my remarks so that the continuity of my remarks may be preserved.

Mr. JAVITS. Mr. President, reserving the right to object, could we have some idea of the length of this colloquy?

Mr. ERVIN. The Senator from North Carolina does not know, because I do not know how long the Senator from Florida wants to make inquiry or engage in colloquy.

Mr. JAVITS. Mr. President, further reserving the right to object, if the floor is going to change hands under the guise of colloquy, someone else should have the right to participate.

If the colloquy is of a reasonable length, say a half an hour it does not matter to me.

Mr. ERVIN. Mr. President, as far as I am concerned, I propose to occupy the floor until I say everything that I think ought to be said to preserve the rights of the people of North Carolina, whom I have the honor to represent, and to attempt to acquire freedom for the people of other States.

I waited here for several days after the bill was laid before the Senate in an effort to make a speech. I could not get the floor.

A person tries to be very polite. I have yielded to a number of my brethren, which has caused my speech to be longer than it would otherwise have been.

I cannot enlighten the Senator from New York as to how long the Senator from Florida will query me or how long he will want to ask questions.

Mr. JAVITS. Mr. President, the Senator from Florida informs me that it will only be a short time. On that basis, I do not object.

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

Mr. HOLLAND. Mr. President, I congratulate the distinguished Senator on his speech. I ask him this question because it bothers me. With the Federal courts operating under the 14th amendment and its requirement that States accord equal treatment to all persons, how do they justify the fact that they order school boards to send some white children on buses in one direction and some Negro children on buses in another direction, but leave some white children in the schools where they originally were and some Negro children in the schools where they originally were?

How does the distinguished Senator feel that equal treatment under the law is given to the two groups of children, let us say, with the white group which they have ordered to be bused somewhere else and the other group which they have ordered to stay where it is. How does the distinguished Senator recognize that as a giving of equal treatment under the law?

Mr. ERVIN. Mr. President, I do not think the Supreme Court has ever attempted to justify it. And I do not think any other court has ever made out any justification for it.

There are some decisions in the fifth circuit, which has been for some time in the hands of a very pronounced judicial activist. I recall one of their decisions that said that even though the actions of the school boards in the conduct of the schools was entirely nondiscriminatory, it was unconstitutional unless it produced substantial integration of the races.

Another decision of the fifth circuit involved these facts: The school board had divided a town into two school districts because the good Lord had put a bayou between the two natural sections of the town and because there were dangerous railroad tracks there. One of these schools was substantially white and one substantially colored, but they were divided because of the natural boundary, the bayou, and for the sake of the safety of the children, because of the railroad lines.

The court said that the safety of the children was of secondary importance, that the overriding important matter was the mixing of the races in the schools. Now some of the little black children are required to cross the bayou and to cross the railroad tracks at the hazard of risking their lives to get to school on the other side of the bayou. And some of the little white children are required to cross the bayou and the dangerous railroad tracks to get to the other school.

That is the kind of decision that has been handed down in the fifth circuit.

Mr. HOLLAND. Mr. President, I thank the Senator. The thing that bothers me so greatly is the matter of trying to find how equal treatment is being given to either black children or white children when each of those groups is divided and some of them are left where they were, close to their homes, and some of them are transported far away to another school. How could that constitute equal treatment of those two groups when they are divided?

Mr. ERVIN. It would be in violation of the equal protection clause when the courts require States to violate the equal protection clause in these decisions.

Mr. HOLLAND. I thank the Senator. The Senator has stated what I think is the case. The equal protection clause of the 14th amendment is violated instead of observed in these decisions about which we have been speaking.

I yield the floor.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on February 3, 1970, the President had approved and signed the joint resolution (S.J. Res. 131) to welcome to the United States Olympic delegations authorized by the International Olympic Committee.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2214) to exempt potatoes for processing from marketing orders, and it was signed by the President pro tempore.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield, with the understanding that his colloquy will not be interrupted in the record, so that I may call up a resolution affecting the Senate and the House of Representatives, and have it considered at this point?

Mr. ERVIN. It has no reference to the matter of the debate on the pending bill?

Mr. MANSFIELD. Oh, no. It is the adjournment resolution.

Mr. ERVIN. I yield to the Senator, with the understanding that I shall not lose my right to the floor.

Mr. MANSFIELD. That the Senator

will not lose the floor, and the colloquy will not be interrupted.

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

ADOPTION OF RESOLUTION PROVIDING FOR ADJOURNMENT OF THE TWO HOUSES TO FEBRUARY 16, 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 497.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 497, which was read by the bill clerk, as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Tuesday, February 10, 1970, they stand adjourned until 12 o'clock meridian, Monday, February 16, 1970.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, House Concurrent Resolution 497 was considered and agreed to.

ORDER OF BUSINESS

Mr. ERVIN. Mr. President, I ask that I may be indulged in so that I may have a brief discussion with the Senator from Mississippi and the distinguished majority leader.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may propound some unanimous-consent requests without the Senator from North Carolina losing his right to the floor.

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

Mr. ERVIN. Mr. President, I ask that the remarks of the Senator from West Virginia be printed in the RECORD after my remarks in order to preserve the continuity of my prepared statement.

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

MESSAGE FROM THE PRESIDENT ON ENVIRONMENTAL QUALITY (H. DOC. NO. 91-225)

Mr. BYRD of West Virginia. Mr. President, there is a message at the desk from the President of the United States on "Environmental Quality." It is very broad in scope; the President states that the message embraces a 37-point program involving 23 major legislative proposals and 14 new measures.

Therefore, I ask unanimous consent that the message be referred to the Committees on Public Works, Interior and Insular Affairs, Commerce, Finance, and Government Operations since their jurisdictions are expected to be involved.

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

The message from the President is as follows:

To the Congress of the United States:

Like those in the last century who tilled a plot of land to exhaustion and then moved on to another, we in this century have too casually and too long abused our natural environment. The time has come when we can wait no longer to repair the damage already done, and to establish new criteria to guide us in the future.

The fight against pollution, however, is not a search for villains. For the most part, the damage done to our environment has not been the work of evil men, nor has it been the inevitable by-product either of advancing technology or of growing population. It results not so much from choices made, as from choices neglected: not from malign intention, but from failure to take into account the full consequences of our actions.

Quite inadvertently, by ignoring environmental costs we have given an economic advantage to the careless polluter over his more conscientious rival. While adopting laws prohibiting injury to person or property, we have freely allowed injury to our shared surroundings. Conditioned by an expanding frontier, we came only late to a recognition of how precious and how vulnerable our resources of land, water, and air really are.

The tasks that need doing require money, resolve and ingenuity—and they are too big to be done by government alone. They call for fundamentally new philosophies of land, air and water use, for stricter regulation, for expanded government action, for greater citizen involvement, and for new programs to ensure that government, industry and individuals all are called on to do their share of the job and to pay their share of the cost.

Because the many aspects of environmental quality are closely interwoven, to consider each in isolation would be unwise. Therefore, I am today outlining a comprehensive, 37-point program, embracing 23 major legislative proposals and 14 new measures being taken by administrative action or Executive Order in five major categories:

—Water pollution control.
—Air pollution control.
—Solid waste management.
—Parklands and public recreation.
—Organizing for action.

As we deepen our understanding of complex ecological processes, as we improve our technologies and institutions and learn from experience, much more will be possible. But these 37 measures represent actions we can take *now*, and that can move us dramatically forward toward what has become an urgent common goal of all Americans: the rescue of our natural habitat as a place both habitable and hospitable to man.

WATER POLLUTION

Water pollution has three principal sources: municipal, industrial and agricultural wastes. All three must eventually be controlled if we are to restore the purity of our lakes and rivers.

Of these three, the most troublesome to control are those from agricultural sources: animal wastes, eroded soil, fertilizers and pesticides. Some of these are nature's own pollutions. The Missouri River was known as "Big Muddy" long before towns and industries were built on its banks. But many of the same techniques of pest control, livestock feeding, irrigation and soil fertilization that have made American agriculture so abundantly productive have also caused serious water pollution.

Effective control will take time, and will require action on many fronts: modified agricultural practices, greater care in the disposal of animal wastes, better soil conservation methods, new kinds of fertilizers, new chemical pesticides and more widespread use of natural pest control techniques. A number of such actions are already underway. We have taken action to phase out the use of DDT and other hard pesticides. We have begun to place controls on wastes from concentrated animal feedlots. We need programs of intensified research, both public and private, to develop new methods of reducing agricultural pollution while maintaining productivity. I have asked The Council on Environmental Quality to press forward in this area. Meanwhile, however, we have the technology and the resources to proceed *now* on a program of swift clean-up of pollution from the most acutely damaging sources: municipal and industrial wastes.

MUNICIPAL WASTES

As long as we have the means to do something about it, there is no good reason why municipal pollution of our waters should be allowed to persist unchecked.

In the four years since the Clean Waters Restoration Act of 1966 was passed, we have failed to keep our promises to ourselves: Federal appropriations for constructing municipal treatment plants have totaled only about one-third of authorizations. Municipalities themselves have faced increasing difficulty in selling bonds to finance their share of the construction costs. Given the saturated condition of today's municipal bond markets, if a clean-up program is to work it has to provide the means by which municipalities can finance their share of the cost even as we increase Federal expenditures.

The best current estimate is that it will take a total capital investment of about $10 billion over a five-year period to provide the municipal waste treatment plants and interceptor lines needed to meet our national water quality standards. This figure is based on a recently-completed nationwide survey of the deficiencies of present facilities, plus projections of additional needs that will have developed by then—to accommodate the normal annual increase in the volume of wastes, and to replace equipment that can be expected to wear out or become obsolete in the interim.

This will provide every community that needs it with secondary waste treatment, and also special, additional treatment in areas of special need, including communities on the Great Lakes. We have the industrial capacity to do the job in five years if we begin now.

To meet this construction schedule, I propose a two-part program of Federal assistance:

—I propose a Clean Waters Act with $4 billion to be authorized immediately, for Fiscal 1971, to cover the full Federal

share of the total $10 billion cost on a matching fund basis. This would be allocated at a rate of $1 billion a year for the next four years, with a reassessment in 1973 of needs for 1975 and subsequent years.

By thus assuring communities of full Federal support, we can enable planning to begin *now* for all needed facilities and construction to proceed at an accelerated rate.

—I propose creation of a new Environmental Financing Authority, to ensure that every municipality in the country has an opportunity to sell its waste treatment plant construction bonds.

The condition of the municipal bond market is such that, in 1969, 509 issues totaling $2.9 billion proved unsalable. If a municipality cannot sell waste treatment plant construction bonds, EFA will buy them and will sell its own bonds on the taxable market. Thus, construction of pollution control facilities will depend not on a community's credit rating, but on its waste disposal needs.

Providing money is important, but equally important is where and how the money is spent. A river cannot be polluted on its left bank and clean on its right. In a given waterway, abating *some* of the pollution is often little better than doing nothing at all, and money spent on such partial efforts is often largely wasted. Present grant allocation formulas—those in the 1966 Act—have prevented the spending of funds where they could produce the greatest results in terms of clean water. Too little attention has been given to seeing that investments in specific waste treatment plants have been matched by other municipalities and industries on the same waterway. Many plants have been poorly designed and inefficiently operated. Some municipalities have offered free treatment to local industries, then not treated their wastes sufficiently to prevent pollution.

To ensure that the new funds are well invested, five major reforms are needed. One requires legislation: the other four will be achieved by administrative action.

—I propose that the present, rigid allocation formula be revised, so that special emphasis can be given to areas where facilities are most needed and where the greatest improvements in water qualify will result.

Under existing authority, the Secretary of the Interior will institute four major reforms:

—Federally assisted treatment plants will be required to meet prescribed design, operation and maintenance standards, and to be operated only by State-certified operators.

—Municipalities receiving Federal assistance in constructing plants will be required to impose reasonable users' fees on industrial users sufficient to meet the costs of treating industrial wastes.

—Development of comprehensive river basin plans will be required at an early date, to ensure that Federally assisted treatment plants will in fact contribute to effective clean-up of entire river basin systems. Collection of existing data on pollution sources and development of effluent inventories will permit systems approaches to pollution control.

—Wherever feasible, communities will be strongly encouraged to cooperate in the construction of large regional treatment facilities, which provide economies of scale and give more efficient and more thorough waste treatment.

INDUSTRIAL POLLUTION

Some industries discharge their wastes into municipal systems; others discharge them directly into lakes and rivers. Obviously, unless we curb industrial as well as municipal pollution our waters will never be clean.

Industry itself has recognized the problem, and many industrial firms are making vigorous efforts to control their water-borne wastes. But strict standards and strict enforcement are nevertheless necessary—not only to ensure compliance, but also in fairness to those who have voluntarily assumed the often costly burden while their competitors have not. Good neighbors should not be placed at a competitive disadvantage because of their good neighborliness.

Under existing law, standards for water pollution control often are established in only the most general and insufficient terms: for example, by requiring all affected industries to install secondary treatment facilities. This approach takes little account of such crucial variables as the volume and toxicity of the wastes actually being discharged, or the capacity of a particular body of water to absorb wastes without becoming polluted. Even more important, it provides a poor basis for enforcement: with no effluent standard by which to measure, it is difficult to prove in court that standards are being violated.

The present fragmenting of jurisdictions also has hindered comprehensive efforts. At present, Federal jurisdiction generally extends only to interstate waters. One result has been that as stricter State-Federal standards have been imposed, pollution has actually increased in some other waters—in underground aquifers and the oceans. As controls over interstate waters are tightened, polluting industries will be increasingly tempted to locate on intrastate lakes and rivers—with a consequently increased threat to those waterways—unless they too are brought under the same strictures.

I propose that we take an entirely new approach: one which concerts Federal, State and private efforts, which provides for effective nationwide enforcement, and which rests on a simple but profoundly significant principle: that the Nation's waterways belong to us all, and that neither a municipality nor an industry should be allowed to discharge wastes into those waterways beyond their capacity to absorb the wastes without becoming polluted.

Specifically, I propose a seven-point program of measures we should adopt *now* to enforce control of water pollution from industrial and municipal wastes, and to give the States more effective backing in their own efforts.

—I propose that State-Federal water quality standards be amended to impose precise effluent requirements on all industrial and municipal sources. These should be imposed on an expenditious timetable, with the limit for each based on a fair allocation of the total capacity of the waterway to absorb the user's particular kind of wastes without becoming polluted.

—I propose that violation of established effluent requirements be considered sufficient cause for court action.

—I propose that the Secretary of the Interior be allowed to proceed more swiftly in his enforcement actions, and that he be given new legal weapons including subpoena and discovery power.

—I propose that failure to meet established water quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day.

—I propose that the Secretary of the Interior be authorized to seek immediate injunctive relief in emergency situations in which severe water pollution constitutes an imminent danger to health, or threatens irreversible damage to water quality.

—I propose that the Federal pollution-control program be extended to include all navigable waters, both inter- and intra-state, all interstate ground waters, the United States' portion of boundary waters, and waters of the Contiguous Zone.

—I propose that Federal operating grants to State pollution control enforcement agencies be tripled over the next five years—from $10 million now to $30 million in fiscal year 1975—to assist them in meeting the new responsibilities that stricter and expanded enforcement will place upon them.

AIR POLLUTION CONTROL

Air is our most vital resource, and its pollution is our most serious environmental problem. Existing technology for the control of air pollution is less advanced than that for controlling water pollution, but there is a great deal we can do within the limits of existing technology—and more we can do to spur technological advance.

Most air pollution is produced by the burning of fuels. About half is produced by motor vehicles.

MOTOR VEHICLES

The Federal Government began regulating automobile emissions of carbon monoxide and hydrocarbons with the 1968 model year. Standards for 1970 model cars have been made significantly tighter. This year, for the first time, emissions from new buses and heavy-duty trucks have also been brought under Federal regulation.

In future years, emission levels can and must be brought much lower.

The Secretary of Health, Education and Welfare is today publishing a notice of new, considerably more stringent motor vehicle emission standards he intends to issue for 1973 and 1975 models—including control of nitrogen oxides by 1973 and of particulate emissions by 1975.

These new standards represent our best present estimate of the lowest emission levels attainable by those years.

Effective control requires new legislation to correct two key deficiencies in the present law:

a) *Testing procedures.* Under present law, only manufacturers' prototype

vehicles are tested for compliance with emission standards, and even this is voluntary rather than mandatory.

I propose legislation requiring that representative samples of actual production vehicles be tested throughout the model year.

b) *Fuel composition and additives.* What goes into a car's fuel has a major effect on what comes out of its exhaust, and also on what kinds of pollution-control devices can effectively be employed. Federal standards for what comes out of a car's engine should be accompanied by standards for what goes into it.

I propose legislation authorizing the Secretary of Health, Education and Welfare to regulate fuel composition and additives.

With these changes, we can drastically reduce pollution from motor vehicles in the years just ahead. But in making and keeping our peace with nature, to plan only one year ahead or even five is hardly to plan at all. Our responsibility now is also to look beyond the Seventies, and the prospects then are uncertain. Based on present trends, it is quite possible that by 1980 the increase in the sheer number of cars in densely populated areas will begin outrunning the technological limits of our capacity to reduce pollution from the internal combustion engine. I hope this will not happen. I hope the automobile industry's present determined effort to make the internal combustion engine sufficiently pollution-free succeeds. But if it does not, then unless motor vehicles with an alternative, low-pollution power source are available, vehicle-caused pollution will once again begin an inexorable increase.

Therefore, prudence dictates that we move now to ensure that such a vehicle will be available if needed.

I am inaugurating a program to marshal both government and private research with the goal of producing an unconventionally powered, virtually pollution-free automobile within five years.

—I have ordered the start of extensive Federal research and development program in unconventional vehicles, to be conducted under the general direction of the Council on Environmental Quality.

—As an incentive to private developers, I have ordered that the Federal Government should undertake the purchase of privately produced unconventional vehicles for testing and evaluation.

A proposal currently before the Congress would provide a further incentive to private developers by authorizing the Federal government to offer premium prices for purchasing low-pollution cars for its own use. This could be a highly productive program once such automobiles are approaching development, although current estimates are that, initially, prices offered would have to be up to 200% of the cost of equivalent conventional vehicles rather than the 125% contemplated in the proposed legislation. The immediate task, however, is to see that an intensified program of research and development begins at once.

One encouraging aspect of the effort to curb motor vehicle pollution is the extent to which industry itself is taking the initiative. For example, the nation's principal automobile manufacturers are not only developing devices now to meet present and future Federal emission standards, but are also, on their own initiative, preparing to put on the market by 1972 automobiles which will not require and, indeed, must not use leaded gasoline. Such cars will not only discharge no lead into the atmosphere, but will also be equipped with still more effective devices for controlling emissions—devices made possible by the use of lead-free gasoline.

This is a great forward step taken by the manufacturers before any Federal regulation of lead additives or emissions has been imposed. I am confident that the petroleum industry will see to it that suitable non-leaded gasoline is made widely available for these new cars when they come on the market.

STATIONARY-SOURCE POLLUTION

Industries, power plants, furnaces, incinerators—these and other so-called "stationary sources" add enormously to the pollution of the air. In highly industrialized areas, such pollution can quite literally make breathing hazardous to health, and can cause unforeseen atmospheric and meteorological problems as well.

Increasingly, industry itself has been adopting ambitious pollution-control programs, and state and local authorities have been setting and enforcing stricter anti-pollution standards. But they have not gone far enough or fast enough, nor, to be realistic about it, will they be able to without the strongest possible Federal backing. Without effective government standards, industrial firms that spend the necessary money for pollution control may find themselves at a serious economic disadvantage as against their less conscientious competitors. And without effective Federal standards, states and communities that require such controls find themselves at a similar disadvantage in attracting industry, against more permissive rivals. Air is no respecter of political boundaries: a community that sets and enforces strict standards may still find its air polluted from sources in another community or another state.

Under the Clean Air Act of 1967, the Federal government is establishing air quality control regions around the nation's major industrial and metropolitan areas. Within these regions, states are setting air quality standards—permissible levels of pollutants in the air—and developing plans for pollution abatement to achieve those air quality standards. All state air quality standards and implementation plans require Federal approval.

This program has been the first major Federal effort to control air pollution. It has been a useful beginning. But we have learned in the past two years that it has shortcomings. Federal designation of air quality control regions, while necessary in areas where emissions from one state are polluting the air in another, has been a time-consuming process. Adjoining states within the same region often have proposed inconsistent air quality standards, causing further delays for compromise and revision. There are no provisions for controlling pollution *outside* of established air quality control regions. This means that even with the designation of hundreds of such regions, some areas of the country with serious air pollution problems would remain outside of the program. This is unfair not only to the public but to many industries as well, since those within regions with strict requirements could be unfairly disadvantaged with respect to competitors that are not within regions. Finally, insufficient Federal enforcement powers have circumscribed the Federal government's ability to support the states in establishing and enforcing effective abatement programs.

It is time to build on what we have learned, and to begin a more ambitious national effort. I recommend that the Clean Air Act be revised to expand the scope of strict pollution abatement, to simplify the task of industry in pollution abatement through more nearly uniform standards, and to provide special controls against particularly dangerous pollutants.

—I propose that the Federal government establish nationwide air quality standards, with the states to prepare within one year abatement plans for meeting those standards.

This will provide a minimum standard for air quality for all areas of the nation, while permitting states to set more stringent standards for any or all sections within the state. National air quality standards will relieve the states of the lengthy process of standard-setting under Federal supervision, and allow them to concentrate on the immediate business of developing and implementing abatement plans.

These abatement plans would cover areas both inside and outside of Federally designated air quality control regions, and could be designed to achieve any higher levels of air quality which the States might choose to establish. They would include emission standards for stationary sources of air pollution.

—I propose that designation of interstate air quality control regions continue at an accelerated rate, to provide a framework for establishing compatible abatement plans in interstate areas.

—I propose that the Federal government establish national emissions standards for facilities that emit pollutants extremely hazardous to health, and for selected classes of new facilities which could be major contributors to air pollution.

In the first instance, national standards are needed to guarantee the earliest possible elimination of certain air pollutants which are clear health hazards even in minute quantities. In the second instance, national standards will ensure that advanced abatement technology is used in constructing the new facilities, and that levels of air quality are maintained in the face of industrial expansion. Before any emissions standards were established, public hearings would be required involving all interested parties. The States would be responsible for enforcing these standards in conjunction with their own programs.

—I propose that Federal authority to seek court action be extended to include both inter- and intrastate air pollution

situations in which, because of local non-enforcement, air quality is below national standards, or in which emissions standards or implementation timetables are being violated.

—I propose that failure to meet established air quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day.

SOLID WASTE MANAGEMENT

"Solid wastes" are the discarded leftovers of our advanced consumer society. Increasing in volume, they litter the landscape and strain the facilities of municipal governments.

New packaging methods, using materials which do not degrade and cannot easily be burned, create difficult new disposal problems. Though many wastes are potentially re-usable, we often discard today what a generation ago we saved. Most bottles, for example, now are "non-returnable." We re-process used paper less than we used to, not only adding to the burden on municipal sanitation services but also making wasteful use of scarce timberlands. Often the least expensive way to dispose of an old automobile is to abandon it—and millions of people do precisely that, creating eyesores for millions of others.

One way to meet the problem of solid wastes is simply to surrender to it: to continue pouring more and more public money into collection and disposal of whatever happens to be privately produced and discarded. This is the old way; it amounts to a public subsidy of waste pollution. If we are ever truly to gain control of the problem, our goal must be broader: to reduce the volume of wastes and the difficulty of their disposal, and to encourage their constructive re-use instead.

To accomplish this, we need incentives, regulations and research directed especially at two major goals: a) making products more easily disposable—especially containers, which are designed for disposal; and b) re-using and recycling a far greater proportion of waste materials.

As we look toward the long-range future—to 1980, 2000 and beyond—recycling of materials will become increasingly necessary not only for waste disposal but also to conserve resources. While our population grows, each one of us keeps using more of the earth's resources. In the case of many common minerals, more than half those extracted from the earth since time began have been extracted since 1910.

A great deal of our space research has been directed toward creating self-sustaining environments, in which people can live for long periods of time by reprocessing, re-cycling and re-using the same materials. We need to apply this kind of thinking more consciously and more broadly to our patterns of use and disposal of materials here on earth.

Many currently used techniques of solid waste disposal remain crudely deficient. Research and development programs under the Solid Waste Disposal Act of 1965 have added significantly to our knowledge of more efficient techniques. The Act expires this year. I recommend its extension, and I have already moved to broaden its programs.

I have ordered a re-direction of research under the Solid Waste Disposal Act to place greater emphasis on techniques for re-cycling materials, and on development and use of packaging and other materials which will degrade after use—that is, which will become temporary rather than permanent wastes.

Few of America's eyesores are so unsightly as its millions of junk automobiles.

Ordinarily, when a car is retired from use it goes first to a wrecker, who strips it of its valuable parts, and then to a scrap processor, who reduces the remainder to scrap for sale to steel mills. The prices paid by wreckers for junk cars often are less than the cost of transporting them to the wrecking yard. In the case of a severely damaged or "cannibalized" car, instead of paying for it the wrecker may even charge towing costs. Thus the final owner's economic incentive to deliver his car for processing is slight, nonexistent or even negative.

The rate of abandonment is increasing. In New York City, 2,500 cars were towed away as abandoned on the streets in 1960. In 1964, 25,000 were towed away as abandoned; in 1969, more than 50,000.

The way to provide the needed incentive is to apply to the automobile the principle that its price should include not only the cost of producing it, but also the cost of disposing of it.

I have asked the Council on Environmental Quality to take the lead in producing a recommendation for a bounty payment or other system to promote the prompt scrapping of all junk automobiles.

The particular disposal problems presented by the automobile are unique. However, wherever appropriate we should also seek to establish incentives and regulations to encourage the re-use, re-cycling or easier disposal of other commonly used goods.

I have asked the Chairman of the Council on Environmental Quality to work with the Cabinet Committee on the Environment, and with appropriate industry and consumer representatives, toward development of such incentives and regulations for submission to the Congress.

PARKS AND PUBLIC RECREATION

Increasing population, increasing mobility, increasing incomes and increasing leisure will all combine in the years ahead to rank recreational facilities among the most vital of our public resources. Yet land suitable for such facilities, especially near heavily populated areas, is being rapidly swallowed up.

Plain common sense argues that we give greater priority to acquiring now the lands that will be so greatly needed in a few years. Good sense also argues that the Federal Government itself, as the nation's largest landholder, should address itself more imaginatively to the question of making optimum use of its own holdings in a recreation-hungry era.

—I propose full funding in fiscal 1971 of the $327 million available through the Land and Water Conservation Fund for additional park and recreational facilities, with increased emphasis on locations that can be easily reached by the people in crowded urban areas.

—I propose that we adopt a new philosophy for the use of Federally-owned lands, treating them as a precious resource—like money itself—which should be made to serve the highest possible public good.

Acquiring needed recreation areas is a real estate transaction. One third of all the land in the United States—more than 750,000,000 acres—is owned by the Federal Government. Thousands of acres in the heart of metropolitan areas are reserved for only minimal use by Federal installations. To supplement the regularly-appropriated funds available, nothing could be more appropriate than to meet new real estate needs through use of presently-owned real estate, whether by transfer, sale or conversion to a better use.

Until now, the uses to which Federally-owned properties were put has largely been determined by who got them first. As a result, countless properties with enormous potential as recreation areas linger on in the hands of agencies that could just as well—or better—locate elsewhere. Bureaucratic inertia is compounded by a quirk of present accounting procedures, which has the effect of imposing a budgetary penalty on an agency that gives up one piece of property and moves to another, even if the vacated property is sold for 10 times the cost of the new.

The time has come to make more rational use of our enormous wealth of real property, giving a new priority to our newly urgent concern with public recreation—and to make more imaginative use of properties now surplus to finance acquisition of properties now needed.

—By Executive Order, I am directing the heads of all Federal agencies and the Administrator of General Services to institute a review of all Federally-owned real properties that should be considered for other uses. The test will be whether a particular property's continued present use or another would better serve the public interest, considering both the agency's needs and the property's location. Special emphasis will be placed on identifying properties that could appropriately be converted to parks and recreation areas, or sold, so that proceeds can be made available to provide additional park and recreation lands.

—I am establishing a Property Review Board to review the GSA reports and recommend to me what properties should be converted or sold. This Board will consist of the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality and the Administrator of General Services, plus others that I may designate.

—I propose legislation to establish, for the first time, a program for relocating Federal installations that occupy locations that could better be used for other purposes.

This would allow a part of the proceeds from the sales of surplus properties to

be used for relocating such installations, thus making more land available.

—I also propose accompanying legislation to protect the Land and Water Conservation Fund, ensuring that its sources of income would be maintained and possibly increased for purchasing additional parkland.

The net effect would be to increase our capacity to add new park and recreational facilities, by enabling us for the first time to use surplus property sales in a coordinated three-way program: a) by direct conversion from other uses; b) through sale of presently-owned properties and purchase of others with the proceeds; and c) by sale of one Federal property, and use of the proceeds to finance the relocation and conversion costs of making another property available for recreational use.

—I propose that the Department of the Interior be given authority to convey surplus real property to State and local governments for park and recreation purposes at a public benefit discount ranging up to 100 percent.

—I propose that Federal procedures be revised to encourage Federal agencies to make efficient use of real property. This revision should remove the budgetary penalty now imposed on agencies relinquishing one site and moving to another.

As one example of what such a property review can make possible, a sizable stretch of one of California's finest beaches has long been closed to the public because it was part of Camp Pendleton. Last month the Defense Department arranged to make more than a mile of that beach available to the State of California for use as a State park. The remaining beach is sufficient for Camp Pendleton's needs; thus the released stretch represents a shift from low-priority to high-priority use. By carefully weighing alternative uses, a priceless recreational resource was returned to the people for recreational purposes.

Another vast source of potential parklands also lies untapped. We have come to realize that we have too much land available for growing crops and not enough land for parks, open space and recreation.

—I propose that instead of simply paying each year to keep this land idle, we help local governments buy selected parcels of it to provide recreational facilities for use by the people of towns in rural areas. This program has been tried, but allowed to lapse; I propose that we revive and expand it.

—I propose that we also adopt a program of long-term contracts with private owners of idled farmland, providing for its reforestation and public use for such pursuits as hunting, fishing, hiking and picnicking.

ORGANIZING FOR ACTION

The environmental problems we face are deep-rooted and widespread. They can be solved only by a full national effort embracing not only sound, coordinated planning, but also an effective follow-through that reaches into every community in the land. Improving our surroundings is necessarily the business of us all.

At the Federal level, we have begun the process of organizing for this effort.

The Council on Environmental Quality has been established. This Council will be the keeper of our environmental conscience, and a goad to our ingenuity; beyond this, it will have responsibility for ensuring that all our programs and actions are undertaken with a careful respect for the needs of environmental quality. I have already assigned it major responsibilities for new program development, and I shall look to it increasingly for new initiatives.

The Cabinet Committee on the Environment, which I created last year, acts as a coordinating agency for various departmental activities affecting the environment.

To meet future needs, many organizational changes will still be needed. Federal institutions for dealing with the environment and natural resources have developed piecemeal over the years in response to specific needs, not all of which were originally perceived in the light of the concerns we recognize today. Many of their missions appear to overlap, and even to conflict. Last year I asked the President's Advisory Council on Executive Organization, headed by Mr. Roy Ash, to make an especially thorough study of the organization of Federal environmental, natural resource and oceanographic programs, and to report its recommendations to me by April 15. After receiving their report, I shall recommend needed reforms, which will involve major reassignments of responsibilities among Departments.

For many of the same reasons, overlaps in environmental programs extend to the Legislative as well as the Executive branch, so that close consultation will be necessary before major steps are taken.

No matter how well organized government itself might be, however, in the final analysis the key to success lies with the people of America.

Private industry has an especially crucial role. Its resources, its technology, its demonstrated ingenuity in solving problems others only talk about—all these are needed, not only in helping curb the pollution industry itself creates but also in helping devise new and better ways of enhancing all aspects of our environment.

I have ordered that the United States Patent Office give special priority to the processing of applications for patents which could aid in curbing environmental abuses.

Industry already has begun moving swiftly toward a fuller recognition of its own environmental responsibilities, and has made substantial progress in many areas. However, more must be done.

Mobilizing industry's resources requires organization. With a remarkable degree of unanimity, its leaders have indicated their readiness to help.

I will shortly ask a group of the nation's principal industrial leaders to join me in establishing a National Industrial Pollution Control Council.

The Council will work closely with the Council on Environmental Quality, the Citizens' Advisory Committee on Environmental Quality, the Secretary of Commerce and others as appropriate in the development of effective policies for the curbing of air, water, noise and waste pollution from industrial sources. It will work to enlist increased support from business and industry in the drive to reduce pollution, in all its forms, to the minimum level possible. It will provide a mechanism through which, in many cases, government can work with key leaders in various industries to establish voluntary programs for accomplishing desired pollution-control goals.

Patterns of organization often turn out to be only as good as the example set by the organizer. For years, many Federal facilities have themselves been among the worst polluters. The Executive Order I issued last week not only accepts responsibility for putting a swift end to Federal pollution, but puts teeth into the commitment.

I hope this will be an example for others.

At the turn of the century, our chief environmental concern was to conserve what we had—and out of this concern grew the often embattled but always determined "conservation" movement. Today, "conservation" is as important as ever—but no longer is it enough to conserve what we have; we must also restore what we have lost. We have to go beyond conservation to embrace restoration.

The task of cleaning up our environment calls for a total mobilization by all of us. It involves governments at every level; it requires the help of every citizen. It cannot be a matter of simply sitting back and blaming someone else. Neither is it one to be left to a few hundred leaders. Rather, it presents us with one of those rare situations in which each individual everywhere has an opportunity to make a special contribution to his country as well as his community.

Through the Council on Environmental Quality, through the Citizens' Advisory Committee on Environmental Quality, and working with Governors and Mayors and county officials and with concerned private groups, we shall be reaching out in an effort to enlist millions of helping hands, millions of willing spirits—millions of volunteer citizens who will put to themselves the simple question: "What can I do?"

It is in this way—with vigorous Federal leadership, with active enlistment of governments at every level, with the aid of industry and private groups, and above all with the determined participation by individual citizens in every state and every community, that we at last will succeed in restoring the kind of environment we want for ourselves, and the kind the generations that come after deserve to inherit.

This task is ours together. It summons our energy, our ingenuity and our conscience in a cause as fundamental as life itself.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1970.*

Mr. SCOTT. Mr. President, the President's extensive message on our environment is no less than the bold and massive start toward reordering our national attitudes and actions. It is a comprehensive and coordinated attack on

the problems which are gnawing away at the quality of life for Americans. Implementation of these massive proposals will start a new era of concern for our environment. These are the most important national actions proposed since another great Republican President, Theodore Roosevelt, took initiative seven decades ago.

The 23 legislative proposals and 14 administrative measures call for an entire new outlook on land, air, and water use. They go far beyond rhetoric and meet the issue of what we must do now head on. Now Congress must act. The bold and innovative legislation proposed by the President deserves the speedy and full attention of Congress. We have waited too long, we have done too little.

Next week, I will introduce into the Senate, as the prime sponsor, the legislation which will implement the President's proposals. I invite cosponsorship from every Senator. I have assured the President and my colleagues that this legislation is top priority for this session of Congress. I hope that massive bipartisan support will assure the American people that we, their Government, after much talk, are willing to act and act now, to protect their precious resources.

Mr. GRIFFIN. Mr. President, in an address to midwestern Governors last Friday, President Nixon called for total mobilization to overcome the environmental crisis.

Today, the President has sent to Congress a program which represents a far-reaching commitment on the part of the Federal Government to improve our environment.

The program will increase 1971 outlays for major environmental programs by 42 percent. Budget authority for 1971 will be increased by 240 percent.

Increased Federal spending, however, is not enough. More research, better coordination of activities, and tougher enforcement measures also are needed. All of these requirements for an effective program are recognized and included in the President's program.

For example, the proposed Environmental Financing Authority will provide coordination of Federal and State financing by insuring that local governments will be able to borrow the necessary funds for financing their share of the cost of municipal waste treatment plants. This type of Federal assistance is just as valuable as direct cash outlays.

A significant indication of the President's commitment is that the newly established Council on Environmental Quality will be directed to become involved in several areas of research, such as solid wastes, agricultural pollution, and low-emission vehicles.

This will assure a continued concern in the White House for environmental problems.

Mr. President, the program which we have received calls for strong bipartisan support—and I am confident that it will receive such support.

It demands widespread public support—and I am sure that support will be forthcoming.

Mr. DOLE. Mr. President, In his state of the Union message, the President of the United States committed his administration to the fight to improve and preserve our rapidly deteriorating environment. In his message to Congress on the environment, the President translated that commitment into legislative and administrative proposals.

The problems of the environment are so vast and critical that they deserve the attention and commitment of the best problem solvers in the Nation. They are not simple problems whose solutions lie merely in rhetoric. Nor are there Republican or Democrat solutions to these problems.

This presidential message represents the most comprehensive and far-reaching commitment of any administration to the problems of environmental improvement. In his 37-point program, including 23 legislative measures and 14 administrative actions, the President has touched the major areas of air and water pollution, solid waste disposal, and the use of Federal lands for public recreation. An important part of the President's message was his appeal for action at every level of government and from every segment of society. This means that industry and private groups, along with the individual citizen, must participate if we are to succeed in restoring the kind of environment we want for ourselves and the kind the generations that come after deserve to inherit.

I hope Senators will examine these proposals carefully and make their views known to the committee throughout its deliberations.

Mr. BOGGS. Mr. President, the message on the environment from President Nixon represents a significant step toward our goal of a better quality of life for all people. The companion legislation which will be presented within a few days should propel us more rapidly toward that moment when our environment becomes cleaner with each passing day, rather than progressively dirtier.

But it will not be achieved easily or cheaply. As the President states in his message:

> The tasks that need doing require money, resolve, and ingenuity—and they are too big to be done by government alone. They call for fundamentally new philosophies of land, air, and water use, for stricter regulation, for expanded government action, for greater citizen involvement, and for new programs to ensure that government, industry, and individuals all are called on to do their share of the job and to pay their share of the cost.

The President offers important proposals for water pollution abatement, with increased funds for construction of sewage treatment plants. Possibly more important than the $4 billion in Federal moneys for the program—enough dollars to do the job, according to present best estimates by the administration—is the imaginative new effort to assist local communities in raising their share of a project's cost. The proposed Environmental Financing Authority will assure all communities of a buyer for their bonds to finance a sewage treatment plant. As the President declares:

> Thus, construction of pollution control facilities will depend not on a community's credit rating, but on its waste disposal needs.

Another important feature of the President's program is the encouragement it offers for State participation in construction of projects to improve water quality. The President suggests modifying the present allocation formula for funds so that special emphasis can be given to areas where facilities are most needed, and where the States offer financial assistance to local communities.

The Nixon administration also proposes new requirements that effluent standards be established on all waters. This means that each outfall pipe will someday have a pollution control standard to meet in addition to current practices setting quality standards in the receiving river or lake. The limit for each source of pollution would be based "on a fair allocation of the total capacity of the waterway to absorb the user's particular kind of waste without becoming polluted," the President says, and thus speed up the move toward clean water across the land. This will have an additional benefit in simply encouraging each State to make a census of each source of potential pollution within its boundaries.

In the field of the control of air pollution, the Nixon administration has offered other significant proposals. Particularly important is the suggestion for effluent standards to be established on new facilities emitting gases into the air. This would be done for those industries offering the greatest potential pollution danger, and tied to the use of the best technology available.

With his lofty goals and promises for heavy Federal financial commitment to cleaner air and water, the President also seeks increased penalties for the recalcitrant. His proposals include a request for the imposition of fines of up to $10,000 per day for any plant that fails to meet established air or water quality standards or implementation schedules.

The automobile, of course, represents the greatest challenge in the control of air pollution. The action announced today by the President should greatly accelerate the effort to reduce pollution from vehicles. The requirement of more stringent emission standards will reduce pollution from internal combustion engines. At the same time, increased research into other propulsion sources meshes the best that appears possible now with the best that technology can bring us in the future.

The President also has committed himself to finding incentives to encourage the recycling of solid wastes, particularly ways to get junked cars off the streets and junkyards and back into the economic pipeline.

The proposals I have touched on represent just a fraction of what the administration has suggested. Other proposals will be made by Senators, as well as by Members of the other body, in the months ahead.

The Committee on Public Works, of which I have the honor to be a member, will have the opportunity to consider many of these proposals.

It is my hope that as the committee considers and debates these and other proposals, it will continue its tradition of bipartisan cooperation in the

consideration of bills dealing with environmental enhancement. This spirit of cooperation has been encouraged by the distinguished chairman of the committee (Mr. RANDOLPH), the distinguished ranking Republican member (Mr. COOPER), and the distinguished chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE). It is a spirit that has enabled the committee to report many essential pollution control bills since the formation of the subcommittee in 1963, and thus create a foundation for the President's excellent proposals.

I am confident that we will continue to look upon the environment as a pervasive challenge that can only be met with this cooperative action.

Mr. COOPER. Mr. President, President Nixon's message to the Congress on this day, Feruary 10, 1970, calling upon the Congress and the entire Nation to restore, in his words, "the kind of environment we want for ourselves, and the kind the generations that come after deserve to inherit" is a historic message. He has asked the Nation to move to action, and has made his petition not to the Congress alone but to the States and all citizens as well.

The President presented a comprehensive program, including legislative proposals and administrative actions covering the wide spectrum of programs and decisions required to protect, restore, and secure environmental quality. He proposes substantial changes in programs that have had their origin in the Senate Committee on Public Works, on which I serve as ranking minority member—identifying inadequacies of the present water and air pollution control legislation. Significantly, the President had previously described the problems as beyond partisanship. The Senate Committee on Public Works recognizes this fact, and I am sure that Senator JENNINGS RANDOLPH, chairman of the committee, and Senator EDMUND S. MUSKIE, chairman of the Subcommittee on Air and Water Pollution, will agree, as do Senator BOGGS, the ranking minority member of the subcommittee, and its minority members. I know that the Senate committee will work to secure for the Nation the best legislation it is possible to enact. I look forward with enthusiasm and optimism to the work that can be done in the Senate Committee on Public Works to implement the President's proposals.

The President has given this Nation leadership and direction in recognizing that pollution and degradation of the environment is caused by the Federal Government as well as by State and local governments, industry, and individuals. And all will need to work together in a number of large and continuing efforts to clean up and enhance our environment.

The President, the members of his Cabinet, and his staff have placed before this Nation a document that appeals to the very best in our citizens. Placing environmental issues among the Nation's first priorities, the President appeals to the energy of the citizens of this country to participate in achieving environmental quality. His appeal can be a unifying force, bringing people to work together in their communities, in their States, and in the Nation so that a better equality of life can be achieved.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point a fact sheet, released today by the White House, which summarizes the program contained in the President's message to the Congress on the environment.

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

PRESIDENT'S MESSAGE TO THE CONGRESS ON THE ENVIRONMENT

I. THE 37-POINT PROGRAM

Water pollution

1. Authorization of $4 billion to cover the Federal share of $10 billion needed for construction of municipal waste treatment plants. To be allocated at a rate of $1 billion per year over the next four years, with a reassessment in 1973 of further needs for 1973 and subsequent years.

2. Establishment of Environmental Financing Authority to ensure that every municipality can finance its share of treatment plant construction costs.

3. Revision of statutory formula governing allocation of grants for treatment plant construction, to permit construction of plants where need is greatest and where greatest improvements in water quality will result.

4. Requirement that treatment plants be built to prescribed design, operation and maintenance standards, and be operated only by certified operators.

5. Requirement that municipalities impose users fees on industrial users sufficient to meet costs of treating industrial wastes.

6. Requirement of comprehensive river basin plans, to assure that construction of municipal treatment plants is complimented by abatement of all other sources of water pollution.

7. Encouragement of construction of large-scale, regional treatment facilities.

8. Extension of Federal-State water quality standards to include precise effluent standards for all industrial and municipal sources.

9. Provision that violation of established water quality standards is sufficient cause for court action.

10. Revision of Federal enforcement procedures to permit swifter court action against those in violation of water quality standards.

11. Provision that violation of established water quality standards is subject to court-imposed fines of up to $10,000 per day.

12. Authorization for the Secretary of the Interior to seek immediate injunctions where severe water pollution threatens imminent danger to health or irreversible damage to water environment.

13. Extension of Federal pollution control authority to include all navigable waters, both inter- and intra-state, all interstate ground waters, the United States' portion of boundary waters, and waters of the Contiguous Zone.

14. Tripling of Federal operating grants to state pollution agencies—from $10 million now to $30 million in 1975.

Air pollution

15. Publication of new, more stringent motor vehicle emission standards for 1973 and 1975.

16. Revision of auto emissions enforcement procedures, to ensure that all new autos are in compliance with Federal standards.

17. Authorization for the Secretary of Health, Education and Welfare to regulate gasoline composition and additives.

18. Initiation of a research and development program to produce an unconventionally-powered, low-pollution auto within five years.

19. Initiation of testing and evaluation programs to assist private developers of unconventional, low-pollution autos.

20. Establishment of national air quality standards, with the states preparing abatement enforcement plans to meet national standards.

21. Accelerate designation of inter-state air quality control regions.

22. Establishment of national emissions standards for pollutants that are extremely hazardous to health and for specified classes of new facilities.

23. Extension of Federal air pollution control authority to both inter- and intra-state situations.

24. Provision that violation of air quality standards and national emissions standards are subject to court-imposed fines of up to $10,000 per day.

Solid waste management

25. Re-direction of solid waste research toward techniques for re-cycling materials and producing packaging materials that are easily degradable.

26. Council on Environmental Quality to develop bounty payment or similar system to ensure prompt scrapping and re-cycling of junk automobiles.

27. Council on Environmental Quality to work with appropriate industry and consumer groups to develop other incentives or regulations for re-cycling or easier disposal of consumer goods.

Industrial involvement

28. Establishment of National Industrial Pollution Control Council.

29. Priority treatment for patent applications which could aid in curbing environmental abuses.

Parks and recreation

30. Full funding of the $327 million available under the Land and Water Conservation Fund.

31. Review of all Federally-owned real estate to identify properties that can be converted to public recreational use, or sold, with proceeds used to acquire additional recreational areas.

32. Relocation of Federal installations that occupy locations that could better be used for other purposes.

33. Provision that the Land and Water Conservation Fund is maintained or increased as a source of funds for purchase of lands in future years.

34. Authorization for the Department of the Interior to convey surplus real property to State and local governments for park and recreational purposes at public benefit discounts of up to 100%.

35. Revision of budget accounting procedures to encourage Federal agencies to make more efficient use of their properties.

36. Assistance to State and local governments for making constructive recreational use of idled farmlands.

37. Authorization of long-term contracts with owners of idled farmlands for reforestation and other improvements for public recreational use.

II. HIGHLIGHTS OF PRESIDENT'S ENVIRONMENT PROGRAM

Water pollution

Municipal pollution

Major Problems: 1. Federal funding for construction of water treatment plants has been far below the nation's needs.

2. Municipalities with serious pollution problems have often been unable to finance their share of treatment plant construction costs.

Administration Proposals: 1. Federal funding to provide waste treatment in every community in the nation at the fastest rate possible, $10 billion program to begin now.

with assessment in 1973 of needs for 1975 and beyond.

2. Environmental Financing Authority to ensure that all municipalities needing treatment plants can finance local costs.

Industrial Pollution

Major Problem: 1. Regulations on disposal of industrial wastes (regulations apply to municipal wastes as well) have been too weak to prevent increasing water pollution.

Administration Proposal: 1. Reform pollution control program to greatly strengthen regulations on industrial and municipal polluters and permit swift enforcement actions.

Agricultural Pollution

Major Problem: 1. Agricultural pollution sources are diffuse, necessitating control of agricultural methods and materials.

Administration Proposal: 1. Phasing out of DDT and other hard pesticides. Water quality controls on concentrated animal feedlots.

Air Pollution

Automobile Pollution

Major Problems: 1. Emissions from motor vehicles must be reduced greatly if air pollution is to be brought under control.

2. It may be impossible to reduce emissions from conventional automobiles sufficiently to reduce air pollution beyond 1980 in the face of increasing numbers of autos.

Administration Proposals: 1. Strengthen Federal automobile emissions standards and reform enforcement procedures to ensure that they are applied to all new autos. Regulate gasoline composition and additives to achieve maximum possible pollution reduction.

2. Begin a research and development program to produce an unconventionally-powered, low-pollution auto by 1975 if we cannot reduce pollution sufficiently from conventional vehicles.

Pollution from stationary sources

Major Problem: 1. The present program for regulating air pollution from stationary sources is extremely limited in scope and does not provide sufficient enforcement authority against polluters.

Administration Proposal: 1. Establish national air quality standards and extend abatement regulations to all areas of the nation where air quality is below national standards. Establish national emissions standards for extremely hazardous polluters and certain classes of new facilities. Strengthen enforcement authority for swift action against polluters.

Solid wastes

Major Problem: 1. New consumer technologies and marketing methods are creating an increasing volume of waste and refuse. There are few incentives for reusing wastes or disposing of them efficiently.

Administration Proposal: 1. Develop incentives and regulations for reducing volume of wastes, by encouraging products that can be re-cycled or easily disposed.

Parks

Major Problems: 1. Metropolitan expansion is claiming potential recreation areas which will be irretrievable if not acquired *now*.

2. Federal funding for acquisition of recreation areas has been far below national needs.

3. The Federal government has not made imaginative use of its vast real estate assets.

Administration Proposals: 1. Full funding of the Land and Water Conservation Fund: $327 million for fiscal 1971.

2. Identification and conversion of Federal properties which could better be used for public recreation. Selling of some Federal lands for financing of additional recreation areas.

3. Increased use of idled farmland for public recreation.

III. COSTS ESTIMATES FOR A NATIONAL PROGRAM FOR MUNICIPAL SEWAGE TREATMENT PLANT CONSTRUCTION

On the basis of our present knowledge, a national construction program of $10 billion in the next five years for municipal waste treatment plants and interceptor sewers will be required to meet national water quality standards.

The nation has not kept pace with sewage treatment needs in the face of the rapid population increases and concentration in urban centers that has occurred in the first 70 years of this century. There is an immediate need today to construct about 1500 new sewage treatment plants in communities without such facilities around the nation. An excess of 2500 existing plants must be substantially upgraded as of today to accommodate population growth. Major needs exist in the most heavily populated states. For example, at least a half-billion dollar public investment, or more, must be made in states like New York, Pennsylvania, California, Massachusetts, Ohio, Texas, Illinois and New Jersey.

These estimates rest upon an exhaustive study that has been carried out by the Federal Water Pollution Control Administration over the last 3 years, and it is corroborated by an independent canvass of the states. The FWPCA analysis concludes that an investment of $4.9 billion will be required to eliminate existing waste treatment deficiencies within 5 years; and during that time, growth of demand and replacement requirements will each add about $2.5 billion to the investment required. The conclusion rests upon an evaluation of reported needs for every public sewage system in the U.S., as they were defined individually by each state, and historical relationship between the value of capital in place, replacement, and growth of demand on systems over the last 18 years.

To supplement that analysis, each state was independently requested to estimate the total amount of its needed investment for the next 5 years, without consideration of financial constraints. Those estimates total $10.2 billion—actually slightly less than FWPCA's figure, because a number of the states reported investment needs for a 6-year rather than a 5-year period.

We will refine these investment studies on a continuing basis and a total reassessment will be conducted in 1973 to assure that water quality objectives are fully achieved by 1975.

IV. THE ENVIRONMENTAL FINANCING AUTHORITY

The President's waste treatment financing proposal will require $6 billion of State and local financing to match the Federal share of $4 billion. This provides a total program of $10 billion of waste treatment plant construction. If the Administration's water pollution goals are to be met, it will be necessary to provide more than the Federal share of cash grants. It will also be necessary to assure that adequate financing for the State and local share will be available.

The President is proposing the establishment of an Environmental Financing Authority (EFA) to assure that no State or local body will be unable to meet water quality standards because of the inability to borrow necessary funds. The net effect of the new authority will be to provide a conduit. Local communities that would normally have difficulty in obtaining financing will be able to use this conduit to tap the capital market on favorable terms.

Under the bill, the Secretary of the Interior would identify communities that are unable to finance at reasonable rates the local share of approved waste treatment grant projects. The Secretary would guarantee timely payment of principal and interest on obligations that are sold to the Environmental Financing Authority for this purpose. The Authority would obtain funds to make these purchases by issuing its own taxable obligations in the capital market in large enough blocks to provide favorable reception. The Secretary of the Treasury would also be authorized to purchase EFA obligations, thus assuring availability of funds to meet the requirements of the Authority.

The interest rate at which EFA would purchase State and local obligations would be determined by the Secretary of the Treasury, taking into consideration current yields on comparable Federal obligations, obligations issued by EFA, and municipal obligations. The Treasury would make a differential payment to EFA to cover the difference between the interest received on the tax-exempt bonds purchased and the interest paid on the taxable bonds issued.

The authority would have a five-man board of directors, with the Secretary of the Treasury as Chairman. Each director will be a Government employee who would not receive additional compensation. Initial capital will be advanced by the Treasury. EFA would be authorized to charge fees for its commitments and other services that are adequate to cover all expenses and to provide for accumulation of contingency reserves. EFA would be required to transmit to the President and the Congress an annual report of its operations.

V. BUDGET IMPACT OF ENVIRONMENTAL PROGRAMS

OUTLAYS FOR MAJOR ENVIRONMENTAL QUALITY PROGRAMS

[Fiscal years. Dollar amounts in millions]

	1969 actual	1970 estimate	1971 estimate	1971 increase	
				Amount	Percent
Federal Water Pollution Control Administration	$215	$258	$465	+$207	+80
National Air Pollution Control Administration	57	80	104	+24	+31
Recreational resources	372	447	546	+99	+22
Total	644	785	1,115	330	42

BUDGET AUTHORITY FOR MAJOR ENVIRONMENTAL QUALITY PROGRAMS

Federal Water Pollution Control Administration	$301	$886	$4,101	+$3,215	+363
National Air Pollution Control Administration	88	96	106	+10	+10
Recreational resources	427	432	597	+165	+38
Total	816	1,414	4,804	3,390	240

Mr. HART. Mr. President, there is much praise in President Nixon's message on the environment, but it should be recognized that the message raises as many questions as it answers.

Certainly the President's proposals to broaden water and air quality standards are welcomed.

Only with national standards can we be certain that the company which seeks

to protect the environment will not be put at a competitive disadvantage, in terms of production costs, with a firm located where local or State standards are less stringent.

Also, the added enforcement tools the President asks are steps in the right direction.

Having read the message, the big question remains: Will the program really get us moving against pollution?

For example, the President estimates "it will take a total capital investment of about $10 billion over a 5-year period to provide the municipal waste treatment plants and interceptor lines needed to meet our national water quality standards."

He goes on to propose that the Federal Government provide only $1 billion annually for 4 years, with the rest to be raised through State and local bond issues. He further proposes to create an Environmental Financing Authority to buy any such bonds a State or municipality is unable to sell. The authority will in turn sell its own bonds on the taxable market.

These questions come immediately to mind.

First. Given the high interest rates, which may well continue throughout the decade, how much does this approach increase the cost of the program over straight-out grants of say $2 billion annually for 5 years? The taxpayer pays either way.

Second. What effect will this approach have on the economy? Might it not add more inflationary pressures to the already overburdened bond market?

Third. At what point in time and at what interest rate will it be determined that the bonds cannot be sold locally?

Fourth. And what happens if a municipality or a State has used up its limit of bonded indebtedness? Must we wait for the State legislature to increase that limit before a project is started?

Only when we know the answers to those questions will we know if this proposal will result in swift and tangible progress in the effort to clean our waterways.

Let us hope the answers show just that, but if they do not, let us be prepared to take necessary steps to match the pace of the program to the urgent need. And let us be prepared to ask what level of treatment we can achieve through this program, and whether we ought to plan now to go further.

There can be no question of that urgency.

Michigan alone will need $1.5 billion by 1980 to build the sewage treatment facilities, lateral sewer line and storm sewers it needs to meet minimum water quality standards. While Federal money is not available for all of these needs, funds must come from the public. The more the Federal-aid programs cost the public, the less there will be available for those projects to be financed without Federal assistance.

Mr. President, while I endorsed the proposal to broaden the effect of air and water quality standards, I am disappointed that no mention is made of going beyond minimum standards to require the best reasonable alternative in connection with certain types of programs.

The Senate recently accepted my amendment to the Urban Mass Transportation Act which would require the Secretary of Transportation to make just such a determination before approving Federal funds for a mass transit project.

It seems to me this requirement should be applied to all appropriate Federal programs.

Under his discussion of air pollution, the President recommended that States be allowed to impose standards stricter than required by the Federal Government.

I would hope that the administration will vigorously endorse the same principle in regard to radioactive emissions from nuclear powerplants.

The President outlined an ambitious program to reduce the amount of air pollution caused by the internal combustion engine. I regret he did not give stronger support to the bill before Congress which would use the purchasing power of the Federal Government to accelerate the development of low-emission motor vehicles.

Similarly, there was much to applaud in his discussion of land usage. No one can take exception to his statement that "plain commonsense argues that we give greater priority to acquiring now the lands that will be so greatly needed in a few years."

And to back up that statement, the President has requested the full $327 million available for park and recreational facilities from the Land and Water Conservation Fund.

That request gives rise to expectations that the administration may soon endorse a proposal to make Sleeping Bear Dunes in Michigan a national lakeshore. Certainly, there is no better example of a precious resource which could be ruined forever if we do not act promptly.

There was one serious omission in the part of the President's statement relating to land use.

While stress was placed on the wise and best use of federally owned land, no mention was made of requiring the same approach in selecting sites for airports, highways, and other projects which involve Federal dollars and privately, locally, or State-owned property. If we are to protect our environment, we must be concerned, for example, with the questions of where or if a new highway should be built. There appears no reason to give less attention to the answers to those questions than in those cases in which Federal land, rather than Federal money is involved.

To sum up, one is impressed with the scope of the President's message. If there are questions unanswered, or serious omissions, it is up to Congress to supply the answers and fill in the blanks.

Pollution recognizes no political or geographic boundaries.

Neither should we in Congress as we work to implement, perfect and enlarge, where necessary, the proposal the President outlined for us today.

Mr. BAKER. Mr. President, every American citizen—whether he knows it or not—has a major stake in the quality of our physical environment. Fortunately, more and more American citizens have become aware in recent years and months of the deteriorating quality of that environment. This growing public concern about pollution and other assaults on the environment not only demands but will permit effective public and private action.

In his message to the Congress on the state of the Union, President Nixon responded to this public challenge by making an unprecedented national commitment to improving the quality of American life. Within the context and given the limitations of that occasion, there were few specific indications of how the President and his administration hoped to promote—in fact—the improved quality of which he spoke so compellingly. Some reacted to the President's speech critically, alleging that it was no more than new rhetoric and that words, however noble and well-intended, are no substitute for action and, perhaps most important of all, for money.

Today, the President has sent to the Congress a major message setting forth in great detail the short- and long-term goals of his administration in the major areas of environmental concern—water pollution, air pollution, solid waste management, parklands and public recreation, and the need for new institutional organizations for coordinating and administering the new policies and programs. The message is accompanied by drafts of legislation proposed to the Congress. Others will follow during the coming weeks.

Since coming to the Senate in 1967, I have had the privilege of serving on the Senate Subcommittee on Air and Water Pollution. During these 3 years I have had an unusual opportunity to become familiar with the dimensions of the environmental problem and with the tremendous obstacles that must be overcome on the way to its alleviation. Thus it is something more than perfunctory applause when I say that I find this message from the President an extraordinarily significant and hopeful document. It is no less than the blueprint for a physical environment in which the individual freedom which is the end of our Government will be able to thrive and flourish.

Some will find fault with the President's program, for whatever reason. When such criticism is responsible it will be welcomed, and the program will be strengthened by constructive competition. But progress toward environmental quality will, in the future, be cast in terms of refining the President's program. This is the document that will serve as the basis for future action. This is, henceforth, the touchstone, the benchmark.

The program of the President, today, contains 37 points. Each of the points is designed to meet a particular aspect of the larger, total problem of which each part is intimately related to the other.

But the program as a whole is based on several very fundamental assumptions about the problem and about our econ-

omy and our social institutions. It acknowledges, first, that material prosperity and a quality environment are not mutually exclusive, as some romantics would have us believe; thus the choice is not between a higher standard of living and a higher environmental standard. As the President says in his message, the damage done to our environment "has not been the inevitable byproduct either of advancing technology or of growing production. It results not so much from choices made, as from choices neglected: not from malign intention but from failure to take into account the full consequences of our action." Thus, the problem has two faces: One retrospective and the other prospective. We must act to correct the unwanted side effects of past choices and, by no means less important, we must act in such a way as to anticipate the unwanted side effects of future choices and fail to make them.

The second basic assumption of the President's program is that the market system of our free enterprise must be supplemented by selected Government actions in a joint effort to clean up the environment and keep it clean. With a profound and fundamental understanding of the way in which our material and political freedom is enhanced by the competitive nature of a free enterprise economy, the President has chosen not to disrupt the essential competitive function but to equalize through Federal regulation and incentive any "external diseconomy" that will result from the investments that must be made in a quality environment. Thus the free market will continue to operate, with Government regulation affecting all as equitably as possible, and with the people, the consumers making free choices between various alternative goods and services.

The third basic assumption is one relating to the Federal structure, the relationship between the National Government and State and local governments. Existing legislation for the abatement and control of air and water pollution has reserved to the States and localities the primary responsibility for standard setting, for the establishment of the standards that govern the emissions and effluents that degrade our environment. This approach was taken out of the finest deference to our federal system and to the conviction that power should always be as close as possible to the people. Many States and localities have moved with great vigor and commitment in establishing standards for pollution control and abatement. But, because more stringent standards impose greater external diseconomies on existing and prospective productive facilities, the natural and healthy competition between States and localities for greater economic growth has often tended to impede the genuinely effective action that is so clearly needed. The President's program will relieve this problem by establishing national air quality standards and water quality standards amended to reflect the specific requirements of entire river systems. The Federal-State partnership will continue but will be modified in such a way as to relieve the States in many ways of the responsibility of imposing on themselves requirements that conflict their ability to compete for economic growth.

Mr. President, to say that the problem of environmental quality should transcend partisan politics discounts the very real contribution made to our national life by the two-party system. There can be little harm in efforts by all of us to come up with the very best policies and programs for improving the quality of our environment; from such competition, whatever its motivation, comes public benefit. What cannot be excused is the obstruction of a program in the national interest, whatever the reason. The message of the President that we have received today is a great cornerstone on which the foundation of our environment for the future will be built.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. ERVIN. Mr. President, I yield to the able and distinguished majority leader for what I understand will be a unanimous-consent request, without losing my right to the floor.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that this request may be placed in the RECORD so that the continuity of the speech of the Senator from North Carolina will not be interrupted.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer on Tuesday next there be a time limitation on all amendments of 2 hours each, the time to be equally divided between the sponsor of the amendment and the manager of the bill, or whomever they may designate; and that there be 5 hours of debate on the bill itself.

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

Mr. MANSFIELD. Yes, indeed. I yield.

Mr. JAVITS. Mr. President, I believe we must protect ourselves, because time and time again we fail to take care of amendments to amendments.

Mr. MANSFIELD. This is just the amendments.

Mr. JAVITS. I know, but we have to include time for amendments to amendments. If we omit that, we are in trouble. So I respectfully suggest that amendments to any amendment shall have 1 hour, divided equally; but let us take care of Senators who may wish to amend the amendments of other Senators instead of shutting them out.

Mr. MANSFIELD. Mr. President, I wish to ask for the comment of the distinguished Senator from Mississippi in that respect. We could do that if the Senator wishes and make it 6 hours on the bill.

Mr. STENNIS. Mr. President, if the Senator will yield, as I understand the situation, the proposal was for 1 hour to a side on each amendment to the amendment.

Mr. JAVITS. I made that suggestion as a reasonable time.

Mr. MANSFIELD. One hour, 30 minutes to a side.

Mr. SCOTT. Thirty minutes to a side.

Mr. STENNIS. I am agreeable to having controlled time, but we do not know the sweeping nature of some of those amendments. I think we should allow 1 hour to a side on these amendments to amendments.

Mr. JAVITS. That is all right.

Mr. STENNIS. And, according to the subject matter, perhaps we can yield back time.

Mr. JAVITS. I agree.

Mr. STENNIS. Mr. President, if I may make a parliamentary inquiry, reserving the right to object, and I shall not object——

Mr. MANSFIELD. Mr. President, first would the Senator allow me to amend my unanimous-consent request to include 2 hours on each amendment to an amendment?

Mr. STENNIS. Yes.

Mr. MANSFIELD. I thank the Senator.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. If there should arise an occasion where there is a substitute for an amendment offered, that substitute would have 2 hours to a side.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. That is included in the proposed agreement.

Mr. ERVIN. I would like to ask a question for clarification. I have an amendment which would accord to school administrators and teachers who contracted to teach in specific schools the right to continue to teach in their schools and not have that right taken away by the Department of Health, Education, and Welfare. I wish to clarify that amendment a little. I understand this agreement would not prohibit my clarifying it.

Mr. MANSFIELD. No, sir.

Mr. ERVIN. But it would be covered by the restriction of time on the amendment.

Mr. MANSFIELD. Exactly. It would cover all amendments.

Mr. JAVITS. And amendments thereto.

Mr. STENNIS. Mr. President, reserving the right to object and I shall not object, there never has been any purpose on the part of those of us who offer these amendments to filibuster or delay a vote or cause any delay anytime to get to the merits of this matter. I think that is clearly demonstrated during the debate we have had on the amendment. Personally, I would like to have had a vote today but this is what it seems we can agree on. I am not being personal at all. This is substantially what I proposed myself.

Mr. President, I just mention that to refute the implications that frequently try to arise on bills of this kind that there is some disposition to unduly delay the vote. I am delighted we can have an agreement.

Mr. JAVITS. Mr. President, reserving the right to object and I shall not object, we, too, wanted a vote today and we wanted it when most of the Members were here, which would be at or about this time. We have not charged, in terms of the bill, any filibuster or dragging of feet at all. I would not wish the implication made that we did not want to vote. We wanted one yesterday and today. But be that as it may and that is neither here nor there the record should be clear that we are satisfied with this arrangement.

Mr. SCOTT. Mr. President, I am entirely satisfied. We have worked out the best arrangement we could.

Mr. MANSFIELD. I am not satisfied. I am disappointed that we could not get to at least one vote today. But that is the way the ball rolls, as they say.

Mr. President, can we have a ruling?

The PRESIDING OFFICER. The Senator wants the usual form?

Mr. MANSFIELD. Yes, indeed.

Mr. HOLLAND. Mr. President, would this include the requirement of germaneness?

Mr. MANSFIELD. Yes, sir.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object and I shall not object, I wonder if the able majority leader meant to include disposition of the reading of the Journal prior to the time limitation.

Mr. MANSFIELD. That is correct.

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

(The unanimous-consent agreement, later reduced to writing, is as follows:)

Ordered, That effective on Tuesday, February 17, 1970, after the approval of the Journal, during the further consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, debate on any amendment, motion, or appeal except a motion to lay on the table shall be limited to 2 hours, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill or their designees; *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or some Senator designated by him; Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 5 hours, to be equally divided and controlled, respectively, by the majority and minority leaders; Provided, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. MANSFIELD subsequently said: Mr. President, if the Senator will yield briefly once again, I left out the stipulation that amendments already at the desk would be excluded. I ask unanimous consent that the agreements be corrected.

The PRESIDING OFFICER. From germaneness?

Mr. MANSFIELD. From germaneness. The ones at the desk already.

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

ORDER FOR ADJOURNMENT TO NOON ON MONDAY, FEBRUARY 16, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock noon on Monday next.

Mr. SCOTT. It is under the resolution.

Mr. MANSFIELD. There is nothing like emphasizing it.

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

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, it is the intention of the joint leadership on Monday next to spend the entire day on the appropriations for the Senate committees beginning with Calendar No. 659, Senate Resolution 332. There are a large number of these resolutions. It will take all day. The distinguished senior Senator from Louisiana (Mr. ELLENDER) will have some extended remarks to make on that occasion.

So I would hope that we would have a good attendance then. If Senators are not present and they do not get the moneys they are requesting, they will have no one to blame but themselves. But Monday will be resolutions day for the committees.

I hope we will have further business this afternoon. I hope no Senator rushes off because we have a unanimous-consent agreement. I think this afternoon we ought to have all the speeches which can be gotten out of the way and all the legislation we can pass.

Mr. SCOTT. Mr. President, if the Senator will yield, I would like to associate myself with the statement made by the distinguished senior Senator from New York—that I, too, was ready to vote today; hoped we would; but we will not. When I say I am satisfied, I am satisfied in the Senate sense, which is the art of the possible.

I would like to make inquiry of the distinguished majority leader with regard to Tuesday. Some suggestion has been made that we might meet on Tuesday at 11 instead of 12. I hope it will not be earlier, because we probably will have a leadership meeting at the White House that morning, but we have no objection to 11 o'clock that morning, if the majority leader wishes.

ORDER FOR ADJOURNMENT FROM MONDAY, FEBRUARY 16, TO 11 A.M. TUESDAY, FEBRUARY 17, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the business of the Senate on Monday next, it stand in adjournment until 11 o'clock Tuesday morning next.

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

Mr. ERVIN. Mr. President, I make the same request that these proceedings appear in the RECORD after the body of my remarks.

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

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

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

Mr. ERVIN. Mr. President, I ask unanimous consent that I may yield to the able and distinguished junior Senator from Georgia under the following conditions: First, that I will not lose the floor; second, that he may make inquiry of me or may make observations or engage in a colloquy with me and that whatever he says or I say in connection therewith shall be printed at the conclusion of my remarks in the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I listened with interest to the remarks made by the distinguished Federal judge for the middle district of Georgia, Judge J. Robert Elliott. I have known Judge Elliott now for some 40 years. He was an outstanding scholar in school. He was the son of a Methodist minister. I first saw him as a participant in a debate in which a debating team from Oxford, England, took part. I was impressed with his ability at that time, and I still am. I think he correctly stated the law, and I share his views.

Let me say also that I have heard the major portion of a very outstanding address by my warm friend and distinguished senior Senator from North Carolina. I think he has made an eloquent plea to uphold the Constitution of the United States for all Americans, of every color and every creed, from every State in the Union. I hope the Senate will heed his advice and words of wisdom.

Mr. ERVIN. I thank my distinguished friend from Georgia.

(This marks the end of the proceedings which took place during the delivery of Mr. ERVIN's address and which were ordered to be printed at this point in the RECORD by unanimous consent.)

Mr. STENNIS. Mr. President, before the Senator yields the floor, will he yield to me?

Mr. ERVIN. I yield.

Mr. STENNIS. Mr. President, I have given a great deal of attention to the Senator's amendment——

Mr. ERVIN. Before yielding, I understand that under the unanimous-consent agreement, amendments have to be drafted today in order to be eligible. I should like to have the attention of the majority leader. I have just been informed of something I did not understand before, that amendments, in order to be eligible, would have to be drafted today.

Mr. MANSFIELD. No. Any germane amendment can be offered at any time up to third reading.

Mr. ERVIN. That is what I had understood, but I was informed that someone had a different opinion.

The PRESIDING OFFICER. That is correct.

Mr. ERVIN. I have only one other amendment, which is just a clarifying amendment.

I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for yielding to me. I wanted to say that I have given a great deal of time to the study of his fine group of amendments, and commend him highly. I congratulate him warmly upon their completeness, upon his approach, and upon the enlightened way that they are put together.

I have heard a part of the Senator's speech. I wish I could have heard all of it, but I had duties in the cloakroom and off the floor. I know the merits of the Senator's position are very strong. He knows the subject matter of the school problem, and he knows the law on the subject.

I think our fellow Senators, as well informed as they are and as circumspect as they are in the performance of their duties, simply do not realize, and cannot realize unless they have been involved in it, the problem that has been created by this massive demand for immediate integration by the Supreme Court. They just cannot realize the distress, the frustration, the uncertainty and, really, the destruction of the spirit—and there is a spirit to a school.

The demand is so great that we are losing many of our teachers. We are losing administrators. I have had them call me, and write to me, and wait up here all day, just to get my opinion as to whether or not things are going to get better. Certainly I am not a wise man, but they feel as though I am in touch with the matter. Teachers who are planning their futures, young men with families who are teaching, are considering that if the situation does not improve, they are going to have to seek other employment.

Mr. ERVIN. One thing that is strange to me is the court's attitude on the matter of contract impairment. I intend to offer an amendment in behalf of school administrators with reference to that issue.

Virtually every school administrator and every teacher contracts to serve a particular school because of the proximity of that school to his home, among other considerations. The Constitution of the United States says that no State shall pass any law impairing the obligation of a contract. If the legislature of any State of this Union should pass a law providing what the school boards are required to do with respect to shifting administrators and teachers about, they would be violating the Constitution.

Yet, we have Federal courts and HEW officials who absolutely require State school boards to violate the Constitution of the United States insofar as impairing the obligation of a contract is concerned; and we have the Federal courts and the HEW requiring school boards to violate the equal protection clause of the 14th amendment, so as to rob little children of their freedom to go to their neighborhood schools.

As the Senator from Mississippi has stated, unless you live in one of these States, you cannot appreciate the unspeakable tyrannies being practiced upon the people of the Southern States. I have probably 8,000 letters from people in North Carolina. I received 3,000 letters in a period of about 4 days from one of the largest cities in my State, Winston-Salem, complaining of an order of the court requiring 500 teachers to change their schools in the middle of a school term. I wish I had time to read those letters. Many of them are pathetic. I received one from a lady in Warrenton, N.C. She said:

> My husband and I took everything we had and everything we could borrow to acquire a home across the street from an elementary school so our little children could walk across the street to their school.

She said:

> They will not let my 9-year-old daughter walk across the street to school any longer, but they compel her each day to get on a bus and ride 5½ miles out into the county, in order to mix her racially, together with eight other white children, in a school of 103 black children.

These things are happening in hundreds of thousands of instances in the South. In my State, some children are required by court order to ride buses 2 hours or 2½ hours a day, to get to and from school, when those children live within 1 or 2 or 3 blocks of a school.

Why any men who believe in justice, not to speak of mercy, will visit these unspeakable tyrannies upon little helpless children is something my mind and my heart cannot comprehend.

Mr. STENNIS. The Senator is a fine constitutional lawyer, as he has demonstrated in many ways. I want to ask him this: Where in the Constitution is there power for the Government to reach over into a man's family and take his children and bus them, against the parents' will, a distance of 5 miles, 10 miles, 15 miles, 20 miles—not relevant, particularly—just to create a racial balance or percentage or ratio of any kind? Does the Senator know of any reasoning that permits that?

Mr. ERVIN. There is not a syllable in the Constitution that authorizes courts to do that—not a single syllable. On the contrary, while the courts profess to be acting under the equal protection clause of the 14th amendment, that kind of action, if done by a State, would be an unconstitutional, flagrant, and blatant violation of the constitutional provision under which the courts profess to act. I do not mind saying this publicly, because, to my mind, as I have said before, tyranny on the bench is just as reprehensible as tyranny on the throne. And I intend to fight for the freedom of the American people as long as God gives me a heart to love them.

Mr. STENNIS. Let it not be said that moving children around in the schools in order to balance the racial ratio is not being done by the Federal Government. It is being done. I know of instance after instance in which the people representing the HEW or the Department of Justice have told a school superintendent, the executive director for the school board of the district, "Put them where you please, as long as you keep the ratio in line with the ratio of the races." That is happening over and over. I know it is. It may be disputed, but that is their game.

Mr. ERVIN. I had a conversation with a very learned man some time ago, and I told him that the only possible solution to this problem, the only thing that is going to bring peace to this Nation, the only thing that is going to unite the North and the South, and the only thing that is going to bring the races into more harmony is the freedom of choice system.

Mr. STENNIS. That is correct.

Mr. ERVIN. He said to me, "I would be for freedom of choice as a proper solution, provided we did not have any coercion."

I said, "But, you would substitute, for fear some private individuals might practice a little coercion under a freedom of choice system, the most colossal coercion of an economic nature that this country has ever dreamed of—HEW taking billions of dollars of Federal appropriations to coerce economically these school boards into doing their bidding, which is absolutely inconsistent with the Constitution—not only inconsistent with the Constitution but also inconsistent with good horse sense." Of course, private coercion is already prohibited by an act which became law on April 11, 1969, which I commented on in my colloquy with the senior Senator from South Carolina.

Mr. STENNIS. I believe that one point has not been developed in this debate. I have found Mr. Panetta, of HEW, to be a rather frank man. I ask him, "What are you going to do now, after a school district has obeyed all the court orders and has totally integrated the school and there is no longer any remnant of the so-called dual system or anything like that? Are you going to agree that the court may enter a final decree and dismiss the suit as to the defendants?"

He said, "Yes."

I said, "Well, then what are you going to do?"

He said, "Well, we are going to keep a surveillance over them"—I am talking about the South now—"and we are going to continue to watch them; and if there is any evidence of gerrymandering or of meandering or of artificial creation of districts, then we are going to bring them back into court."

Mr. ERVIN. As a matter of fact, Mr. Panetta's department has compelled the gerrymandering of school districts all through the South.

Mr. STENNIS. Yes. That is my point. That is exactly what they are doing now—gerrymandering everywhere, trying to get their percentages.

Another point is that here is a man, in this free government of ours, saying, frankly, that he is going to perpetuate the police authority over these school districts. Our friends in the North, or in any area outside the South—I will put

it that way—do not know anything about that. The position is, "That is a different kind, and we do not have the proof." So they do not make this effort to police them. They do not make this inquiry.

Mr. ERVIN. I think one reason is that they know that in a few days, if they tried the same thing in the North that they tried on us, they would be fired from their jobs and would have to find other ways to make a living.

Mr. STENNIS. I want to add this point: We in the South, who are being subjected to the things we have related, need help. We need help beyond our borders. We do not have the political strength—we do not have the votes on this floor, we do not have them in the House of Representatives, and we do not have the electoral votes in the electoral college—to protect ourselves. We appeal—I do—I appeal to the fair-thinking people beyond the South to consider this matter, this problem, and try to help us find a solution. We will work on some reasonable basis, because our educational system is being destroyed. It may be restored at sometime. But these children, as they are coming along—8, 9, 10, 11, and 12 years of age—will never have those years back, and it is going to be a gap, the lost group.

I had thought there was hope in what the President was going to do in appointing a very high level commission. I do not know that a commission can do much, however. It will take a judiciary that changes its mind on some facts, and it will take some action in this Congress.

Mr. ERVIN. It is going to take a Supreme Court which recognizes, once again, that our Constitution was brought into being to create a free society, and that our Constitution does not contemplate that little, helpless, and hapless children shall be made the puppets of a judicial oligarchy. That is what it is going to take.

Mr. STENNIS. I have an example. Some of the people I have known who have represented HEW have been real educators. They knew their subject. I know as a fact that when they were hurried out into the school districts in my State last July and August, some of the very best ones told some of our better school administrators: "I want you to know that, as a professional man, these plans that we are filing are not sound educationally and that I know they can't be carried out." Those very plans were approved by the Supreme Court of the United States in the October decisions, after all the testimony of HEW and the Department of Justice had indicated there was not time to prepare plans.

That shows the very willful demand of the court decrees, regardless of the facts—do it, anyway. These districts were told later in open court, by the Circuit Court of Appeals panel, "We know you cannot do all these things; we know it cannot be done; but we have to order you to do it, anyway."

Mr. ERVIN. One other point that has not been touched upon in this debate is that the Federal courts do not process the competence to operate school systems.

If anyone doubts that, he should read the 118-page opinion of Judge Skelly Wright in the District case. He solemnly adjudged that the Constitution now forbids a school board to offer a bright and diligent student the opportunity to learn anything more than what it offers to teach a dull and lazy student.

The Constitution of my country does no such thing. The Constitution of my country does not impose upon the schoolchildren of American an equality of inferiority as Judge Wright says it does.

The Constitution of my country presupposes that every American shall have an inalienable right to make of himself that which God Almighty gave him the power to become.

Mr. STENNIS. I appreciate greatly the Senator's remarks. I am thankful that he yielded to me so that I could congratulate him on a very fine speech.

Mr. ERVIN. I thank the Senator.

Mr. President, I yield the floor.

Mr. YARBOROUGH. Mr. President, today the Senate is considering legislation that strengthens and reaffirms the national commitment to quality education. The Elementary and Secondary Education Amendments of 1969 will expand, improve, and extend for 4 years the programs first enacted in 1965 to upgrade education and teaching in our elementary and secondary schools.

As chairman of the Committee on Labor and Public Welfare, where so much time and effort went into the hearings and executive consideration of the bill, I am proud that we brought this bill to the floor with the unanimous support of committee members.

In addition to extending basic authorities, H.R. 514 also makes changes designed to assure that the money it authorizes is spent effectively.

TITLE I

One of these changes is in title I, for the education of disadvantaged children. This title is the Federal effort to solve one of our most critical social problems: adequate education for the children of the Nation's poor.

Each year, 16,000 school districts receive money under this title, and offer its special services to 9 million poor children. For Texas, existing law authorizes $140,043,000 under this title. Since appropriations fall far short of educational authorizations, averaging only about one-third in the President's budget for elementary and secondary education, Texas actually received $73 million in fiscal year 1969 for title I, and is budgeted for $74.5 million in fiscal 1970.

Texas is typical in that it is receiving only 53 percent of what it is authorized to receive for title I. When charges are made that this effort to give better education to children from poor families is failing, or unsuccessful, we have to remember it is operating with only half the money it was intended to have. Fund title I fully, I say to the administration and to Congress, before drawing your conclusions as to its worth and success.

It is ironic, too, that while the President castigates impacted aid for not putting money into the poor districts, he still economizes on the poor districts, too. Even his budget for fiscal year 1971 shows an increase of only $74 million for title I over the meager requests he submitted last year. It barely keeps up with price increases. The continued starvation budget for title I undermines completely the President's arguments about impacted aid.

In the bill, we have amended title I to raise from $3,000 to $4,000 the low income factor, beginning in fiscal year 1973. This means that poor children will be those from families having an income less than $4,000, compared to the $3,000 figure we use today. The poverty line we use today is $3,500 for a family of four. Since this is a 4-year bill, it is reasonable and realistic to adjust this figure to $4,000, beginning July 1, 1972.

The second major change in title I takes note of the special financial hardship for school districts having large numbers of poor children. It follows that when a high percent of their children come from poor families, the school district has little financial base from which to get money to run the schools.

Therefore, we added to title I special grants to districts serving high concentrations of poor children. The formula calls for grants to districts with 20 percent or more title I pupils, or 5,000 and over, if that figure is at least 5 percent of the children in the district. We believe that urban and rural areas will benefit equally under this formula.

SCHOOL LIBRARIES

The existing program for putting libraries and library materials into elementary and secondary schools has been so successful that we have extended it and increased its authorization. In the first 3 years, this section of the law has brought 12,234 libraries into public schools, serving 6 million children. But the job is not finished. In Texas alone, 40 percent of our elementary schools still lack a library. The bill carries increased authorizations for title II of $200 million for fiscal year 1971, rising to $230 million in 1974.

BILINGUAL EDUCATION

Children whose families speak a language other than English at home, have a greater handicap in our school system than any other group. Understandably, their dropout rate is very high. In the Bilingual Education Act of 1967, which I authored, we finally recognized that this dropout rate was more a case of the school system leaving them out.

In bilingual education, we make it possible for these children to learn in the language they hear and speak at home as well as the national language of English. Of the 76 projects funded in fiscal 1970, 65 are for Spanish-speaking children. The 1968 provides money for bilingual teaching, and for training the teachers.

The bill extends this act for 4 years, and raises the authorization to $80 million in fiscal year 1971, $100 million in fiscal year 1972, $135 million in 1973, and $170 million in fiscal year 1974. It also adds schools on Indian reservations to those who may submit bilingual projects for funding.

I call attention, however, to the lack

of funding that has crippled the effectiveness of bilingual education. The 1970 budget called for $10 million of the $40 million authorized. In the vetoed appropriation bill, Congress approved $25 million. In this bill, we double the authorization to $80 million for fiscal 1971.

But the budget the President sent us Monday still asks that only $10 million be spent. That would be one-eighth of the sum the Committee on Labor and Public Welfare is recommending.

The great promise of bilingual education will never be realized until we provide the money to operate it, until we breathe financial life into the programs we can only create on paper with our authorizations.

FEDERALLY IMPACTED DISTRICTS

The committee bill extends for 4 years the payments made to school districts affected by Federal activities. We made no basic changes, except to add children residing in low-rent housing projects to those whose parents work for the Federal Government. I considered the committee language inadequate in this area, and offered a corrective amendment, which was adopted.

Despite the attacks that have been made upon assistance to districts affected by Federal activities, the committee found none of them convincing. Far from mere "aid to education" program, payments to these school districts is more accurately a cost of doing business for these installations, as well as for education, and a matter of tax equity for local communities.

ADULT EDUCATION

The bill amends the Adult Education Act of 1966 to include secondary-level education for adults who have not finished high school. While 1.26 million people have participated in adult basic education, it has been at a level under the eighth grade, since fewer than 10 States have any program at the secondary level.

Fifty-six million adult Americans lack a high school education. The committee bill will enable them to obtain its equivalent by increasing the funds so that States may go beyond basic literacy in their adult education programs.

LEARNING DISABILITIES

Title VI codifies all existing programs for handicapped children, and incorporates a measure I introduced earlier, as S. 1190, for children with learning disabilities. The National Advisory Committee on the Handicapped has identified children with specific learning disabilities as those having a disorder in one or more of the processes involved in understanding or using language. The disorder may manifest itself in a poor ability to listen, think, read, write, spell, or do mathematical calculations. These disorders are not the result of retardation, emotional disturbance, or motor handicaps, but of certain brain disfunctions that can be overcome with proper teaching methods. A program of research, teacher training, and model centers for these children is authorized and funded separately so that funds for it will not be taken from other equally important programs for the handicapped.

CONCLUSION

I urge the Senate to pass the bill. It continues the principle of Federal aid, that there be no replacement of local effort or Federal control of education. Our States and communities will still carry the great load of raising the money for elementary and secondary education, and of administering education for their children. These Federal programs supplement but do not replace local effort. They are intended to fill in some of the gaps left in school systems that do not have the financial resources to meet every educational need of local children.

There is an overriding Federal interest in good education. Our boys and girls are our greatest natural resource. The money spent to train their minds and develop their talents will be repaid many times over in future years.

For their well-being, and for the well-being of the country, I recommend the enactment of H.R. 514.

Mr. SCOTT. Mr. President, on the matter of desegregation of schools, there can be no reversal of the precedents established by the courts of the Nation.

However, an interesting contribution to the breadth of the nationwide debate now in progress was offered by the Christian Science Monitor in its weekend issue as the lead editorial. I ask that the editorial be reprinted in the RECORD.

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

INTEGRATION: NORTH AND SOUTH

The United States is aiming today toward a tremendous goal: the achievement of genuine racial balance in its public schools. But the difficulties encountered, symbolized by the current Senate debate, proclaim that this goal still requires the most careful pondering and the greatest wisdom from all citizens—concerning both immediate tactics and ultimate aims.

With the South under Supreme Court command to end immediately its dual white-black school system, Southern senators are pleading for more time to comply, and are demanding that the new standards of racial balance be applied to the North as well as the South. Particularly is the Southern attack aimed at prohibiting pupil bussing and at restoring "freedom of choice" as permissible—if snailpace—method of desegregation.

The goal of desegregation is eminently desirable. Several studies, including the Coleman report in 1966, have documented the proposition that minority-group children show their greatest achievement gains when placed in integrated schools.

Meanwhile heavier investment in slum-area schools has not produced as much pupil improvement as might be expected. Ergo, school integration is good for the disadvantaged, despite the fact that in Philadelphia and some other cities some black officials say enthusiasm for bussing is fading and that black parents prefer their neighborhood schools.

But the gravest questions now are the practical ones concerning just how much true desegregation is being achieved, and whether current avoidances and evasions are only temporary.

Resistance to desegregation in Mississippi areas where blacks are in the majority—resulting in large resort to private schools by whites—has been well publicized. Now a survey by the Department of Health, Education, and Welfare shows that a kind of "resegregation" is developing in many big Northern cities. When city schools which have had a large white majority experience a big influx of black pupils, in a number of instances the whites in the neighborhood begin to move out and the schools eventually become almost entirely nonwhite. In other Northern school districts there is, of course, "de facto" segregation due mainly to long-existing housing patterns.

Senator Stennis of Mississippi and other Southern senators are saying to the government: Either proceed as diligently against all this Northern segregation as you are moving in the South, or jettison the whole drive and fall back on "freedom of choice."

The United States cannot really abandon itself to a reinstated dual school system. It cannot leave slum pupils bereft of massive educational help. What has to be determined, with deepest dedication, is whether present procedures are truly accomplishing their purposes, and how the aim of a classless, educated society can be most effectively and speedily promoted, in both North and South.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. EAGLETON in the chair). The clerk will call the roll.

The bill 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.

AUTHORIZATION FOR ALL COMMITTEES TO FILE REPORTS, TOGETHER WITH ANY MINORITY, INDIVIDUAL OR SUPPLEMENTAL VIEWS ON FRIDAY, FEBRUARY 13, 1970, DURING ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate following completion of business today until Monday, February 16, 1970, that all committees of the Senate may be permitted, on Friday, February 13, to file their reports together with any minority, individual, or supplemental views.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, as long as the rule of germaneness has passed, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 645, and then Calendar Nos. 651, 653, 654, 655, 656, 657, and 658.

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

DISPOSITION OF DAIRY PRODUCTS ACQUIRED BY THE COMMODITY CREDIT CORPORATION

The Senate proceeded to consider the bill (S. 2595) to amend the Agricultural Act of 1949 with regard to the use of dairy products, and for other purposes, which had been reported from the Committee on Agriculture and Forestry, with amendments, on page 1, line 8, after the

word "used", insert "in the United States"; on page 2, line 1, after the word "including", strike out "hospitals to" and insert "hospitals, to"; in line 2, after the word "any" strike out "such use without regard to any limitation or priority contained in this section or in any other provision of law" and insert "such use prior to any other use or disposition."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), is amended by adding at the end thereof the following:

"Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition."

Mr. YARBOROUGH. Mr. President, the distinguished junior Senator from Wisconsin (Mr. NELSON) has introduced a most commendable bill, S. 2595, which not only serves the humane and beneficial purpose of providing for distribution of healthful dairy products to children and other needy persons, but effects a more economical operation of a part of the existing price support program for dairy products.

This bill would permit high priority donation of dairy products which are held by the Government to be made to school lunch programs, to assist other needy children and people, and to be given to charitable institutions, including hospitals, without the present requirement that such donations cannot be made unless the products cannot be sold.

Permitting food distribution to be given this high priority avoids the present expensive and duplicative process of selling Government held products and then having to purchase the same type products for food distribution programs.

The fact that both these commendable objectives are achieved in this proposed legislation—providing wholesome dairy products to those who need them and making an existing Government program more economical—is an excellent example of the thought and study given to this measure by its able sponsor, Senator NELSON of Wisconsin.

Existing law provides that the Commodity Credit Corporation may only donate dairy products "to prevent the waste of commodities." The sale of these goods now has priority over donation for worthy purposes. However, after being forced to sell these products, the Commodity Credit Corporation often has to enter the marketplace again as a purchaser and obtain necessary dairy products for the food distribution programs.

Wholesome dairy products have played an extremely important role in the school lunch, needy persons, and other food assistance programs for many years. The use of dairy products in these programs has and should continue to contribute toward the objective of eliminating hunger and malnutrition of the Nation's poor.

In 1969 the Government stocks of dairy products provided 169.5 million pounds of butter, 54.6 million pounds of cheese, and 102.9 million pounds of nonfat dry milk for school lunch programs and other donations for needy persons.

Occasionally, the Commodity Credit Corporation's inventories of dairy products have declined to such low levels that their use in some programs have had to be curtailed or even temporarily interrupted. This inequitable situation must be corrected by a realinement of our priorities, and the bill achieves this goal. We should not be placed in the situation of having to tell hungry children and malnourished needy people that we cannot feed them because the sale of these goods has priority over their pressing needs.

This bill, S. 2595, cuts through this governmental redtape and needless duplication, and gives priority for distribution of dairy products held by the Government to programs for feeding children and other needy persons.

The bill will assist the nonprofit school lunch and other nonprofit child feeding programs, programs for the assistance of needy persons, and programs of food distribution to charitable institutions, including hospitals. This is a worthy objective in itself, and when economy and efficiency of governmental operations are also achieved, it is clear that the bill is worthy of the most serious consideration.

I urge my fellow Senators to join me in support of this bill.

The amendments were agreed to.

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

Mr. NELSON. Mr. President, the Senate's action today in approving this legislation will make it possible for more surplus dairy products to be available for school lunch programs.

This measure, which I was pleased to sponsor, assures that that national school lunch program will receive first call in the distribution of butter, cheese, and dry milk products obtained by the U.S. Department of Agriculture through price-support programs. The bill also makes these products available to needy persons through food programs at day-care centers, hospitals, and other charitable institutions.

There are tens of millions of American schoolchildren who still do not have a lunch program available at their schools. This leaves many youngsters, including several million undernourished children from poverty homes, without a good midday meal.

Dairy products form the nutritional base of our national school lunch program. This legislation will give the health and well-being of millions of American children top priority in our efforts to eliminate hunger from our Nation.

Currently, surplus commodities held by the Agriculture Department are initially earmarked for domestic commercial trade or foreign export. The products are only available for the country's food programs after the distribution channels are exhausted.

While supplies of surplus dairy products are usually adequate for both sales and food programs, the Department's stocks have occasionally dropped so low that products have not been available for certain programs.

This legislation will help to assure continuing supplies of dairy products for domestic food programs at less cost to the Government than would be the case if the Agriculture Department exhausted its inventories through sales and had to purchase the supplies in the open market.

ACCESSIBILITY TO PHYSICALLY HANDICAPPED OF CERTAIN PUBLIC FACILTIIES

The Senate proceeded to consider the bill (H.R. 14464) to amend the act of August 12, 1968, to insure that certain facilities constructed under authority of Federal law are designed and constructed to be accessible to the physically handicapped which had been reported from the Committee on Public Works with amendments on page 1, after line 7, strike out:

(1) by striking out "and (B)" and insert in lieu thereof: "(B)";

On page 2, at the beginning of line 1, strike out:

(2) by striking out "personnel)" and inserting in lieu thereof: "personnel and (C) a bus, subway car, train, or similar type of rolling stock)";

At the beginning of line 4, strike out "(3)" and insert "(1)"; at the beginning of line 6, strike out "(4)" and insert "(2)"; and, at the beginning of line 8, strike out "(5)" and insert "(3)".

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.

REMOVAL OF DEPOSIT LIMITS IN CASE OF ANY MEMBER OF A UNIFORMED SERVICE WHO IS A FRISONER OF WAR, MISSING IN ACTION, OR IN A DETAINED STATUS DURING THE VIETNAM WAR

The bill (H.R. 9485) to remove the $10,000 limit on deposits under section 1035 of title 10, United States Code, in the case of any member of a uniformed service who is a prisoner of war, missing in action, or in a detained status during the Vietnam conflict was considered, ordered to a third reading, read the third time, and passed.

INCREASE IN NUMBERS AND ELIGIBILITY OF OFFICERS TO SERVE ON CERTAIN SELECTION BOARDS

The bill (H.R. 8664) to authorize an increase in the number of flag officers who may serve on certain selection boards in the Navy and in the number of officers of the Naval Reserve and Marine Corps Reserve who are eligible to serve on selection boards considering Reserves for promotion was considered, ordered to a third reading, read the third time, and passed.

GRADE RESTRICTIONS OF DIRECTOR AND ASSISTANT DIRECTORS OF THE MARINE CORPS BAND

The bill (H.R. 9564) to remove the restrictions on the grades of the director and assistant directors of the Marine Corps Band was considered, ordered to a third reading, read the third time, and passed.

ELIGIBILITY OF NAVAL FLIGHT OFFICERS TO COMMAND NAVAL ACTIVITIES

The bill (H.R. 11548) to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities and for other purposes was considered, order to a third reading, read the third time, and passed.

GEN. OMAR N. BRADLEY

The concurrent resolution (H. Con. Res. 207) was read, considered, and agreed to, as follows.

H. CON. RES. 207

Whereas May 8, 1970, marks the twenty-fifth anniversary of the victory of Allied forces and the termination of World War II in Europe; and

Whereas General of the Army Omar N. Bradley is acknowledged to have played a role of utmost importance in gaining that victory; and

Whereas General of the Army Omar N. Bradley is the last surviving officer of World War II having attained the rank of General of the Army; and

Whereas General of the Army Omar N. Bradley is donating his collection of personal papers; historical documents, and memorabilia to the United States Army Military History Research Collection; and

Whereas the Bradley collection will be housed at Carlisle Barracks, Pennsylvania, and will be formally dedicated and opened to the public on May 8, 1970, the occasion of the twenty-fifth anniversary of V–E Day: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that on the occasion of the twenty-fifth anniversary of V–E Day, and the formal opening of the Omar N. Bradley historical collection, appropriate ceremonies be conducted at Carlisle Barracks under the direction of the Secretary of Defense in memorial tribute to the Allied victory in Europe and in memory of those who gave their lives to attain that victory, and expressing the gratitude of the American people to one of this country's greatest soldiers, General of the Army Omar N. Bradley.

ROUND TRIP TRANSPORTATION TO HOME PORT FOR MEMBERS OF THE NAVAL SERVICE ON PERMANENT DUTY ABOARD A SHIP OVERHAULING AWAY FROM HOME PORT

The Senate proceeded to consider the bill (H.R. 8020) to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the naval service on permanent duty aboard a ship overhauling away from home port whose dependents are residing at the home port which had been reported from the Committee on Armed Services, with amendments, on page 2, line 2, after the word "the", strike out "naval service" and insert "Uniformed Services"; in line 4, after the word "Secretary", strike out "of the Navy, a member of the naval service" and insert "concerned, a member of the Uniformed Services"; after line 21, strike out:

"(2) The following new item is inserted in the analysis:

"'406b. Travel and transportation allowances: members of the naval service attached to a ship overhauling away from home port.'"

And, in lieu thereof, insert:

"On page 2, line 16, delete clause (2) and insert in lieu thereof the following:

"(2) The following new item is inserted in the analysis:

"'406b. Travel and transportation allowances: members of the Uniformed Services attached to a ship overhauling away from home port.'"

The committee amendments were agreed to.

Mr. MANSFIELD. Mr. President, I send to the desk some additional amendments to the bill on behalf of the committee which affect some of the committee amendments just agreed to.

I ask unanimous consent that these amendments be agreed to en bloc, as follows:

On page 2, delete lines 23 and 24.

On page 3, amending the title, following the word "read:" delete the word "To" and insert in lieu thereof the words "An Act to".

The PRESIDING OFFICER. Without objection, the amendments are 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.

The title was amended so as to read: "To amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship overhauling away from home port whose dependents are residing at the home port."

REMARKS BY SENATOR BENNETT AT SENATE PRAYER BREAKFAST

Mr. STENNIS. Mr. President, recently at a meeting of the Senate prayer breakfast group, the Senator from Utah (Mr. BENNETT) made remarks that were certainly impressive, of great depth, and spiritual value.

I believe they will be of value to all Members of the Senate and the people of the country. I ask unanimous consent that the remarks be printed in the RECORD.

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

REMARKS BY SENATOR WALLACE F. BENNETT, SENATE PRAYER BREAKFAST, JANUARY 28, 1970

I am grateful for the privilege I have today or taking my turn at the beginning of a new session, a new year, and a new decade—the Seventies. It has become the custom to hail each new decade with an appraisal of its possible direction and significance; and as I begin, I'd like to suggest for your consideration the hope that these will be the "Spiritual Seventies."

This idea is based on more than a pleasant sounding alliteration. It has roots that go deep into our religious heritage; in fact, all the way back to the Old Testament. The numbers "7" and "70" were sacred to the Children of Israel. With them they measured their week and the 7th day became the Sabbath—the Lord's Day—the preservation of whose holiness was commanded in the Decalogue. In the seventh year, all Hebrew slaves were to be set free, and the year of seven times seven was the year of Jubilee and all debts were to be forgiven.

Christ reflected this special feeling for seven and seventy many times, including His answer to Peter's question about forgiveness, as recorded in Matt. 18: 21–22—

Then came Peter unto him and said "Lord, how oft shall my brother sin against me and I forgive him? till seven times? Jesus saith unto him, I say not unto thee until seven times but until seventy times seven."

Why do we need in the 70's what might be called a "Sabbath" decade? For the same reason the Sabbath was originally instituted. The first six decades of this century have been very busy ones—devoted to material creation. That this has happened at a speed which has far out-paced our spiritual growth is demonstrated by the evils that have grown and expanded along with our material progress—including those we regard as today's great problems: crime, discrimination, pollution, war. Thus far, most of our suggested solutions have been based essentially on more materialism and more money. These have failed because the essential causes of our problems are human weaknesses—spiritual failures. Too often we in Government have sought to exploit these rather than to cure them.

In the face of these problems, what can we in government contribute to the realization of the concept "The Spiritual Seventies"? There is obviously no simple, complete list of specifications, no exclusive set of principles, no one and only pattern of organization or administration. But there are some observations I would like to make.

First, I shall begin with definitions of the words "spiritual" and "government". For this purpose, let's go to the dictionary. Among its many definitions of spiritual are these:

"Influenced or controlled by the Divine Spirit."

"Having a nature in which a concern for the spirit of God predominates."

"Seeking earnestly to live in a right relation to God."

"Relating to the moral feelings or states of the soul as distinguished from external actions—reaching or affecting the spirit of man rather than his material aspects."

To round out this definition, I should like to quote two scriptures. The first is familiar to all of us.

"Thou shalt love the Lord thy God with all thy heart, and with all thy soul and with all thy mind. This is the first and great commandment. And the second is like unto it—Thou shalt love thy neighbor as thyself. On these two commandments hang all the law and the prophets."

We, who call ourselves makers of law, should remember this especially in the "Spiritual Seventies."

The other passage I want to relate to the definition of the word "spiritual" is from the Mormon scripture.

"When ye are in the service of your fellow beings ye are only in the service of your God."

Going again to the dictionary, we learn that "to govern" means "to steer" as with a rudder in a boat. If government is to be good, those who steer it must know all the dangerous rocks and shoals along the course—political, social and economic—and spiritual—and be determined to avoid them.

No good pilot ever deliberately steered his ship into a storm or close to a reef, as some

of us politicians are often tempted to do. But every dependable one must be capable of holding to his chosen course when the waves of opposition are raging and the decks are awash.

If "to govern" is to steer, we can see the truth in the poet's phrase "The Ship of State" and ask ourselves to wnat fair harbor should our ship of State be bound in the "Spiritual Seventies?"

Over the centuries, many great men, with actual experience as wise mariners and as faithful servants in government, have pondered this problem and have come up with essentially the same answer—that the goal and safe harbor of good government is the happiness of the people it serves. Thomas Jefferson wrote the idea into the Declaration of Independence in his deathless phrase "life, liberty and the pursuit of happiness."

Interpreting this concept of government as the pilot and happiness as the harbor, many have believed, and some still do, that government has the power as well as the specific duty to confer this happiness by its actions. But this I cannot accept. Government has no powers of its own except those it derives from the people it governs—with or without their consent. Happiness, which is our goal, is not an attribute of government, to be dispensed like money or jobs. Happiness is a spiritual state which only individual men and women can seek and attain.

William Ellery Channing recognized this when he wrote—

"The object of good government is not to confer happiness but to give men opportunity to work out happiness for themselves."

What is happiness?

If you are a devotee of Charlie Brown, you will remember that he has been concerned with a definition of happiness. He reached the conclusion that "Happiness is a warm puppy."

If you were a Mormon, you would have been brought up on the concept contained in the simple statement "Man is that he might have joy." In other words, happiness or joy is at once both a great eternal, motivating spiritual force for good and the ultimate spiritual reward for righteous living.

Why should the search for happiness, a quest that is intensely personal, also be thought to be the goal of good government? There is an obvious answer—government is an institution which men have created in their own image—endowed with their own powers and charged with their own responsibilities. Into its laws they write their own standards of conduct—onto its administrators they cast their burden of self-discipline—unto its courts they look for wise and prudent judgment on their weaknesses. Therefore, government, even good government, has the same weaknesses as well as the same strengths as are possessed by its human creators. Just as water cannot rise above its source, government can never possess moral force or wisdom greater than those its people have.

When people created government as a device to solve their common problems, they had to endow it with power to act and to agree to be bound by its action. Power thus became the vital living force in government; and in this sense, it may be likened to a huge magnifying glass capable of focusing the united personal powers of a whole people on their common problems. But magnifying glasses can become burning glasses if the power is carelessly concentrated. Similarly, governments too powerful can become destructive even of those who created them. Indeed, one might say that governments may be said to resemble the creature made out of human parts by Dr. Frankenstein and that for us, as for the good doctor in the story, the ultimate risk is that government may turn on its creators and destroy their happiness rather than promote it.

The key to good government then is good people—both in and out of it. And by "Good", we should mean spiritually strong.

At this point, let me re-read the definitions of "spiritual" I quoted earlier relating directly to this concept of "good people" and ask myself and you to apply the test to ourselves as part of government.

Are we influenced or controlled by the Divine Spirit? Do we have a nature in which concern for the spirit of God predominates? Are we seeking earnestly to live in a right relation to God? Do we relate more to the moral feelings or states of the soul rather than to external things? Do we seek to reach or affect the spirit of men rather than their material aspects?

Of course all of us meet these qualifications to some extent or we wouldn't be here today. But where can we turn for help to do better? The best place is to the counsel of the Master Himself whose words are preserved for us in the Scriptures. That's where I turned in preparation for this assignment.

Because there are certain special spiritual problems involved in the political system—our political system—certain unique temptations that are harder for us to resist, I found myself re-writing one famous passage to read:

"It is easier for a camel to go through the eye of a needle than for a politician to enter the Kingdom of Heaven."

The first of these unique temptations grows out of the political conflict for power. Political conflict is a struggle for power. Christ said in Matt. 20:25–27—

"Ye know that the princes of the Gentiles exercise dominion over them, and they that are great exercise authority upon them.

"But it shall not be so among you, but whosoever will be great among you, let him be your minister and whosoever will be chief among you, let him be your servant."

Another problem is pride. The 1970 campaign will be on us before we know it, and campaigns still fit the old one-sentence definition "Point with pride and view with alarm." There is an old warning worth remembering found in Proverbs 16:18–19—

"Pride goeth before destruction, and a haughty spirit before a fall. Better it is to be of an humble spirit with the lowly than to divide the spoil with the proud."

The Prophet Micah gave the same kind of advice affirmatively—

"He hath showed thee, O man, what is good and what doth the Lord require of thee but to do justly and to have mercy and to walk humbly with thy God."

Political partisanship—like love—is often blind. I wonder what the effect would be on us as candidates if—at our political rallies, along with the Pledge of Allegiance—some one were required to read the first five verses of the seventh chapter of Matthew? Listen to them now.

"Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged and with what measures ye mete, it shall be measured to you again.

"And why beholdest then the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?

"Or how wilt thou say to thy brother, let me pull the mote out of thine eye and behold the beam is in thine own eye?

"Thou hyprocrite, first cast the beam out of thine own eye, and then shalt thou see clearly to cast the mote out of thy brother's eye."

There is another aspect of this matter which has always disturbed me. It is represented in a phrase the Savior used in the parable of the talents. The servant who hid his one talent used this phrase in his defense. "Lord, I knew thee that thou art a hard man reaping where thou hast not sown and gathering where thou hast now strawed."

Sometimes I think this is the most common evil in political life—this business of trying to reap where we have not sown, presenting another man's idea as our own, or claiming credit for things which we did not accomplish.

Perhaps the hardest problem we face in our political conflict is the problem of selfishness. In our system, those who want elective office must seek it in spite of the old saying that the office should seek the man. We must put ourselves on display.

A politician's concern for his "image" frequently overshadows every other aspect of his campaign.

The central theme of Christ's pattern for living was unselfishness—the very opposite of this. It was presented in two great paradoxes. I have already quoted the one that related to power—"Whosoever would be chief among you, let him be your servant."

In my opinion, the other has even more fundamental and profound meaning for all men, and particularly for men like us. In Matt. 16: 25–26—

"For whosoever will save his life shall lose it and whosoever will lose his life for my sake, will find it. For what is a man profited if he shall gain the whole world, and lose his own soul? or what shall a man give in exchange for his soul."

And finally, there is this question of priorities. Today there is much partisan talk about whose table of priorities, whose scale of values is the most desirable. As we face the potential of the "Spirital Seventies," perhaps we should turn to God to find what his ultimate priority is. We can read it in Matt. 6: 33—

"But seek ye first the Kingdom of God and His righteousness and all these things shall be added unto you."

Here we are on the threshold of the 70's—the Sabbath decade. Can we remember to keep it Holy? As steersmen of the "Ship of State" can we set and hold true a course toward the harbor of human happiness?

Because of us, will these become the "Spiritual Seventies"?

Each man of us must answer this question for himself.

S. 3433—INTRODUCTION OF THE NATIONAL BASIC INCOME AND INCENTIVE ACT

Mr. HARRIS. Mr. President, on behalf of myself and Senators BAYH, GRAVEL, INOUYE, MONDALE, MONTOYA, RANDOLPH, YOUNG of Ohio, and others, I introduce, for appropriate reference, a bill entitled "The National Basic Income and Incentive Act."

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3433) to amend the Social Security Act to provide for a national program of basic income benefits to individuals and families in need thereof, introduced by Mr. HARRIS (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

Mr. HARRIS. Mr. President, the purpose of this bill is at long last to redeem our pledge as a Nation to wipe the paradoxical scourge of poverty from this otherwise prosperous land. Repeatedly, over the years, we have made such a promise to ourselves and to our impoverished fellow citizens. We have made progress in moving toward this goal. But now the time has come to act—to act as decisively and courageously as our idealism demands and our great resources allow.

Mr. President, today I continue a fight which the late Senator Robert F. Kennedy and I launched in the fall of 1967.

It will be remembered that he and I, as a member of the Senate Finance Committee, joined together on the floor of the Senate in opposition to certain regressive, punitive amendments which had been adopted in the welfare laws in the fall of 1967. We fought for a deletion of those objectionable provisions and advocated affirmative improvements in the welfare laws of our country. We were successful by and large on the floor of the Senate, but unfortunately, most of the gains we made on the floor of the Senate in that session were lost later in conference.

We continued that fight, and I have continued it since as a member of the Senate Finance Committee and also as a member of the Kerner Commission—National Advisory Commission on Civil Disorders. I was one of those who advocated very strongly what eventually became the recommendation of the Kerner Commission—the institution in this country of a Federal income maintenance system, which would be accomplished by the bill. I am today introducing, the National Income and Incentive Act.

It federalizes the presently outdated, unworking, and inhumane welfare system, replacing it with a Federal income maintenance system. In the process it would give immediate financial relief to the States, not by a revenue-sharing plan but by letting them keep more of their own money.

The result of this and related programs would be to provide every child in America with the kind of minimum standard of life which would allow him a chance to break out of poverty and to become whatever his abilities and ambitions permit.

The bill would help hold families together, rather than as is true now under the welfare system in many of the States often force the head of a family who is unemployed and ineligible for assistance from the home. This matter was one which the late Senator Kennedy and I attacked on the floor of the Senate successfully, I am pleased to say. We, and others on the Senate floor, felt that forcing a mother of two children receiving AFDC to go to work and forcing the father, if he were in the home, to leave the home so that the family would be eligible for assistance was going about things exactly backward. We felt it would be better to change the welfare laws of the country and not require the mother to go to work.

Although that was the position adopted by the Senate, it was not the position eventually adopted by the conference and thereafter by Congress. Therefore, this great anomaly still exists in the welfare laws of many States and is in itself a major cause for family deterioration.

The bill I introduce today would change that very serious and very grievous fault.

It is a human investment system. It is an affirmation that every child born in America has certain basic rights: to good health, to a decent education, to enough to eat, to a real chance. It is a GI bill of rights for every American child. And we Americans should all know from that one example what great dividends are realized by us all, what economic growth, what human enrichment is unleashed by human investment.

We learned from the GI bill that those funds invested in human development were paid back into the Federal Treasury many times over in increased taxes received as a result of increased income made possible by the program.

Indeed, great economic dividends always result from upgrading the standard of living of those in the lower economic levels. But, more importantly, this bill will result in a great moral dividend; it will allow us all to feel we are living more closely in line with the ideals we profess. We will more nearly be entitled to say that we believe in the dignity and value and worth of every human life.

The bill I am today introducing would achieve these purposes by establishing over a 3-year, phase-in period a new Federal program for undergirding other sources of income for all Americans. Under this program, the officially determined "poverty level" would become the effective floor below which the income of no American family or individual would be permitted to fall. To the extent that income from jobs, wages, farming, and other enterprise, social security, and other sources failed to meet this minimal standard, the basic income benefit would make up the difference. To the extent that we can reduce this gap by measures and policies that prevent poverty before it occurs—by higher wages, new and better job opportunities, training provisions and allowances, a strengthened income position for the small farmer, a fairer share of national income for the retired worker through social security, a better break for children—to that extent we would limit the task and cost of the national basic income and incentive program. This is an undergirding program, not a substitute for these other, needed measures. The purpose of this proposal is to strengthen all of our efforts to allow people a better chance by placing the protection of a floor beneath the income of every American individual and family.

It is time for this principle to become reality. The Nation's Governors have repeatedly urged the Federal Government to assume the total responsibility for financing public assistance. The Supreme Court in its landmark decision outlawing, as unconstitutional, State welfare residence restrictions—Shapiro against Thompson—made such a Federal assumption of responsibility virtually inevitable. Every major organization and study commission concerned with welfare policy has urged such a step in one form or another. The Heineman Commission made an excellent report and the Kerner Commission also called for changing the welfare system to an income maintenance system.

We know now that a decent and livable income will create incentive for people, while the presently inadequate welfare system destroys incentive.

The U.S. Office of Economic Opportunity has been administering an experimental income maintenance system in several New Jersey cities which shows this very clearly. One official, speaking of this program recently said:

> The work ethic in this (low-income) population has been badly under-estimated. The Protestant ethic applies very strongly to low-income people.

This experiment has shown that people do not quite work when they have income supplements; far from it. "Even where the job is unsatisfactory, there is this urge to work," this same official has pointed out.

As I have stated on other occasions, Mr. President, for some reason you and I know we would not like to be on welfare or relief, but somehow there are those who think lower income people do like being on welfare. You and I know we want to work, but somehow there are those who think low-income people do not want to work. The facts are just the opposite. The truth is, as has been shown by, among other things, a New Jersey experiment financed by the Office of Economic Opportunity, that when people get a little more and have a better chance for a more nearly decent standard of health, nutrition, housing, and education by having some decent minimum income, they are just like the rest of us and want to do it a little better. The facts show that if people are given a decent income they have a chance to do a little better, a chance they do not have now under the welfare systems which exist in most States, systems which are degrading, dehumanizing and which destroy incentive and initiative.

President Nixon in his welfare message of last August proposed a family assistance program with a floor which works out at $1,600 a year for a family of four with two children. But a floor at such a low level, instead of raising families out of poverty, would mean for many a sad plunge into the lower depths of even greater poverty. It would provide considerably less than half the amount prescribed for all Federal agencies as "the poverty level" by President Nixon's own Budget Bureau in a circular issued in August of last year. It would provide income substantially below the amount now paid to more than 80 percent of those now receiving aid under the Federal-State AFDC programs.

Moreover, such a plan would do little or nothing to help the States with their increasingly staggering financial burdens. Under the administration plan, the States would still have to meet the cost—virtually without additional Federal aid—of closing the gap between an unrealistically low Federal floor and the actual needs of poor families. Nothing would be done to equalize the crazy quilt pattern of presently varied AFDC benefits in the States, including the 40 States now above that floor. The only Federal initiative provided for benefits above that $1,600 level in the administration bill would be the threat to withhold Federal funds going to a State for the needy, aged, blind, and disabled if the State failed to maintain its July 1969 level of payment to needy children. Thus, instead of providing a unified Federal policy of income protection for all the poor,

the needs of one group would be made hostage to the needs of another.

By contrast, the National Basic Income and Incentive Act provides that by July 1, 1973, the Federal Government will meet the full cost of undergirding the income of all persons.

This bill is intended to put new reality behind the traditional rhetoric of our growing concern about poverty.

In 1944, President Franklin D. Roosevelt called for the country to accept a "second bill of rights under which a new basis of security and prosperity can be established for all—regardless of station, race, or creed."

President John F. Kennedy in his inaugural address of 1961 asked the country to "bear the burden of a long twilight struggle" which would be a struggle against "the common enemies of man: Tyranny, poverty, disease, and war itself."

President Lyndon B. Johnson in his state of the Union message of January 8, 1964, declared an "unconditional war on poverty in America."

We have been called repeatedly to provide a decent portion of the country's immense bounty for all her people. As of now we have not answered. We have not yet committed ourselves to this basic human cause which will do more than anything else to eliminate alienation and division from our national community and to narrow the gap between what we say and what we do. Why have we passively accepted a caste of poverty-ridden citizens in the midst of the greatest national wealth in the world's history? We did not count money when we decided to undertake the task of landing men on the moon. But we have appeared to be prepared to cut every budget figure which would insure a real future for 30 million of our poorest fellow Americans.

Perhaps our very strength as a nation has fostered this strange blind spot. We rightly regard ourselves as a nation of individualists. We correctly prize individual liberty, freedom, and initiative. We have been a nation of frontiers, offering opportunities and challenges for the individual.

In a growing nation of new and expanding frontiers, it was less difficult for the prosperous to assume that their prosperity resulted from superior virtue and extra effort and that the afflictions and problems of the poor were the product of their own failure of will and character.

Thus, we have retained and have even recently added regressive and punitive provisions to our welfare laws which have added the burden of shame to the sufferings of poverty. Not so long ago, we also oppressed and hid away the mentally ill or retarded because their sufferings aroused a sense of shame, guilt, or fear in those of us who were well. Today, we still do too much of the same in regard to those who are poor.

We are basically decent and generous people. But we have never fully understood the power of poverty to corrode a life, to destroy initiative, to extinguish hope. The time is long overdue for us to recognize that poverty, too, is an affliction which destroys the capacity for initiative so highly valued in our traditions. The child who is undernourished has no real freedom. The man who cannot find a job sees no beckoning future or frontier; he knows little actual liberty.

Present programs for poor people require them to run a dehumanizing gauntlet of indignity to secure a grudging pittance of help. Go to any welfare office or public health clinic and see the long lines and the cold treatment poor people consistently receive. Ask yourself, "Could I go through this kind of process again and again and still get up in the morning with a bounce and a whistle? Would I go out each morning ready to take on the world and win my rightful place? If I were a child and saw my mother or father go through this process, would I still dream dreams?"

As I have said before, there continues to be a lingering feeling in the minds of many people in this country that poor people should be punished for their poverty and, therefore, are not entitled to the same treatment, quality of services and humane considerations that are extended to those who are not poor. I can say—and I have been poor—that being poor is punishment enough.

As a nation, we have rightly prized our independence. But we are just now beginning to grasp the full measure of our individual interdependence. Our wisest men have reminded us, as did John Donne in the 17th century, that "No man is an island entire of itself." A 20th century American, Dr. Paul Tillich, said it another way:

> And we participate in each other's having and in each other's not having. When we become aware of this unity of all beings, something happens to us. The fact that others do NOT have changes the character of our having; it undercuts our security and drives us beyond ourselves, to understand, to give, to share, to help . . . Our becoming aware of the fact that others who COULD have developed into full human beings did not, changes our state of full humanity.

In the past, we may have acknowledged these as lofty sentiments, but the concrete facts of recent times have made clearer our increasing dependence on each other and the threat to us all of failing so to act.

Water can be polluted hundreds of miles from its source. A rise in the price of steel is immediately felt in all parts of the country, in all sectors of our economy. Our sense of community must now catch up with the facts of modern life. Our national conscience, our sense of values, our bond of humanity—not just our gross national product—must expand and grow. A renewal of national character requires that the reality of opportunity for many must become the reality of opportunity for all.

We have been a throw-away nation. We use disposable plates, disposable bottles, disposable clothes, and the list is getting longer. We must now resolve not to be known for what we throw away, but for what we build and save. And, most of all, we must build and save people.

Our recent progress shows that poverty need not always be with us. In the 10 years between 1959 and 1969, the number of people who could be counted as "poor," according to the official measure of the Bureau of the Census, dropped by 14 million persons—from 39.4 to 25.4 million. But, quite obviously, 25 million poor people in a country as rich as ours is still too many. We have made real progress over the years in raising social security benefit levels, but not enough; we must do better. We have made progress in raising wage levels and the Federal minimum wage, but not enough; we must do more. We have made a good start in upgrading the skills of our work force through the manpower development training and similar programs. We have made a commendable beginning in creating new job opportunities in the public and other personnel-shortage areas of community service. But much remains to be done.

The best answer to poverty is prevention. We know how to prevent poverty as surely as we know how to prevent smallpox or polio. Any measures of alleviation, however well conceived, must be seen as transitional, residual, or supplementary to those measures that will prevent poverty before it occurs.

The ways to prevent poverty are well known to us all. Allow every baby a chance to be born wanted, raised in good health, educated to full capacity, accepted upon individual merit, welcomed to a range of job choices according to capacity and interest, paid a good wage, insured at adequate levels against the economic hazards of the industrial economy, and assured a comfortable house in a supportive neighborhood, and opportunities for cultural enrichment, participation in the decisions affecting his own life, and survival into a respected and secure old age.

In this age, these are not utopian goals. For we have made a strong beginning in all of them, but we have not carried our beginnings through to their logical development. For example, the Social Security Act was a landmark measure in social responsibility, but old age is still a major cause of poverty. We need continued upgrading of our social security benefit level to eliminate this anomaly for those outside our wage system.

The Fair Labor Standards Act was another such landmark measure. But even for those covered by its present minimum wage provisions, a full-time worker with average family responsibilities may still earn less than the officially designated poverty income level, while there are millions uncovered by the law who earn substantially less. Thus, a basic attack on poverty must include higher minimum wages and broader coverage. Moreover, we must assure—as this bill does—that hunger and deprivation of benefits will never be used to force an individual to take a job below the Federal minimum wage level or to undercut the standards of fellow workers by a requirement that he take a job at less than their wage rates or one involved in a labor dispute. The failure of the Nixon proposal to afford protection against such practices constitutes a most serious threat to the health of the economy. It may be well to remember that similar practices under the poor law brought 27 percent of the population of England and Wales onto the relief rolls in the

early 19th century and delayed the upgrading of labor standards required by the industrial revolution. The very aim of reducing dependency, so strongly emphasized in the President's message, could thus be thwarted by such a self-defeating policy.

Similarly, while we have increasingly brought the resources of the Federal Government to bear on problems of health, education, training, and job creation, we are far from our goal of assuring good health services to all who need them, equality of educational opportunity for all our young people, and decent, open-ended job opportunities for all who are able to work. We, therefore, need to move toward a universal health program and to fulfill the commitment announced and begun in regard to education during the last administrations. Above all, we need an updated manpower program, so that a guaranteed job becomes an effective policy as intended by the Full Employment Act of 1945. There are critical shortages of personnel in health, education, and other public services and growing needs for reconstruction of our rapidly deteriorating urban evironment. We need the fullest utilization of all our potential and presently wasted manpower to fulfill these needs.

If we are now, as a result of tightening up the economy of America, to see the levels of employment reduced, it seems to me we need a more humane welfare system, such as would be provided by this bill, and also an expanded program of private and public employment, such as would be carried out under the O'Hara bill in the House of Representatives and a measure being developed by Members of the Senate. Either a guaranteed job or a guaranteed income system is essential in our society.

These interrelated measures must be seen as needed parts of an integrated effort to wipe out poverty and achieve a society which is responsive to the needs of all its people. To advocate minimum income proposals outside the context of these other and related measures to upgrade the level of opportunity for those now at the bottom of the economic ladder would be unrealistic and irreconcilable with our democratic ideals.

The role of the National Basic Income and Incentive Act in this total campaign against poverty is the provision of a true floor under income for all Americans. It would do so in a way that is equitable and dignified for those who need its help, fair to the State governments in relieving them of a staggering burden to alleviate conditions over which they have relatively little control, and well within the administrative scope of the Department of Health, Education, and Welfare.

It provides a program of federally financed basic income benefits which would bring all families and individuals up to the officially designated poverty index level, with some adjustments for geographical differentials and special needs, as with the blind and aged.

The transition to a full federally financed program would be over a 3-year period, giving to the States a 20-percent reduction in welfare costs the first year, a 50-percent reduction the second year and, then, in the third year, the total cost up to the poverty level would become the responsibility of the Federal Government.

The first year the basic income benefit would be 70 percent of the minimum living requirement, or approximately $2,520 assuming the poverty level to be $3,600; the second year the basic income benefit for a family of four would be 80 percent of the minimum living requirement, or approximately $3,060; and the final year the basic income benefit would be the full minimum living requirement. But, in the meantime, the States would be required to maintain at least the standard of assistance they were providing persons in similar situations in January 1970. The bill authorizes a contractual arrangement between the Secretary of Health, Education, and Welfare and the States, under which the States would undertake to act as agents for this new Federal program. But, should any State decline such a role or fail to live up to its agreements, the Secretary would be authorized to undertake direct Federal administration immediately and to withhold the amount the State would otherwise have been required to expend from other grants going to the State.

The single most objectionable provision in the President's proposal is the $1,600 annual income floor for a family of four without adequate financial and other provisions to protect even the present level of payments in the 40 States now above the $1,600 figure. The $1,600 is not an adequate income floor for a family of four. The President's proposal would provide only $133 per month for a family of four. The weakness of this proposal becomes clear when such a level is compared with current State AFDC payments which now range up to $332 per month.

If the Federal Government, in the name of reform, sets a level for welfare benefits which is not only less than one-half of its own officially designated poverty level, but which is also less than what 80 percent of the States are currently providing, it would still be subject to the criticism so appropriately made by the President's Advisory Council on Public Welfare in a 1966 report which stated:

> Public assistance payments are so low and so uneven that the Government is by its own standards and definitions a major source of poverty on which it has declared unconditional war.

Mr. President, the Secretary of Labor, Mr. Shultz, was quoted in yesterday's Washington Evening Star as calling the welfare system of America something akin to the bubonic plague.

He went on to say that if you are dealing with something like that, you cannot do anything really serious about it unless you move to cure it.

I agree wholeheartedly with that statement, but I say that the administration is not curing it, but is just sort of doctoring it a little around the edges.

If we are really serious about reforming our welfare system, and if we want to avoid merely patching up the system and pouring good money after bad, as President Nixon recently suggested we should not do, then the basic floor of income for a family of four will have to be more than $1,600. It is tragically wrong that the difference between the States making the highest payments and those making the lowest payments per person is now as much as $1,488. As President Nixon himself has pointed out, a child in one State is not worth more than one in another, but under President Nixon's own proposal the difference in payments by the States would continue to be substantial. Under the present proposal there would not only be a floor but a progressive upgrading in all States until the full poverty level is reached for all Americans.

Work incentive provisions, which are in the President's proposal and also in the bill I have introduced, are definitely needed, for there are good reasons for encouraging beneficiaries who can work, to work by recognizing their need for a progressive improvement in their income as a result of their own effort. We must not in this process, however, sacrifice basic income standards for those who cannot work. We have, therefore, provided a plan of earned income exemption above the basic poverty level which starts by disregarding in the calculation of resources all of the first $75 a month of earnings, half of the next $150, and a quarter of the remainder until the full basic income benefit level is reached.

The program provided by this bill is to be administered under the direction of the Secretary of Health, Education, and Welfare, who is authorized to create new machinery for its administration; utilize existing units within the Department; utilize, on a reimbursable basis and with the consent of the head of the Federal agency concerned, the personnel, facilities, and services of other Federal agencies; contract with agencies of the States or their political subdivisions; or a combination of all these methods.

This bill contains strong incentives to work and strong disincentives against idleness, but it contains important safeguards. In the first place, mothers of preschool and school age children, persons over age 65, and disabled persons would be exempt from any requirement to work. But should they choose to do so, they would be able to retain a portion of their earnings.

All mothers of preschool and school age children should be able to exercise their own judgment as to whether they are able to carry the double responsibilities of home and job. It seems unfair to permit the mother whose husband is still in the home to exercise this kind of option, as the Nixon plan would do, but deny it to a mother who is already carrying the double burden of rearing children unaided by a father in the home.

No beneficiary, under this bill, would be required to accept employment in a job involving a labor dispute or paying less than the minimum wage or the prevailing wage.

Beneficiaries would be assured of the right to receive a prompt determination of eligibility—eligibility based on a declaration of resources and family circumstances, not on demeaning and recurring investigations.

This is an important provision, for it would help to preserve the dignity of

those receiving assistance. It would also have the advantage of correcting what Mitchell Ginsberg, human resources adminstrator of New York City, has accurately referred to as a bankrupt policy, Ginsberg said:

> You can't send around caseworkers as spies and law enforcers on Monday, constantly checking on the eligibility of welfare receipients to see that there is no cheating, and then have them come around on Tuesday and say, "Today I am here as a social worker and as a friend to help you." It just will not work.

Even on a dollars and cents basis, the infringements on privacy and self-respect which the present method of investigations entail, and the wasting of valuable skills which social workers possess, cannot be warranted. Welfare fraud has been discovered to involve only one-half of 1 percent of the total number of persons receiving assistance. Even if lesser irregularities are included, discrepancies represent only a fraction of the cost of detection.

In 1968, Marin County, Calif., found that the declaration method provided results which were "as reliable and accurate as the information obtained through an interview-administered declaration method." In Maine, a switch to the declaration method, along with other reforms, resulted in a reduction of the number of ineligibles on welfare rolls from 8 percent in 1964 to only 1 percent in 1968. Maine found the cost of eligibility determination per case dropped from $22.50 under the old system in 1964 to $6.30 in 1968 under the declaration method. The Legislative Reference Service, in a 1968 study, provided added corroboration when they found that all of the welfare departments surveyed which had tried the declaration method preferred it to the conventional system.

The present bill also attacks the basic need to eliminate the other condescending and grudging ways in which assistance is now given. Any claimant or recipient dissatisfied with a decision of the agency would be assured a fair and independent hearing, represented by counsel. All recipients' records would be held in confidence.

There are several reasons why a federally financed system is superior to the present system of Federal and State cost-sharing or the divided financial responsibility of the President's proposal.

Last year's Supreme Court decision in Shapiro against Thompson, declaring State welfare residency laws unconstitutional, focused attention on the fact that welfare is a national problem and should be a national responsibility. There is no logical or constitutional reason for welfare recipients to be penalized because they move from one jurisdiction to another; it is not fair that some States should bear a disproportionate share of welfare expenses because they gain additional citizens eligible for assistance from other States.

Complete Federal financing has also gained support from Governors and other officials because of the critical financial problems facing most of our States. The twin and increasing burdens of education and welfare present impossible budgetary problems for Governors and State legislatures. Federalization of the welfare system would free the States to devote more of their own funds to such compelling needs as education.

Furthermore, federalization of the welfare system is gaining support because more and more people are recognizing that it would be more effective than any form of revenue sharing program that might be devised. The distinguished Governor of Missouri, Warren E. Hearnes, in remarks made at the annual meeting of the Executive Committee of the Council of State Governments at Lexington, Ky., on November 24, 1969, discussed in the context of welfare payments and revenue sharing the need for people to feel that the Government is more responsive and stated:

> This concept is violated by both the present welfare system and that proposed by the Nixon administration, since both involve federal control with a combination of federal aid and state funds. This leaves the states with financial obligations but very little authority in what is essentially a federal program. This concept also is violated by the proposed revenue sharing plan, which would separate the right of spending from the responsibility of taxing. It would allow state and local officials to spend these blank check funds without being fully responsive to their constituents, since they could use the excuse that "this is just federal money" upon receiving a complaint from local taxpayers.
>
> On the other hand, full federal financing of welfare could clearly place both the powers and responsibilities for that program with one level of the government, and also would free critically needed state funds to be used for other purposes.

It is estimated that the President's revenue sharing plan would yield to the States in the fiscal year 1976 an estimated $5 billion. In 1968 the States' share of the welfare cost was $3.7 billion and at present levels of benefits would by 1976 reach at least $5 billion. The best plan of revenue sharing would obviously result from the Federal Government assuming the welfare burden now borne by the States.

A consideration of these various reasons led the Governors of the States, at the National Governor's Conference in Colorado Springs during August of 1969—a conference I attended, and at which, I discussed federalization of the welfare system—to the conclusion that the present welfare system should be substituted as they, said, "on a phased basis" by a "federally financed system" of welfare payments. This goal would be accomplished by the bill I am today introducing.

The cost of this program is substantial. Yet, at the same time, anyone who has studied our present welfare system knows that by changing this section or that section or by adding 2 or 3 billion here and perhaps another billion some other place, few of the failures of the present system will be eliminated. There is no magic in calling an old worn out system by a new name and by dressing it up a bit. As one person has put it, "The welfare system is designed to save money instead of people and tragically ends up doing neither." Both welfare recipients and taxpayers rightly believe that the present welfare system is a failure and that it traps people in poverty; this being true, it should be replaced rather than repaired.

Fortune magaine contained an article in its July 1968 issue written by Edmond K. Faltermayer, wherein it was estimated that 2 percent of the gross national product would bring everyone in the country up to a minimum standard of living and employment. This does not seem to be an improper or unreal goal, especially when it is considered that other developed nations are spending, on the basis of a percentage of their GNP, more than three times what we are spending.

The costs of the national basic income and incentive program would not be cumulative to, but instead of the present Federal costs of welfare and the proposed Nixon revenue sharing plan.

If we put first things first, if we get our priorities straight, if we put people ahead of SST's and ABM's and manned Mars landings and a mistaken continuation of the war in Vietnam, we can easily do what needs to be done, what humanity requires.

We often forget that poverty, by definition, means lack of money. Somehow we have managed to cling to the idea that, if we can just give enough advice and services to the poor, they will somehow quit being poor. For most of the poor people today, this myth is just not working. Further, we must at last realize, as other nations have, that doing nothing or doing not enough ultimately costs us more.

"We hold these truths to be self evident: that all men are created equal." Pierre Teilhard de Chardin's definition expresses well the reality and the ideal of "equality":

> The right of every man to participate according to his aptitudes and powers, in the common endeavor to promote each by way of the other, the future of the individual and the species. Indeed, is it not this need and legitimate demand to *participate* in the Human Affair (the need felt by every man to live co-extensively with Mankind) which deeper than any desire for material gain, is today agitating those classes and races that have hitherto been left out of the game?

Each of us today, more than ever in a highly urbanized, highly technological society, indeed is a part of mankind, and mankind is a part of each of us.

The old maxim, "live and let live," will no longer suffice. "Live and help live" is both the moral and practical password to our survival.

If Americans make up their minds to it, we can stop the suffering of millions of women and children, and we can make it possible for millions of Americans to have a chance to be real men.

I call upon America to make up its mind to achieve its ideals and to make sure that every child who stands before the flag and recites, "with liberty and justice for all" can fully live the ideal he salutes.

I ask unanimous consent that a summary of the provisions of the National Income and Incentive Act be printed at this point in the RECORD.

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

SUMMARY OF PROVISIONS IN NATIONAL BASIC INCOME AND INCENTIVE ACT

SEC. 2001. Sets forth the purpose of the Act which is to establish a national program of basic income benefits entirely financed from Federal funds, uniformly administered throughout the Nation by either Secretary or delegates, designed to assure that every individual and family will enjoy the level of living justified by American productivity, and will encourage persons to enter the labor market.

SEC. 2002. Provides that the determination of what constitutes a minimum living requirement shall be made by the Secretary of Health, Education, and Welfare. The determination shall be consistent with the incomes of nonfarm families determined by the Social Security Administration for the latest year for which data is available as an index of poverty subject to such variables as age, composition of families, difference in cost of living in different regions of a country, et cetera.

SEC. 2003 (a). Provides authority for Secretary to determine what resources can be disregarded for purpose of determine qualification and level of need. Such items as the home, household goods, and personal effects of an individual or family as well as other items which the Secretary may determine warrants exclusion.

In addition, the earned income of any individual or of any member of a family group during any month shall be disregarded to the extent of the first $75, plus one-half of the next $150, plus one-fourth of the remainder.

SEC. 2003 (b). Provides for conditions upon which a refusal to accept a job will not disqualify individual to basic income benefits. Refusal to accept a job if it is vacant due to a labor dispute, if the wages are not in keeping with prevailing wages in area for similar job or if below minimum hourly rate, et cetera, will not be grounds for denial.

Refusal to participate in work-training program if the program would not prepare the individual for a suitable job which will be available when training is complete will not disqualify one to benefits.

Further, it is provided that: one under the age of 16 or over 65; one physically or mentally unable to work; a child attending school; a woman having in her care a preschool child or a child attending school; and that one required in the home because of the illness or incapacity of another, will not lose benefits by reason of refusal to participate in work-training program.

SEC. 2004. Provides that the amount of assistance to which an individual or family group is entitled to shall be equal to the minimum living requirement of such individual or group less the amount of other income and resources available to the individual or group.

SEC. 2005. Provides for responsibility of the Secretary, or his delegate to refer applicant for basic income benefits to other agencies, rehabilitative, et cetera, if he would benefit from services of the agency.

SEC. 2006. Provides for the filing of an application for benefits. The Secretary shall prescribe what information is to be contained in the application. Furthermore, the action requires the Secretary to act promptly on an application.

SEC. 2007. Provides that the Secretary or his delegate shall make the determination of eligibility for benefits based on information in the application and if the initial determination is incorrect the Secretary shall take appropriate action to assure that no more than the correct amount is paid.

SEC. 2008. Provides for review procedure of determination made by the Secretary or his delegate. Judicial review of the Secretary's determination is provided for along with the right to legal representation.

SEC. 2009. Provides for the applicability of legal procedures otherwise provided for in Social Security Act to this title.

SEC. 2010. Provides for authorization of appropriations. Such amounts as may be necessary beginning with the fiscal year which ends June 30, 1971, are authorized to be appropriated.

SEC. 2011. Provides for the publication of the regulations of the Secretary in the Federal Register in accordance with the provisions of subchapter 11 of title 5, United States Code.

SEC. 2012. Provides for authority for the Secretary to administer the program authorized by the Act. Authority is given to the Secretary to utilize the personnel, facilities, and services to another Federal agency with the consent of the head of the Federal agency concerned or to enter into agreements with States to administer the program.

SEC. 2013. Provides that the Secretary by regulation shall provide safeguards which restrict the use or disclosure of information concerning applicants or recipients.

SEC. 2014. Provides for a three year transition to the benefit levels prescribed in section 2002, section 2003, and section 2004.

For the fiscal year 1971, the basic income benefits shall be the greater of 70 percent of the minimum living requirements or the benefits paid under the States plans as of January 1, 1970, based on the present poverty level this shall be $2,520. For fiscal year 1972 the greater of 85 percent of the then determined minimum living requirement or the States benefit.

For the years 1971 and 1972, the Secretary can enter into an agreement with the appropriate State agency to administer the plan.

The States will be reimbursed for the cost of administrating the program including the payment of the benefits specified in the Act in excess of the following percentages of expenditures which would have been made by such State under titles I, X, XIV, XVI, and part A of Title IV had this section not been in effect:

For the fiscal year 1971—80 percent of such expenditures.

For the fiscal year 1972—50 percent of such expenditures.

Should a State refuse to enter into an agreement with the Secretary, then the Secretary can administer the program through employees of the Department of Health, Education, and Welfare, and money expended, which would not have otherwise been expended had the State entered into an agreement, may be withheld from amounts payable to such State under other Federal programs.

SEC. 2015. Provides for certain conforming amendments.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of 10 U.S.C. 9355(a), the Speaker had appointed Mr. ROGERS of Colorado, Mr. FLYNT, Mr. RHODES, and Mr. BROTZMAN, as members of the Board of Visitors to the U.S. Air Force Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 14 U.S.C. 194(a), the Speaker had appointed Mr. ST. ONGE and Mr. MESKILL as members of the Board of Visitors to the U.S. Coast Guard Academy, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 46 U.S.C. 1126c, the Speaker had appointed Mr. CAREY, and Mr. WEICKER as members of the Board of Visitors to the U.S. Merchant Marine Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 10 U.S.C. 5355(a), the Speaker had appointed Mr. TEAGUE of Texas, Mr. NATCHER, Mr. Davis of Wisconsin, and Mr. MCKNEALLY as members of the Board of Visitors to the U.S. Military Academy, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 10 U.S.C. 6968(a), the Speaker had appointed Mr. FLOOD, Mr. STRATTON, Mr. MINSHALL, and Mr. MORTON as members of the Board of Visitors to the U.S. Naval Academy, on the part of the House.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SAXBE in the chair). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONSUMER PROTECTION

Mr. TYDINGS. Mr. President, as the decade of the 1970's begins, the political focus of Americans has increasingly centered on our domestic problems. New areas have emerged as cause for critical concern. In this "new" probe into our society's internal problems we have discovered that individuals in our society are increasingly being overwhelmed by forces outside of their direct control. One of the most obvious areas of this type of concern is the quality of our environment, where poisonous air, putrid water, and despoiled landscapes face the helpless citizen who views with alarm the destruction of our natural resources. Recently we have come to recognize that this situation is so damaging and threatening that our very existence is at stake. The legislative and executive branches have committed themselves, at least in speeches, to sweeping remedial action to restore the quality of our environment. Hopefully, action will follow words.

Yet there is a second area that I believe deserves just as much concern and attention as the environment; the cause of the consumer. This is a broad field that encompasses many problems from advertising fraud, repair deficiencies, and oil import quotas, to planned obsolescence, court reform, and so on, indefinitely. The stakes are tremendous; just in the area of consumer fraud and shoddy goods, losses to the American

public may well be above $10 billion a year. And this figure does not include the indirect costs to consumers of decisions made adverse to their interests such as artificial price support programs or goods designed for high repair costs.

Here, as in pollution, the individual as consumer faces institutions and practices which he cannot begin to affect or remedy. Indeed, not only can the consumer not correct evil practices or poor production methods, but also he usually stands little chance of recovering his own losses from fraud or deception. The consumer is helpless when faced with distant corporate or government decisions, when confronted with restrictive laws and hostile courts, and when opposed by a battery of highly paid industry lawyers.

For those who have explored this issue with concern for the consumer, it has become obvious that we must redress the balance between the hapless buyer and the indifferent business. If not, there will be no justice in the marketplace. Laws, trade customs, regulations, and institutions developed for our economy at the turn of the century by the Progressives are now hopelessly inadequate for the task of policing today's world of mass marketing and electronic industry. Nothing stands out as more eloquent testimony to the failure of outmoded attempts to aid the consumer than the Federal Trade Commission, a seemingly inert and lifeless bureaucracy long since devoid of any strength or initiative.

What we need is a redress in our imbalance of power between the buyer and seller. This can be done—and should be done—starting with two distinct yet complementary approaches:

First, the consumer needs an advocate at the Federal level. There is no one who represents the individual buyer—and he alone—in the councils of Government or in the byzantine maze of the Federal bureaucracy. Only when there is someone whose responsibility is to fight, lobby, publicize, and sue for the consumer will our ossified institutions respond to the needs of the individual buyer.

Second, the consumer must be given an adequate private remedy in court. No administrative agency can possibly guard the consumer rights of millions of individuals or the thousands of complaints received each year. Each buyer is best protected by himself. One he has a reasonable chance of recovering his damages, a court of law will be the most direct, efficient, and certain mode of redressing the wrongs in the marketplace. The primary responsibility should rest upon the individual and not the Government.

Both of these approaches are required for the consumer—a remedy at court for individual wrongs and an advocate at the highest levels of Government to affect national policy. I introduced legislation last session that would serve the consumer in these ways. On April 25, 1969, I introduced the consumer class action bill (S. 1980) and on May 1, 1969, I introduced the Consumer Affairs Act of 1969 (S. 2045) providing for an Office of Consumer Affairs in the Executive Office of the President. Other Senators have introduced bills in these areas, some similar and others quite different.

The administration has also drafted legislation on these two specific subjects; on October 30, S. 3201, the Consumer Protection Act, was submitted by the President providing for consumer class actions and on December 12, the administration introduced S. 3240, its bill creating an Office of Consumer Affairs. As a strong proponent of consumer legislation, I welcomed this commitment by the administration on behalf of the consumer. And the administration has repeatedly said that it meant to act vigorously and effectively in these areas to protect the consumer.

However, if one looks beyond the rhetoric of the President's spokesman and examines the proposed legislation in detail, it can be judged only as a dismal failure.

In the words of Bess Myerson Grant, the head of the New York City Consumer Affairs Division, appointed by Mayor Lindsay:

The administration's so-called class action bill is like balloon bread—substantial at first glance but short on weight.

She went on to say that it is in essence a fraud.

The administration bill is not the product of the President's valiant special assistant for consumer affairs, Mrs. Virginia Knauer.

The administration bill is the product of White House assistants—and by the look of the legislation they have drafted, these are assistants whose primary concern is not the interests of the consumer.

The single most disingenuous provision in the administration bill is its prerequisite of a Justice Department or FTC action before a class suit may be brought. What assurance would consumers have that these agencies would have sufficient funding or personnel to prosecute the many thousands of instances of systematic consumer abuse which occur every year?

The 11 categories of wrongs to which the administration bill is addressed boil down in reality to only two categories—misrepresentation and failure to return deposits for goods not delivered.

Mr. President, she said that failure to make good on guarantees, "unconscionable contracts," such as ones in which a buyer is promised a discount if he persuades another person to make a purchase, and installment sales were subjects which had been omitted.

I believe that if you enact a meaningful consumer class action law, you will be responsible for a historical landmark—an event as important in the legal protection of the American consumer as was the passage of the Sherman Antitrust Act of 1890.

Mr. President, I ask unanimous consent to have the article entitled "Buyer's Bill Called 'Fraud'" published in the Washington Post on February 6, 1970, printed in the RECORD.

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

BUYER'S BILL CALLED FRAUD

(By J. Y. Smith)

Bess Myerson Grant, the statuesque former, Miss America who now looks out for "the little man" in New York City, yesterday put her own label on the Nixon Administration's class action consumer bill. It is, she said, "a fraud."

In testimony before House and Senate subcommittees on consumer affairs and at a Capitol Hill press conference, Mrs. Grant said she was here to help the legislators do a little comparative shopping on what kind of class action they should settle for.

A class action bill would permit consumers to get relief for their grievances in federal courts, something they cannot now do. Under such a bill, the consumer would have standing to sue either as an individual or band together with other consumers in a single suit, thereby sharing the cost.

As part of President Nixon's "Buyer's Bill of Rights," the administration has proposed legislation that would allow class actions, but only after the Justice Department or the Federal Trade Commission had obtained a judgment against the manufacturer or merchant involved.

Mrs. Grant, whom Mayor John V. Lindsay named New York's commissioner of consumer affairs a year ago, favors a bill which allows consumers to start class action in federal courts on their own. Such legislation has been introduced by Rep. Robert C. Eckhard (D–Tex.) and by Sens. Joseph D. Tydings (D-Md.) and Frank E. Moss (D-Utah).

The administration's so-called class action bill is like balloon bread," Mrs. Grant said. "Substantial at first glance, but short on weight."

Asserting that this proposal is "not the product of the President's valiant special assistant for consumer affairs, Mrs. Virginia Knauer," she added:

"The administration bill is the product of White House assistants—and by the look of the legislation they have drafted, these are assistants whose primary concern is have that these agencies not the interests of the consumer.

"The single most disingenuous provision in the administration bill is its prerequisite of a Justice Department or FTC action before a class suit may be brought. What assurance would consumers have that these agencies would have sufficient funding or personnel to prosecute the many thousands of instances of systematic consumer abuse which occur every year?"

Moreover, Mrs. Grant said, "The 11 categories of wrongs to which the administration bill is addressed boil down in reality to only two categories—misrepresentation and failure to return deposits for goods not delivered."

She said that failure to make good on guarantees, "unconscionable contracts," such as ones in which a buyer is promised a discount if he persuades another person to make a purchase, and installment sales were subjects which had been omitted.

"I believe that if you enact a meaningful consumer class action law, you will be responsible for a historical landmark—an event as important in the legal protection of the American consumer as was the passage of the Sherman Antitrust Act of 1890," she said.

Appearing at her press conference were Eckhardt and numerous other consumer advocates. They included Rep. Seymour Halpern (D-N.Y.)—who kissed the lady upon his arrival—Rep. Allard Lowenstein (D-N.Y.), Rep. Benjamin S. Rosenthal (D-N.Y.), who has introduced legislation to set up a separate Department of Consumer Affairs; Rep. James H. Scheuer (D-N.Y.) and Rep. Richardson Preyer (D-N.C.).

"The laws which were adequate when we were trading for horses are not adequate today," Preyer said

Mrs. Grant, who was wearing a bright red wool suit with a printed scarf, takes considerable care about what she says to the

press or any other public forum on the complexities of consumer protection.

"It's not easy for me to understand all this legal stuff," she told a reporter later. "I don't understand it until I really sit down and study it."

Mrs. Grant is equally chary about her age. She admits to having won the Miss America contest in 1945 and dodges the age question by saying: "I was nine years old—I was a very tall, well-developed 9-year-old."

Mr. TYDINGS. Mr. President, in both cases the promise of grand schemes is betrayed in the reality of fine print. This legislation is the product of the politics of public relations; it is not written by those who are serious about the continuing abuses in the marketplace. Indeed, if we compare the elaborate promises of this administration against the delivered product—its legislation—I believe the American public is the victim of a consumer fraud. The consumer was promised protection, and he has received from the administration only artifice.

I realize that these are strong charges to make; I would not make them if I did not believe this is such a vital area and if I could not document them. I propose to do just that.

In order to understand the grave deficiencies of the administration proposals, I believe it is essential to present some of the background in each area, and to discuss the bills in detail.

CONSUMER CLASS ACTIONS

The presence of consumer type agencies in the government and the present legal structure do not provide the consumer with an individual, private remedy that is at all adequate. For most of Anglo-American legal history, the law has uncompassionately insisted: "Caveat emptor—let the buyer beware." This was all very well when one was selling a cow to his neighbor and the man had a chance to look the animal over.

But in today's marketplace, with sophisticated Madison Avenue techniques, and expense accounts, whatever justification there may have been for such a policy in the early stages of the development of our economy no longer exists. Its chief effect in today's complex market is to place an undue burden on the contractual party least capable of carrying it. Too often the modern consumer is unable to assess the technical qualities of the product he purchases, to resist sophisticated sales campaigns, or to comprehend the multitude of credit plans and financial "deals" that he may be offered. Every year billions of dollars are wasted by consumers through the purchase of misrepresented merchandise. Although the least educated and the more impoverished segments of society, those who can least afford it, suffer the most, all levels of society are affected. Commissioner Mary Gardiner Jones of the Federal Trade Commission characterized the situation this way:

No matter how informed and sophisticated the consumer, deception will take its toll and the very morality of the community is at stake when there is no effective legal action to be taken against such dishonest merchants.

Public awareness of the need for consumer protection programs has had some salutary effects, but has not resulted in a significant reduction in the incidence of fraud. False advertisers, loan sharks and others of their ilk are still making exorbitant profits at the expense of the unwary consumer.

Despite good intentions and the proliferation of consumer protection laws and agencies, our society continues to require that the "buyer beware." Ralph Nader estimates that "at least 95 percent of illegal consumer abuses are never adjudged to be such by our legal system. The arm of the law," he continues, "never reaches these abuses, thereby permitting an 'overworld' of corporate crime which reaps billions yearly from the defenseless consumer." [1]

The activities of the Federal Trade Commission indicate the weaknesses of the present "agency" approach to the prevention of consumer frauds.

"Even Commissioner Ralph Elman of the Federal Trade Commission recently charged that this agency is marked by "waste, inefficiency, and indifference to public interest." [2]

Mr. President, let me recall some history. Has the Presiding Officer ever heard of the Holland Furnace Co. case? The lengthy career of the Holland Furnace Co. provides a classic example of the ineffectiveness of administrative agencies in providing consumer remedies. Complaints about high pressure tactics were made against the company as long ago as the early 1930's.[3] In December 1936, the company agreed to a Federal Trade Commission dissent order against certain misleading advertising claims.[4] Although complaints against the company continued,[5] a second proceeding was not initiated by the Federal Trade Commission until 1954.[6] Four years later, a cease and desist order was issued prohibiting Holland "from engaging in a sales scheme—whereby its salesmen gain access to homes by misrepresenting themselves as official 'inspectors' and 'heating engineers' and thereafter dismantling furnaces on the pretext that this is necessary to determine the extent of necessary repairs." [7]

This is not 1930 or 1940. This is 1958, Mr. President. For 7 years, Holland Furnace Co. ignored the court decree enforcing the cease and desist order. Finally in 1965, the company was heavily fined for contempt of court.[8]

Consumer fraud is too widespread to be effectively policed by any one agency. Administrative budgets and personnel are limited. By their very nature consumer protection agencies must select only the most blatant forms of fraud and only those operating on a large scale as to justify the expenditure of agency time. Delay is inherent in a bureaucracy, and furthermore, administrative budgets and many personnel are limited and in some cases the statutory structure or powers of an agency may inhibit its effectiveness. More often than not, such agencies lack effective sanctions to enforce their decrees.[9]

It is clear that present agency remedies might as well be nonexistent. Just as important, the Office of Consumer Affairs that I propose will by itself not remedy the problem. This Office can affect policy, it can litigate major cases and attack flagrant and widespread practices. But no one agency or agencies in Washington will provide enough protection for the consumer who has been defrauded. The administration gives us fine rhetoric. But if one reads the fine print, he will find that, as Bess Myerson said, it is a fraud. We must provide a legal remedy so the individual can act immediately and effectively. The injured party has the incentive to carry through; he is the best guardian of his own interest.

We thus must use a traditional American tool: the private lawsuit.

Today, of course, the victimized consumer may initiate a private action for fraud or for rescission of a sales contract on the basis of misrepresentation. In most cases, however, this ability at present is more theoretical than real. Lawsuits are costly. The financial loss to a single consumer is not usually large enough to make individual litigation practicable. His court costs and attorney's fees may far exceed the restitution he is likely to receive if he prevails in his suit.

But while administrative agencies may have limited effectiveness with individual cases, and the cost of an individual suit may be prohibitive, many persons acting as a defrauded class could afford to enforce their individual rights.[10] A consumer class action compensates for the inability of individual consumers to litigate small individual losses by enabling one or more representatives of a group of consumers with similar injuries to place the group injury in issue. The aggregate group claim is generally large enough to warrant the outlay of the necessary expenses and, more significantly, to make it possible to obtain private counsel on reasonable terms.

In addition to being economically infeasible, individual suits, even if their success is assumed, are unlikely to prove an effective deterrent to the dishonest company. In fact, many irresponsible companies probably treat the loss of an

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[1] *Hearings on S. 1980 Before the Subcommittee in Improvements in Judicial Machinery of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess.

[2] *The Washington Post*, September 11, 1969, at A2, Col. 1–2.

[3] *Consumer Bulletin* at 26 (April 1965).

[4] 24 F.T.C. 1413–14 (1936).

[5] Consumer Bulletin at 25–26 (April 1965).

[6] *See* 55 F.T.C. 55 (1958).

[7] *Id.* at 91, *aff'd*, 295 F.2d 302 (7th Cir. 1961).

[8] In Re Holland Furnace Co., 241 F. 2d 548 (7th Cir.) cert. den., 381 U.S. 924 (1965).

[9] *See* Dixon, *Federal State Cooperatives to Combat Unfair Trade Practices*, 30 State Gov't 37 (1966); Mendell, *N.Y. Bureau of Consumer Frauds and Protection*, 11 N.Y.L.J. 603 (1965); O'Connell, *Consumer Protection in the State of Washington*, 39 State Gov't 230 (1966); Rice, *Remedies, Enforcement Procedures and the Quality of Consumer Transaction Problems*, 48 B.U.L. Rev. 559 (1968).

[10] See Dole, *"Consumer Class Actions under Recent Consumer Credit Legislation,"* 44 N.Y.U.L. Rev. 80 (1969); Staars, *The Consumer Class Action*, 49 B.U.L. Rev. 211 (1969).

occasional small judgment as one of the risks of the trade; a risk made worth while by their continued high profits through misrepresentation or other deceit.

The consumer class action, on the other hand, has beneficial effects that extend beyond the restitution of individual damages to the injured consumers. The mere existence of an effective class action remedy will deter improper conduct. The potential defendant is forced to consider not only the possible direct economic loss from a class action, but also the potential visibility, publicity, and public reaction and the resulting loss of good will.[11] Although the dishonest merchant may be able to safely ignore the separate complaints of many individuals, he cannot afford to disregard the public criticism of many voices raised in unison.

Class actions are a potentially invaluable weapon in the consumer's arsenal, but the class action procedure of many of the States is outmoded and archaic. Most States provide some form of class actions, but the manner in which they define the procedure usually makes it unavailable in a consumer fraud situation.

Moreover, as a result of a recent Supreme Court decision, Snyder against Harris,[12] the Federal courts appear to be even less hospitable to consumer class actions than State courts. Prior to Snyder against Harris the provisions of rule 23 of the Federal Rules of Civil Procedures[13] appeared to establish a procedural basis for the maintenance of consumer class actions in those cases where a basis for Federal jurisdiction existed.[14] But in that decision the Supreme Court ruled that separate and distinct claims cannot be aggregated to meet the required $10,000 jurisdictional amount. This ruling in effect makes the rule 23 action, the most modern class action procedure in the United States, unavailable to the defrauded consumer who has a claim of less than $10,000, even if he can satisfy the necessary diversity of citizenship requirement for Federal jurisdiction, and thus precludes recourse to the Federal courts in consumer class actions.

It was because of this legal situation and the obvious need for vigorous action in the consumer field that I introduced last spring S. 1980, the Consumer Class Action Act. S. 1980 provided for consumer class actions in Federal court in cases where State consumer protection laws have been violated. The bill was designed to reverse the effects of Snyder against Harris and, in addition, to broaden the basis for Federal jurisdiction over consumer fraud.

By doing so, it would afford the liberal machinery of Federal rule 23 for joinder of all persons in like situations involving deception, fraud, or other illegal over-reaching of consumers.

In July, the Senate Subcommittee on Improvements in Judicial Machinery of which I am chairman, held hearings to consider the merits of S. 1980.

Testimony was heard from among others, Ralph Nader; Virginia Knauer, Special Assistant to the President for Consumer Affairs; and Bess Myerson Grant, commissioner of the department of consumer affairs for the city of New York—all of whom supported the concept of increased consumer access to the class action procedure available in the Federal courts.

In her testimony, Mrs. Knauer presented a somewhat different approach than S. 1980, suggesting legislation to permit consumer class action suits for the broad range of practices condemned as "unfair or deceptive" under the Federal Trade Commission Act. After close study of Mrs. Knauer's proposal, I concluded that it complemented the provisions of S. 1980. On October 29, I introduced S. 3092 combining Mrs. Knauer's proposal with my own. I am pleased that the Senator from Utah (Mr. Moss), chairman of the Consumer Subcommittee of the Commerce Committee is a cosponsor of S. 3092.

Basically, S. 3092 makes unlawful and subject to class suits, acts in defraud of consumers that affect commerce, without regard to the amount in controversy. An act in defraud of consumers is defined as including two distinct things: First, an unfair or deceptive act or practice as condemned in section 5(a) of the Federal Trade Commission Act; and second, an act that gives rise to a civil action by a consumer or consumers under State, statutory, or decisional law for the benefit of consumers. Diversity of citizenship is not required. Federal jurisdiction is premised upon the commerce power.

Such a suit in Federal court would apply the laws of the State in exactly the same manner that the Federal courts apply such law in a diversity of citizenship case. Thus, the court in any suit, would be dealing with a definite body of law in a manner in which it is accustomed to deal with such law. Moreover, utilization of existing well-developed bodies of State law and of Federal Trade Commission rulings prevent the coverage of the bill from being "vague."

Perhaps the most significant provision of S. 3092 is section 4(d) which governs the award of attorney fees. If an action has been successful, the attorney will receive an award of a reasonable fee, based on the value of his services to the class. I have become increasingly convinced that the private bar is the untapped reservoir of consumer power.

S. 3092 is designed to insure the ready availability of competent well-compensated counsel. By doing so, it guarantees a major increase in legal muscle for the consumer.

Significantly, that muscle will be in the form of private legal actions, the traditional method of effectively redressing grievances in this country. The bill depends solely upon existing legal processes.

I think that by utilizing traditional institutions and proven procedures we can attack this problem of consumer fraud directly. We do not need elaborate new schemes, we do not need massive governmental intervention. We do not need to regulate the free market. All that is required is opening the processes of the courts to this long neglected area.

Unfortunately various political pressures have induced the administration to retreat from the strong proposal originally advocated by Mrs. Knauer, the President's own consumer spokeswoman. The bill that the President finally sent to Congress on October 30 offered a sorry substitute for meaningful consumer class action protection that the American people had a right to expect.

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

The PRESIDING OFFICER. (Mr. HANSEN in the chair). Does the Senator yield?

Mr. TYDINGS. I yield.

Mr. SAXBE. Mr. President, I have listened with a great deal of interest to the statements concerning the application of some of these consumer fraud problems. As the former attorney general of a large State with consumer fraud problems I was involved in a good many of these cases and I am familiar with the situations that the Senator from Maryland refers to.

There is one area I think we have overlooked and I wish the Senator would concern himself with it in this regard. Most of these major sales are on a credit basis, especially referral sales. The sales of major appliances are sold with the idea that they are going to be paid for by referring for collection the sale of vacuum cleaner systems in the house, water softeners, furnaces, siding jobs, and roofing jobs.

Mr. TYDINGS. Home improvements.

Mr. SAXBE. Yes. All of these are areas where the fast-buck operator moves in. In almost every instance the homeowner signs a note which is usually discounted before the sun goes down and it winds up under the protection of "holder in due course."

One of the attacks I made, and successfully made, was to set up as a defense against the collection of these notes, fraud in the inducement. I think that this idea should be given particular attention so that financial institutions will learn they cannot buy this bad paper, because, without exception, they know who the fast buck operators are. There are collections before the job is sold. Many of them are fly-by-night loan companies, but a surprising number of them are solid financial institutions where this paper winds up.

If there is one area where a consumer protection bill should focus it would be in the area of extending the protection and setting out exactly what constitutes fraud in the inducement so that they can ring the bell on this paper.

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[11] *See* Dolgow v. Anderson, 43 F.R.D. 472, 485-88 (E.D.N.Y. 1968); Dole, *Consumer Class Actions Under the Uniform Deceptive Trade Practices Act*, 1968, Duke LJ. 1101, 1103.

[12] 394 U.S. 332 (1969).

[13] See Donelan, *Prerequisites to a Class Action Under New Rule 23*, 10 B.C.L. Rev. 527 (1969); Kaplan, *Continuing Work of the Civil Committee: 1966 Amendments of the Federal Rules of Civil Procedure (I)*, 81 Harv. L. Rev. 356, 375-400, 414-16 (1967).

[14] *The Class Action—A Symposium*, 10 B.C. Ind. & Comm. Law. L. Rev., spring (1969).

Mr. TYDINGS. I think the point made by the distinguished former attorney general of the State of Ohio is very pertinent.

As the Senator knows, in addition, purchasers of this fraudulent paper generally require the seller to set aside an additional sum of money so that it is not a purchase without recourse. Yet the poor defrauded consumer, when he tries to defend against paying on the note because of the fraud, finds himself out of luck on account of the holder-in-due-course doctrine.

The commissioners on uniform State law in their new draft of the proposed commercial codes for the States have adopted a proposal along the lines suggested by the Senator from Ohio with respect to limiting the defenses of the holder in due course doctrine where fraud was the basis of the original sale. Just how many States are moving to adopt it and what the final steps will be, I do not know. However, I think the Senator's suggestion in this area merits a great deal of consideration and I would hope that the individual States would consider carefully the recommendations of the commissioners because certainly in the home improvement field and many other areas the amount of fraud perpetrated on the poor individual homeowner buying a home improvement contract is sufficiently large to be considered tragic and criminal.

I thank the distinguished Senator from Ohio for bringing up this matter and calling it to the attention of the Senate.

Mr. President (Mr. SAXBE in the chair), I wish to comment for 1 or 2 minutes about the President's proposals.

Under the President's proposal a consumer cannot file a suit no matter how outrageous the fraud is. Under the administration proposal, the private remedy that is supposed to give every consumer the chance to have his day in court is tied to the Government bureaucracy. Before the consumer can file a suit, the Attorney General must have initiated and won a suit on behalf of the Government or the FTC must have filed a final cease-and-desist order. Thus all the individual suits must depend upon the promptness and concern of the Justice Department or FTC bureaucracy—which or both far from being consumer agencies. Under the Nixon bill, a consumer's right to his day in court is more restricted than a treble damage plaintiff in an antitrust action. Must we repeat the failures of the dormant FTC? I ask, What is the point of giving the buyer an effective private action if it is made to depend upon bureaucratic approval?

Just as disastrous for the consumer, the Government and private suits would be limited to a narrow series of defined forms of fraud, forms that unscrupulous merchants can change as rapidly as the legislation can be enacted.

Under this severe limitation, the consumer will have fewer remedies than he would in State courts. Why grant the consumer the advantage of the Federal procedure and then deny him the power of State substantive law? With these two crippling limitations the consumer will be little better off than he is today. He will have no private remedy and no State law wedded to modern procedure. All that he will have are promises, promises.

OFFICE OF CONSUMER AFFAIRS

As I said earlier, no pure agency or administrative change will solve the consumer's problems. Our primary relevance upon private initiative must rest in the courts. But a pure consumer agency, representing the consumer alone, can have profound impact upon key Federal Government decisions, agency rulings, and court actions. At present, no one represents the consumers in Washington; and even the class action proposal will not remedy this particular lack of representation. We need an Office of Consumer Affairs.

First let me say that I am quite flattered that the administration bill creating an Office of Consumer Affairs (S. 3240) so closely follows my own bill (S. 2045) in so many respects. I regret, however, that in several crucial areas the administration proposal differs from mine; these differences add up, in my opinion, to a virtual emasculation of authority of the Office of Consumer Affairs and make this reorganization more cosmetic than real.

In delegating functions to the Office of Consumer Affairs, the two bills are very similar. Both measures provide for an Office: First, to coordinate Federal action and program affecting consumers; second, to disseminate consumer information; third, to initiate and coordinate consumer research; fourth, to aid efforts at consumer education; fifth, to assist State and local government consumer efforts; sixth, to investigate and report on consumer affairs; and seventh, to be the consumer "advocate" within the Federal Government. Where the bills differ is in the powers granted to the Office of Consumer Affairs.

CONSUMER COMPLAINTS

In the area of consumer complaints, for example, my bill provides for a Consumer Office that can investigate and then act. Under the administration plan, however, the Office can do neither; it merely is a passive transmission belt for consumer complaints to the appropriate agencies.

Under section 3(b)(2) of my bill, the Consumer Office will establish consumer centers across the country to bring the Federal consumer advocate in reach of the consumer himself. The administration makes no such proposal.

In section 5(b) of my bill there is a specific provision that, upon a complaint, the Office of Consumer Affairs "shall take whatever action may be appropriate to resolve the complaint—including, but not limited to, referral to an appropriate" agency. In the administration bill, under sections 104 (a) and (b), all that the Office is permitted to do is "transmit" the complaint to the appropriate agency. This city already possesses adequate personnel whose sole function is to refer unsolved problems to other personnel. The entire point of an Office of Consumer Affairs is to create an organization outside the existing bureaucracies to provide action for the consumer; we must provide a Federal advocate and representatives for the consumer who will face the bureaucracy. I cannot understand how an organization which merely ferries consumer complaints to the existing departments and agencies and passively hands the problem over will change the present situation whatsoever.

Further, the full power of investigation is granted to the Consumer Office under my bill so that a complete inquiry can be made following any complaint; this power is obviously necessary if any successful solution is to be provided by the Office for valid complaints.

How can an attorney general of the State of Ohio, or the State of Maryland, or any other State, be responsible for a consumers' affairs division if he did not have the wherewithal to conduct an investigation when he received a complaint? He could refer it to the State's attorney of Harford County, or Anne Arundel County, or Cuyahoga County, or any other county. But he could do that without any consumer agency. What happens then? He does not know, and he does not have any control over it. That is exactly what the President is asking us to do—to have an agency and just let them refer a complaint. There is no power to investigate and no power to act.

More important, the function of consumer advocate requires the powers of investigation to discover if individual complaints reflect widespread practices that must be corrected. The administration proposal has an investigation provision, section 204, which prevents the use of these powers in conjunction with complaints.

INVESTIGATIVE POWERS

Under my proposal, the Office of Consumer Affairs is granted a full battery of discovery or investigative powers to be used for all purposes. Section 5(d) utilizes the subpena power for documents and witnesses, deposition authority, and the contempt of court provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49). In order to give realistic punch to the eyes and ears of the consumer advocate, I have added the penalty provisions of section 10 of the same Federal Trade Commission Act (15 U.S.C. 15) which contains stiff fines and jail sentences for willful refusal or false statements.

In stark contrast to these broad powers of investigation, the administration's plan has discovery provisions which are drafted to practically blindfold the consumer advocates. As noted above, there are no investigatory powers that can be used for complaints.

Indeed, the Office of Consumer Affairs itself has no investigatory powers; rather these are vested in the Consumer Protection Division of the Justice Department. This Division is given certain investigatory power under section 204(a) (1) and (2), but only for general investigation. Thus under the administration's bill there is the anomaly of having the policy investigation power given to the prosecutors; the policy body, the Office of Consumer Affairs, must proceed blindly. To compound this ridiculous

situation futher, the power of investigation relating to actual court cases or regulatory proceedings, that is, the prosecutor's investigatory power, is given under section 204(a)(3) to the Federal agency involved in the proceedings and not to the consumer prosecutor. Thus, the Division of Consumer Protection under section 203 can intervene to present the consumer's case in court or before an agency—presumably to present the consumer point of view. But under section 204(a)(3) the consumer lawyer has to rely upon that very agency for discovery powers.

If the agency does not want to do anything, nothing happens. Two or three secretaries could be set up right now in the White House, who could pass on complaints to the agencies. Basically, that is what has been happening for the last 20 or 30 years.

Needless to say, there are no penalties for false statements or willful refusal.

LEGAL REPRESENTATION

The authority granted for intervention on behalf of the consumer into regulatory proceedings and appeals of those proceedings or in district courts and court of appeals is similar in both my bill and the administration proposal—the difference in approach lies with the people given this authority. In S. 2045, this power is given to the consumer advocate, the Office of Consumer Affairs. Thus an independent body whose only task is to represent the consumer is given the power to do precisely that—represent the consumer. This guarantees that a new point of view is injected into agency and court proceedings.

At last someone will speak for all the unrepresented consumers across the land. The administration divorces the power to intervene from the Office of Consumer Affairs and puts it back into an ongoing bureaucracy—the Justice Department. Those who are the policymakers cannot be the advocates. The Justice Department advocates are, as I pointed out about, dependent upon the agencies involved for any information gathering powers, so they have no independent source of information. Most distressing, the Justice Department also may have the responsibility to defend the agency itself if it is in court.

Thus the very same Department—albeit with different divisions—which has the responsibility of bringing in the consumer perspective also has the responsbility of presenting the agency perspective. I cannot imagine a greater conflict of responsibilities in one department. It simply does not make sense to create a new structure—the Office of Consumer Affairs—because an independent view, a new perspective must be created at the Federal level, and then not permit that new structure to present its case. What is the point of a consumer advocate if it cannot advocate?

REPRESENTATION IN DECISIONMAKING

At the Federal level, many of the decisions made that affect the consumer most directly are not made in adversary proceedings before courts or agencies. I do not think it is an exaggeration to say that most of the vital decisions affecting the consumer are not made this way. Rather they are made in the policy decisions of the departments, agencies, or high-level committees. The need for the consumer advocate, that is, a separate, new voice in the higher councils of Government, is the very reason for creating the Office of Consumer Affairs and placing it in the President's Executive Office. We must create a high level, policy advocate for the consumer.

For this reason, my bill in section 4(d) specifically provides for the intervention of the Consumer Office as a matter of right when "any matter" is pending before an agency or department that "may affect substantially the interests of consumers." Contrast this clear mandate for the Consumer Office to plead the case of the consumer to the administration's analogous provision, section 301.

For instance, in the matter of import quotas of oil, a matter handled by the Secretary of the Interior, here is a decision which, when the amount of oil coming into this country is restricted, can raise the cost of living for the average consumer by many dollars every year. Here is where the consumer ought to be represented. Here is where a people's counsel, here is where a public defender, here is where a consumer advocate ought to be in there fighting for the consumer. There is no one in there now.

Under the President's proposal, the Office of Consumer Affairs is given no authority to speak or intervene in any matter, through any bureaucratic maze, to represent the consumer. The Division of Consumer Affairs in the Department of Justice is given no authority to speak or intervene. There is no institutional change. Every department and agency is directed, when making decisions to "give due consideration to the valid interests of consumers."

Well, they are supposed to do that now, yet we know it is not happening. To me, this directive is a joke. It is next to meaningless. Nothing can be more inadequate for the consumer. It is a clear decision to do nothing at all.

I hope I have brought to light some of the grave inadequacies of the administration's proposals: No help to the complaining consumer; no independent investigatory powers for the policymakers or advocates; no separate institution for consumer advocacy; and no representation in policymaking decisions. I can only conclude that the administration's program is totally inadequate. It is a promise without the possibility of fulfillment. It is the consumer advocate blindfolded and tonguetied.

I ask unanimous consent to have printed in the RECORD at this point a chart comparing the provisions of S. 2045, my proposal, with those of S. 3240, the administration proposal. I think this will make the contrast between the two proposals quite clear.

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

COMPARISON OF TYDINGS (S. 2045) AND ADMINISTRATION (S. 3240) PROPOSALS FOR AN OFFICE OF CONSUMER AFFAIRS

TYDINGS—S. 2045	ADMINISTRATION—S. 3240
Consumer complaints	*Consumer complaints*
Establishes regional consumer centers to receive complaints, give expert advice, and seek resolution of consumer problems. § 3(b)(2).	No provision for regional consumer complaints.
Upon complaint, powers given to consumer office to take "appropriate action," such action *not* limited to referral. If agency refuses action, binding arbitration provided. § 5(b).	Powers of Consumer office limited to transmittal of complaints of legal violations, bad trade practices, etc. § 104(a)&(b). No other action permitted.
Investigatory powers of complaints as in § 9, FTC Act [15 USC § 49]; penalty for refusals of discovery as in § 10, FTC Act, [15 USC § 50].	No investigatory powers concerning complaints—§ 204.
Investigations	*Investigations*
Full FTC powers upon consumer complaints—§ 5(a) (as above).	No powers of investigation upon consumer complaints (as above).
Full FTC discovery powers for any agency proceeding or court proceeding—§ 5(d), using § 9, FTC Act providing subpoena powers for documents & witnesses; court contempt for refusal; and deposition powers and § 10 FTC Act—providing penalties for refusal: $1,000 to $5,000/one year imprisonment; for false statement: $1,000 to $5,000/3 years imprisonment.	Discovery powers in court or agency proceedings: § 204 (a)(2); can require discovery by order—§ 204(a)(3) option of discovery is granted to other federal agencies at proceedings—§ 204(a)(4) provides petition to court for contempt in discovery refusals.
Legal representation	*Legal representation*
Intervention in agency proceeding by consumer office. § 4(a)&(b).	Intervention in agency proceedings by Justice Department § 203 (b)&(c).
Intervention in court proceedings by consumer office—§ 4(b)&(c).	Intervention in court proceedings by Justice Department—§ 203(c)&(d).
Representation in executive decisionmaking	*Representation in executive decisionmaking*
Intervention consumer office as of *right* § 4(d)—	No intervention-Agency involved itself responsible for protecting consumer, as done at present.

Mr. TYDINGS. Mr. President, we have reached that point in the legislative process where hard choices must be made about these measures. As far as I am concerned the choices are clear cut. Either we have the appearance of relief for consumers and the illusion of redress of fraud and deception or we have major

substantive changes in the law. We can pretend we are helping the consumer by offering him an Office for Consumers with no real powers and a cause of action strangled with crippling devices or we can create meaningful solutions to longstanding problems with some bite to them. It is a question of purpose: Are we interested in short-term, political gain built upon elaborate but empty proposals? Or are we interested in granting the hard-pressed consumer his day in court and his voice in the decisionmaking process? I hope no Member of the Senate is under the impression that before this body there are proposals of varying approach and technique, because that is not the case. There are only two types of proposals before us—those that will be effective and those that are drafted to be ineffective.

I hope we will do something for the consumer. If not, I hope the consumer will elect those who will.

I thank the Presiding Officer for his courtesy, and I yield the floor.

MR. FRITCHEY SHOULD INFORM HIMSELF

Mr. McCLELLAN. Mr. President, it is not often that I feel the necessity to respond to criticism either expressed or implied by editorial writers and newspaper columnists. However, a recent article by Mr. Clayton Fritchey in the Evening Star of Friday, February 6, 1970, concerning S. 30, the Organized Crime Control Act of 1969, which passed the Senate on January 23 by an overwhelming vote of 73 to 1 affords justification for a departure from that general policy.

It is apparent from an examination of Mr. Fritchey's article that he has not bothered to read the act, the Senate debates, the committee report, or the hearings conducted by the subcommittee. Instead, the article represents little more than a scissors and paste collage of newspaper comments and quotes that other more enterprising reports have drawn together. For this reason, Mr. Fritchey himself has a woefully distorted conception of the process that led to the passage of S. 30 by the Senate, and in the article inflicts that misconception on his readers through what can only be charitably described as irresponsible journalism.

Mr. Fritchey begins by suggesting that S. 30 was the product of a "stampede" by an "excitable" Senate acting under "popular pressure." The bill was, he says, "rammed through" with "little or no debate." As we here in the Senate know so well, nothing could be further from the truth. The process which produced S. 30 had its beginning on January 15, 1969, over a year ago, when I introduced S. 30, along with my distinguished colleagues from North Carolina (Mr. ERVIN) and from Nebraska (Mr. HRUSKA). It moved through extensive hearings and consultations, during the course of which seven other bills in the organized crime area were introduced and included in our considerations.

Mr. President, only a habit of irresponsible journalism—or perhaps misguided ideology—could lead a commentator to suggest that this bill was "rammed through" the Senate. Debate, as all the Members know, proceeded over the course of 3 days. Each Member was allowed to speak as long as he chose. Where a limitation was placed on debate, it was done by unanimous consent. And I might add, Mr. President, that as manager of the bill I declined overtures from the leaders to agree on limited debate more than once during the pendency of the measure. I felt it should have full and free debate. It was only after we were nearing the conclusion, as I recall in the third day of the processing of the bill in the Senate, that any time limitation was set, and then it was set on particular amendments as they came up, and set by unanimous consent and by agreement of the sponsor of the amendment and the manager of the bill.

Each amendment that was suggested was considered thoroughly and, I might add, where they improved the bill they were gladly accepted by the floor managers, and where the floor managers thought they were inappropriate, votes were duly taken—in most instances rollcall votes.

Mr. Fritchey next suggests that perhaps in the House Judiciary Committee some of the bill's "worthwhile" features might be salvaged. He then notes that the House Committee expects to hold hearings on the legislation on February 18. This comment, like several others, shows the extent to which Mr. Fritchey's column is based on the quicksand foundation of little more than other people's newspaper clippings. Had he contacted the House Judiciary Committee directly, as I have done, or any other responsible source, he would have learned that the committee does not now plan to take up S. 30 as a part of its February 18 hearings and that earlier reports to the contrary in the newspapers were erroneous. Instead, I am informed, S. 30 will be the subject of hearings in the House sometime after the February 18 series of hearings is completed, probably sometime in late April.

A central point made by Mr. Fritchey's article is that new sentencing authority is not needed to deal with the leaders of organized crime. Such is not the view of those who have taken the time and trouble to study this problem in anything more than a superficial fashion. The model penal code of the American Law Institute, the model sentencing act of the National Council on Crime and Delinquency, the sentencing standards of the American Bar Association, the report of the President's Commission on Law Enforcement and the Administration of Justice, and the Judiciary Committee's own studies, all refute Mr. Fritchey's views, confirm the commonsense judgment of American citizens everywhere that the leaders of organized crime are not now brought to book under present procedures, and conclude that special sentencing techniques like S. 30's must be used.

Mr. President, I would also like to point out how Mr. Fritchey stands convicted, from his own words, of falling prey to the very sin he would impute to the Senate. He accuses this body of giving in to "popular pressure"—implicity, I would suppose, of lack of courage or independent convictions—but he then suggests that there is no need to enact S. 30, since it is aimed at organized crime which, he suggests, is not responsible for the violence that "so much concerns" the public. Obviously, S. 30 should be considered on its own merits—independent of the question of public pressure. But Mr. Fritchey cannot have it both ways. He cannot fault us for taking action in response to the demands of people everywhere and suggest at the same time that our action is inappropriate since it does not, he says, meet those demands.

Nevertheless, I suggest that Mr. Fritchey has once again demonstrated the superficiality of his understanding of our crime problem when he failed to recognize the relationship between organized crime and the sort of street crime that he suggests gives our citizens legitimate concern. Whitney Young of the Urban League has rightly observed:

> A cause of violence in Harlem is the refusal of the authorities to crack down on the Mafia, which trafficks in narcotics.

Narcotics addicts account, in the estimate of those most directly involved, for as much as 50 percent of the muggings, robberies, and thefts in our major metropolitan areas—including not only Harlem, but also the District of Columbia. In the Washington Daily News of February 9, 1970, page 2, column 1, the cost in stolen property in connection with drug addiction to the District is estimated at $618 million per year.

Mr. President, how do these narcotics addicts raise the money? Many of them do not work. Many of them have no source of income except by mugging, robbery, stealing, and burglary. We must cut off the source of supply of the drugs, which is controlled by organized crime—more than 90 percent of all harmful drugs that come into this country, the illicit drug traffic, is brought in by the forces of organized crime. Yet this very distinguished columnist can see no relation between the street crime—where the addict goes out and knocks somebody on the head or snatches a woman's purse or by unlawful entry commits burglary—and organized crime, the activities of the Mafia.

Mr. President, Mr. Fritchey ends his article by falling into the fallacy characteristic of much of the reasoning of some liberal commentators on the administration of justice. He suggests that, if we were willing to put up the kind of money that it takes to modernize the major law enforcement and prison systems in this country, we might be able to restore law and order.

He presents this spending program, moreover, as an alternative to giving to our law enforcement agencies the legal tools they need to respond to our crisis in crime control, when, in truth, these items are not mutually exclusive or alternative courses of action. The peace forces in our society—the police, the courts, the prisons—need not only money and modernization—with that I agree—but they

also need modern legal tools and techniques. To deny law enforcement either more financial resources or the new legal tools that are required is to render more difficult their task of enforcing the law and protecting society.

Mr. President, I sincerely regret that Mr. Fritchey's article is calculated more to mislead than to inform his readers. I therefore felt constrained to call this shoddy reporting to the attention of my colleagues and the readers of the CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that the newspaper articles to which I have referred be printed in the RECORD at this point.

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

[From the Washington Star, Feb. 6, 1970]

HOUSE GETS CHANCE TO CALM SENATE

(By Clayton Fritchey)

The accepted theory for having a bicameral Congress is that if the supposedly mercurial House should stampede under popular pressure, as it has from time to time, the more entrenched Senate would be there to stabilize the situation until the panic passed. In the new session of the 91st Congress, however, the public must look to the House to restrain an excitable Senate—at least as far as crime busting is concerned.

After pondering some of the dubious features of the hodge-podge omnibus crime bill just passed overwhelmingly (73 to 1) by the Senate, with little or no debate, the country can be glad that this legislation still has to face further scrutiny in the House, especially by the Judiciary Committee where, fortunately, there are influential members of parties who are dedicated to protecting the kind of civil liberties that this bill endangers.

Senator Hugh Scott, the Senate Republican leader, thinks both parties should share the credit for the bill. It would be more accurate to say both share the blame, for the bill was rammed through in three days only because of partisan politics.

President Nixon, seeking to pre-empt the law-and-order issue, as he did in 1968, blamed the Congress for not acting on the crime bill, and the Democrats, despite misgivings, sought to head him off by immediate passage. So now it is up to the House to salvage the bill's worthwhile features, while purging it of provisions so questionable and extreme as to threaten its constitutionality.

Rep. Emanuel Celler, D-N.Y., chairman of the House Judiciary Committee, says hearings will start on the legislation on Feb. 18. The ranking Republican on the committee, Rep. W. M. McCulloch of Ohio, says he "has no intention of rushing through any unconstitutional legislation that won't stand up in court."

Celler's calm view is that "frankly, crime is primarily a state matter; it is not a federal matter." Nixon, since becoming President, has also been coming around to this view, but after blaming Lyndon Johnson for the increase in crime, he can hardly absolve himself of responsibility now that he is in the White House.

Actually, the new crime bill is as much Democratic Senator John McClellan's as it is Nixon's, perhaps more so. Most of the administration's items centered on gambling, obscenity and District of Columbia law enforcement. The McClellan items largely reflected his primitive view that crime can be cured by tougher sentences and fewer safeguards for defendants.

Senator Edward Kennedy, for instance, fears that a provision ostensibly aimed at professional criminals is so broad that a war protestor like Dr. Benjamin Spock could get 30 years under some circumstances. Other senators are mindful that James V. Bennett, former U.S. prisons director, says that our criminal laws are already "the most severe in the world"—but they haven't curbed crime.

As bad as crime is, there is no great urgency for enacting the Senate's bill, for it doesn't concentrate on the kind of violence that so concerns the public; muggings, robbery, rape, riots, looting, car thefts, vandalism, juvenile gangsterism, etc. It is primarily aimed at the mobs and organized crime, which seldom threaten the public directly.

The administration has already discovered that harsher sentences are no real answer to crime. When it came to power last year, the administration was talking about 10 and 20 years in prison for marijuana offenses, but now it is going along with proposals to make "pot" a mere misdemeanor, subject only to light punishment and or suspended sentences.

The only senator who had the courage to vote against the pending bill was Lee Metcalf, D-Mont. He says he was and is prepared to vote more money for policemen, courts and rehabilitation, but "I am very much opposed to taking away what I consider to be fundamental rights from people charged with crime." A sheepish colleague, who feels the same way, but voted for the bill, says, "Everyone's afraid of being called soft on crime."

When Congress and the President are ready to support an effective gun control bill, and are willing to put up the kind of money it takes to modernize the nation's law enforement and prison systems, the country can begin to take seriously their proclaimed interest in law and order.

[From the Washington Daily News, Feb. 9, 1970]

HUGE COST OF ADDICTION

(By Don Kirkman)

The enormity of financial losses a major American city suffers from crimes committed by drug addicts has been revealed in a penetrating study by a Johns Hopkins University medical researcher.

Dr. Leon Wurmser, director of the Johns Hopkins Drug Abuse Center in Baltimore, reports robberies, muggings, burglaries, shoplifting and other crimes committed by Baltimore addicts cost the city $100 million to $500 million per year.

Baltimore has a population of about one million and about 12,000 are drug addicts, Dr. Wurmser says. The $100 to $500 million estimate is based on confidential information he obtained from 60 Baltimore addicts who revealed the details of their crimes in unsigned questionnaires.

The study showed an average drug addict's habit cost him $47 a day, with the amount varying from per addict to one who had to spend $250 a day for drugs.

Because the addicts had to sell stolen goods at prices varying from one-third to one-half their true value, an addict with average $47 per day habit had to steal goods valued at about $42,000 annually to support his habit, Dr. Wurmser said.

All 60 addicts confessed they had to commit a variety of crimes to support their drug habits. Forty-one of the 60 admitted widespread shoplifting, 30 confessed to being dope pushers, 19 said they committed burglaries, 15 participated in confidence games and gambling, eight resorted to violent robberies and muggings, and five were prostitutes.

PRESENTS STUDY

In a personal presentation of his study to a joint session of the Maryland legislature, Dr. Wurmser cited the case of a young addict who had been hooked on heroin since last August. To support his $65-a-day habit, this addict admitted a long string of shoplifting, automobile break-ins and burglaries.

Dr. Wurmser said another addict with an $80-to-$100 a-day habit claimed he had stolen a "few hundred thousand dollars" worth of goods by shoplifting in Baltimore department stores and shopping centers every year for six years.

The day before he turned himself into Johns Hopkins, the addict admitted burglarizing a drugstore of 30 watches and 60 to 70 packs of razor blades. He sold his haul, valued at $400, for $110 to buy heroin.

Dr. Wurmser says the Baltimore police department's drug addict register lists 6,000 known addicts but there are an equal number who haven't been detected by the police.

"For 6,000 addicts our estimate of property damage would go to $250 million per year and for 12,000 addicts to $500 million per year," Dr Wurmser said.

This enormous loss is borne mostly by Baltimore's large stores, Dr. Wurmser said, but insurance companies bear part of the brunt and their losses eventually are passed on to the city's consumers.

FAVORS METHADONE

The only logical way to treat narcotics addicts, Dr. Wurmser said, is to place them on a strictly supervised dose of the drug methadone, a narcotic that substitutes for the addict's chosen drug.

About 80 per cent of the addicts who use methadone for six months are able to break their addiction, Dr. Wurmser said, and taking daily doses of methadone allows addicts to lead an almost normal life while "kicking" the drug habit.

Dr. Wurmser estimated the average methadone cure costs about $1,000 an addict, or two or three per cent of the amount an addict would steal to support his habit.

ADDICTS COSTLY TO DISTRICT OF COLUMBIA

The financial cost to Washington is at least as staggering as to Baltimore from crimes committed by drug addicts, if Dr. Leon Wurmser's calculations are correct.

Estimates on the true number of addicts in the District range from the Federal Narcotics Bureau's figure of 1,162 last spring to more than 12,000 by such persons as Hiawatha Burris, director of Bonabond, Inc., a leading drug rehabilitation program. Col. Jeru-Ahmed Hassan, director of the Blackman's Development Center heroin treatment program, said more than 9,000 addicts were registered in his program, with 1,500 actively receiving treatment.

A $41-a-day habit would mean $544,000 in drug traffic daily for 12,000 addicts, or $199 million a year. An addict with a $47-a-day habit has to steal goods valued at $51,465 a year, if stolen goods bring one-third their true value, based on Dr. Wurmser's calculations.

And 12,000 addicts needing $50 a day in drugs would mean $618 million in property stolen and fenced here each year.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. HOLLAND. Mr. President, I wish to speak briefly in connection with H.R. 514, now pending before the Senate, and in particular in support of the amendment proposed by the Senator from Mississippi (Mr. STENNIS) and others, of whom I am one, which is amendment No. 481, and relates primarily to the en-

actment of freedom of choice for the parents and the children in our public school systems.

I first invite attention to the fact that amendment No. 481 follows as nearly as may be the enactment by the Legislature of New York last year of section 3201 of the Statutes of New York. I ask unanimous consent that statute 3201, now part of the law of New York, as enacted by a vote of better than 2½ to 1 in the lower House of the New York Legislature and a substantial vote in the Senate of the New York Legislature, and approved by Governor Rockefeller of that State be printed at this point in the RECORD.

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

§ 3201. No exclusion Discrimination on account of race, creed, color or national origin prohibited

1. No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin.

2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

Mr. HOLLAND. I want to make it clear that I have included all of that section except the portion which deals with religious schools, which has no relation whatever to the Stennis amendment which will follow.

Without attempting to read the statute of New York in full, I just want to make it very clear that the concluding words of that portion which deal with the public schools reads as follows:

Provided, that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

This makes it very clear that the major thrust of that portion of the statute of New York has to do with the retention of freedom of choice of parents and guardians as to where their children shall attend public schools.

In order that it may be completely clear for the RECORD how closely the amendment offered by Senator STENNIS and others follows not only the meaning but even the exact wording of the statute of New York to which I have referred, I ask unanimous consent that the body of amendment No. 481, entitled "Discrimination on Account of Race, Creed, Color, or National Origin Prohibited," be printed at this point in the RECORD.

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

On page 45, between lines 4 and 5, insert the following new section:

DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

SEC. 2. (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

Mr. HOLLAND. Mr. President, sometimes we are lucky enough to find an able and a scholarly treatise on a subject under discussion in the Senate which so nearly fits the situation that I think it should be brought to the attention of the Senate. I have found such a scholarly discussion of this question—freedom of choice—entitled "Freedom of Choice and the Constitution," in a brief written by Mr. Whiteford S. Blakeney, an able attorney at law of Charlotte, N.C. I have inquired of some of my North Carolina lawyer friends, particularly of the senior Senator from North Carolina (Mr. ERVIN), as to the standing of Mr. Blakeney and I find that he stands among those few attorneys considered to be at the top of the North Carolina bar.

Therefore, I have been particularly happy to find this brief, which is on the subject of "Freedom of Choice and the Constitution," and after making some minor changes which are necessary in order to make the brief applicable to present debate, I am going to read from that brief in some detail because I think it so clearly applies to the specific part of the pending debate.

These are the words of Mr. Blakeney, with minor changes, to make them apply directly to our situation now pending:

FREEDOM OF CHOICE AND THE CONSTITUTION

The subject which I shall undertake to discuss with you is of deep interest to many people nowadays. It is in fact a center of continuous controversy, which in turn is heightened by a great deal of genuine misunderstanding and confusion.

Not all things yield to reasoning, but clear thinking and understanding are certainly the beginning of solution to any difficult problem; and it does seem to me that the thinking and understanding processes on this subject have become extraordinarily obscure and tangled.

Let me begin by stating two different propositions:

(1) The United States Constitution requires that State government shall *not*, on the basis of a child's race or color, designate or determine where he is to attend public school.

(2) The United States Constitution requires that State Governments *shall*, on the basis of a child's race or color, designate and determine where he is to attend public school—*if* such be necessary in order to accomplish racial integration.

Immediately it appears that these two statements contradict each other. They are indeed contradictory. And this contradiction summarizes the whole dilemma of this problem today. For some of our Federal Courts and Federal executive authorities are now trying to maintain both of these positions—to their own confusion, to the frustration of thousands of school administrators, and to the total befuddlement of students, teachers, parents and the general American public. How has such a situation come about?

THE FIRST PROPOSITION

Fifteen years ago the United States Supreme Court in the case of *Brown* vs. *Board of Education* ruled that even though facilities and curricula and all other factors be wholly equal, the Constitution of the United States does not permit the compulsory separating and segregating of children in public schools on the basis of race or color. The provision of the Constitution which the Court pointed to as compelling this ruling was the short and concise command, in the Fourteenth Amendment, directing that "no State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

That decision departed from established precedents, but its reasoning was that, since the Constitution directs the State to accord "equal protection of the laws" to all citizens, the State is not doing so when it, the State itself, assigns any child, because of his race, away from any other children in the public schools. Laws compelling separation because of race do not accord equal protection of law, said the Court.

Thus there became established and settled the first proposition I stated to you, namely: The United States Constitution requires that State governments shall not, on the basis of a child's race or color, designate or determine where he is to attend public school.

Soon thereafter, various Federal District Courts and Appellate Courts outlined carefully what the Supreme Court had thus held, and what it had not held. For example, Judge John J. Parker, Chief Judge of the United States Court of Appeals for the 4th Circuit, emphasized that:

"It (the Supreme Court) has not decided that the States must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing schools they attend. What it has decided is that a State may not deny to any person on account of race the right to attend any school that it (the State) maintains."

Further, he stressed:

"(The Constitution) does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The Fourteenth Amendment is a limitation upon the exercise of power by the freedom of individuals."

For some twelve years after the *Brown* decision, no Court disagreed with this clear statement of constitutional principle, nor did the Supreme Court.

Indeed, in 1964, Congress embodied this same distinction in the Civil Rights Act enacted that year. It is declared in that *major* Federal statute that:

"'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion or national origin, but 'desegregation' shall *not* mean the assignment of students to public schools in order to overcome racial imbalance."

Further, it is enacted even more specifically in this statute that:

"(Nothing herein shall empower any offi-

cial or Court of the United States to issue any order *seeking to achieve a racial balance* in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance. . . ."

But approximately three years ago, there began to develop a swing or shift on the part of Federal authorities and some of the Federal Courts. They began to say: Twelve years have now passed since the decision of the Supreme Court in the *Brown* case and a sufficient racial mixing in the public schools has not occurred; in some area there has been little or none; and in some places it increased for a while but is now actually diminishing.

To this, many school administrators made answer: We are no longer in any way, directly or indirectly, maintaining or requiring any segregation by race in the public schools. We are not placing upon school children, according to race, any desperate pressures or inducement of any nature. We give to the children of any race the same freedom to choose where they will attend school that we give to the children of any other race. In various cases it was proved in Court, and indeed agreed on all sides, that this was so, and that no student, white or black, was being in any way restricted, on the basis of race or color, in choosing where he would attend school.

No matter, the rulings began to declare, more racial integration must take place. It is essential to "quality education"; school authorities have an "affirmative duty" under the United States Constitution "to bring about more mixing of the races in the public schools," it was insisted. The test of the validity of any plan or program relative to school assignments is whether it actually "works," and works sufficiently, in the direction of racial integration; if it does not, then it is unconstitutional. Such became the new pronouncements.

And therefore it had become apparent that the local school plan did not "work." The Court decreed that the United States Constitution required the school authorities to use "other means" in order to produce a greater proportion of racial mixing.

Specific orders as to such "other means" have now begun to emanate rapidly from some of the lower Federal Courts—Court orders, for example, to halt the construction of schools, or to close schools though they might be up-to-date and well equipped, or to provide free bus service to a child if he chooses to go in a direction that will increase racial mixing but not if he chooses to go in any other direction, and even the foreshadowing of decrees for the compulsory busing of children away from wherever they may be, in order to accomplish a greater degree of racial integration.

EQUAL PROTECTION?

Unanswered are such baffling questions as: How many white and how many black will be forced to change or transfer? How are the individuals to be selected who are to be forced to move? Where is the equal protection of law as between those, both black and white, who are compelled to move and those black and white, who are not compelled to move? How are the percentages or proportions of racial mix to be determined? What is sufficient mixing and what is not? Are the proportions to be the same in each and every school?

Meanwhile, as Court orders of this new tenor issue, the Federal Department of Health, Education and Welfare has been promulgating guidelines with respect to the ratios of racial mixing and the percentages of annual increase therein which will be deemed "satisfactory," coupled with pronouncements that schools which fail to meet these ratios and these percentages will be cut off from Federal assistance funds.

In this connection it might be noted that when the Civil Rights Act of 1964 was being debated in Congress, the managers of the Bill, in response to specific questioning, solemnly and repeatedly gave assurance that the cutting off of funds for any such reason would "violate the law."

Here is indeed an incredible spectacle. The Congress of the United States having enacted a statute declaring that " 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance," a department of the United States Government proceeds to use vast sums of tax money, collected from American citizens, as a means of inveigling school administrators to join with it, the Federal department, in violating the expressed will of Congress. The funds amount, however, to hundreds of dollars, and with a temptation so great, many succumb.

But as for the Courts and their new orders, they say—and rightly so—that on any matter as to which Congress and the Constitution are not in harmony, their duty is to follow the Constitution. And various of them are declaring that the basic constitutional distinction which they all observed up until two or three years ago is no longer valid.

Thus some of the Judges of the 4th Circuit Court only two years ago referred to this fundamental distinction as a "facile formula" and a mere "dictum." Some other Judges in the Fifth Circuit opined that it "should be laid to rest." And in July of last year, 1969, the Fourth Circuit Court of Appeals solemnly intoned that this pivotal principle "is now dead."

Thus they arrive at the second proposition which I originally stated to you, namely: The United States Constitution requires that State governments shall, on the basis of a child's race or color, designate and determine where he is to attend public school—if such is necessary in order to accomplish racial integration.

Does the Constitution of the United States so require? Let's analyze the matter.

How does it make sense to say that words in the United States Constitution, and specifically in its Fourteenth Amendment, prohibit the State from assigning children in public schools on the basis of race, and that identically the same words, in the same provision, may compel the State to assign children in public schools on the basis of race?

How can it reasonably or intelligently be claimed that the constitutional requirement of "equal protection" of the law freed the citizen from governmental compulsion based on race, but that the same requirement now imposes governmental compulsion based on the same factor, namely, race? Is this not a monumental inconsistency?

How is it to be said that the Constitution grants freedom to the Negro child or the white child, if it denies free choice to both of them and imposes a compulsion upon both of them—a compulsion shaped and determined by race?

Not only do we have here a stultifying self-contradiction. It is also a 180 degree reversal of what the Supreme Court held in the Brown case. The second proposition necessarily means that the United States Constitution, and specifically its Fourteenth Amendment, today requires what it prohibited fifteen years ago, namely, State dictation of school assignments on the basis of race. Yet, in the meanwhile, there has been no change whatever in the Fourteenth Amendment—not in any word or jot or title.

Let us look again at the constitutional provision in question. It is simply this: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." That is all. The Supreme Court based its Brown decision specifically and wholly upon those words. All that has been done in this field, all that is now sought to be done, is in the name of these few words in the Fourteenth Amendment to our Constitution.

One of the first principles of American constitutional law is that the United States Government has no powers except as delegated or assigned to it by the Constitution. Nobody claims that the Constitution gives the Federal Government any power to educate the youth or to operate and regulate the public schools in the various States. And the Federal Courts are not claiming any authority to direct or control the States in this public school controversy or any aspect of it, except to enforce the constitutional provision which says that the States shall, in all matters, give "equal protection of the laws" to all citizens.

Since then all that the Federal courts are now purporting to do in this field rests solely on this phrase, how do they claim they are obtaining the "protection" of law for a citizen when they order a State to take from him a right which they, the Federal Courts, have themselves declared to be his constitutional right, namely the right not to have his school assignment determined on the basis of his race?

How do they claim that a person in receiving the protection of law is a right when the law is depriving him of that very right? And how do they explain saying to him: The constitutional provision for "equal protection of the laws" recently required that we give you this right, and now the same constitutional provision requires that we take it away from you?

Thus, as one of the Judges of the United States Courts of Appeals has discerningly put it:

"The freedom of the Negro child to attend any public school without regard to his race or color, first secured in the Brown cases, is again lost to him after a short life of less than thirteen years."

Reason, common sense, intellectual integrity all lead to one conclusion: That the same words of the Constitution which are construed as prohibiting a State from forcing racial segregation upon any school child, black or white, are not to be construed as commanding the State to force racial integration upon any school child, black or white. The Constitution does not assure the child freedom in this matter and at the same time order it taken from him. Rather, it guarantees to him that he shall not be compulsorily assigned to a school on the basis of his race—period. Barring a child from a certain school because of his race, white or black—and forcing a child to go to a certain school because of his race, white or black—these are exactly one and the same offense against the Constitution of this nation.

Beyond the abstract reasoning of this matter, however, let us consider the force and impact of a Court order as it says to a school child, whether black or white: Because of your race, you will now leave here, though against your will, and, because of your race, you will now be transported to a distant place and there you will attend school, though against your will. Such compulsion is bound to be resented, deeply resented, by American citizens, both black and white.

And well may they resent it, for it is not a compulsion of minor or insignificant nature. It is a major intrusion upon the individual's freedom of choice and decision. It is a major erosion of the guarantees of our Constitution. It is a major step in our accelerating trend toward governmental dictatorship.

As one of the Judges of the Fifth Judicial Circuit has said with regard to this issue, "the collision is head-on between individual freedom and paternalistic authoritarianism." In his words, the orders which are now being issued "cut horizontally and vertically" into the body of constitutional principle in a manner that is "breathtaking."

Other Judges have well summarized the matter:

"If completely free choice is afforded and neither the students nor their parents desire to change the schools the students have heretofore attended, this Court is without authority under the Constitution or any enactment of Congress to compel them to make a change."

"While professing to vouchsafe freedom and liberty to Negro children, they have destroyed the freedom and liberty of all students, Negro and white alike."

"It is unthinkable that our Constitution does not contemplate a middle ground—no compulsion one way or another."

"The true answer remains, give (the child) absolute freedom of choice and see to it that he gets that choice in absolute good faith."

But those who support the new compulsion say that "freedom of choice is not an end in itself" and that racial mixing in the schools must be brought about, by the force of Court decrees if need be, in order to achieve the further objective of "quality education."

Upon reflection, however, one cannot fail to see that freedom of choice is an end in itself. Indeed, what end is higher or greater? What is the objective of our Constitution if not this? Individual freedom and liberty are the words repeated and echoing throughout the Bill of Rights. They are its very theme. They are what it secures and guarantees.

What man will do with freedom is left for his own initiative and choice and decision, not for governmental dictation and decree. That is why he esteems it so highly—it and the Constitution which assures it to him.

As for "quality education," it may be reasonable to doubt whether forced assignments to schools for the purpose of achieving racial mixing, irrespective of the wishes of anybody concerned, is likely to contribute to equanimity or harmony or educational processes in the public schools. But however that may be, it is not the purpose of this discussion to try to analyze what constitutes or does not constitute "quality education." Nor is it the purpose of this discussion to argue the merits or demerits of racial mixing in the public schools.

It is the purpose of this discussion to try to make clear that the Constitution of the United States does *not* require—indeed does not *permit*—any governmental authority to dictate and prescribe public school assignments *on the basis of race.*

If racial mixing results from the free and voluntary choice of individuals, there can be no quarrel with that from a legal standpoint. But there is and should be quarrel with those who declare that our Constitution orders and compels it. To impose it by force in the name of the Constitution is an unforgivable subversion of that great Covenant—our very Charter of freedom.

Those who fail to see this may be motivated by the best of intentions to achieve "quality" education, social "unity," or what not. There is no occasion to doubt that they sincerely and genuinely believe that what they seek is good. But there always have been, and probably always will be, many people who have a great urge to plan and prescribe what they deem to be best for everybody. And in that process they are often quite willing, consciously or unconsciously, to override any individual liberties that stand in the way of what they consider beneficial and desirable.

The Constitution is, and was intended to be, a curb upon and a barrier against, such persons—when they have achieved public office and hold the reins of government in their hands. As Daniel Webster declared:

"It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions."

Justice Brandeis said: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding."

And as Thomas Jefferson vividly expressed it: "Let us hear no more then of the good intentions of man, but bind him down with the chains of the Constitution."

One Judge, in recently exalting this new domain of governmental dictation which we are now considering, quoted Victor Hugo's aphorism that "no army is stronger than an idea whose time has come." To this it might be respectfully answered that the idea which this Judge now espouses has *not* just arrived. Throughout ancient and medieval times it bestrode the world. For thousands of years, man has struggled—and ever struggled—against it. It is the idea that those who wield governmental power shall always control more and more the decisions, the actions, the lives, of the governed.

It is an idea which was thought to have been banished from these shores with the adoption of the American Constitution. But it is infinitely persistent and returns continually in many guises. Again and again it must be resisted and fought by free men who recognize it for what it is—the age-old enemy of individual liberty—the ever-present reach for control and power over other people.

But the method of resistance cannot be the disobeying or defying of Court orders. That is the road of anarchy. Those who place their hope and faith in constitutional government must follow constitutional processes—while there is a Constitution.

And the contest on this matter is by no means yet resolved. The Supreme Court has indicated but not yet crystallized its adoption of this new compulsion. Appeals in Court are still open. The Supreme Court can and does alter, and indeed reverse, its own trends—as we have so clearly seen on this very subject. If need be, language more specific and hopefully impossible to subvert, can be placed in the Constitution by the amending process, should the American people sufficiently so desire.

But first there must be understanding—understanding as we are discussing here today—that in public schooling our country is almost subtly and unconsciously shifting from a State compulsion based on race to a Federal compulsion based on race—and this upon the amazing claim that the United States Constitution requires it.

In the end, this latter compulsion, like the former, cannot prevail. It will be repelled and undone—for the simple reason that it undertakes to shackle a force greater than it is. By that greater force I mean the spirit of independence—man's elemental urge and yearning for freedom—freedom to decide and to choose for himself—personal freedom in his life.

That is exactly the force that built this nation and established a constitutional framework for all government in this land. And it is a force that lives on. The more restrictions, the more controls, the more dictates that are heaped upon it—the more bonds that are fastened around it—the greater becomes the *certainty* that they *will be broken.*

Patrick Henry's impassioned cry expressed it. Irrespective of their race or color, *men do value liberty above all else.*

And no matter how often or how severely it may be repressed, it reasserts itself inevitably and rises again and again in all the generations of mankind. *It is a flame that can never be extinguished!*

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

The PRESIDING OFFICER (Mr. HANSEN in the chair). Does the Senator yield?

Mr. HOLLAND. I am glad to yield to my distinguished friend.

Mr. SAXBE. Mr. President, the statement read by the Senator and the logic thereof are very persuasive. In stating that perhaps the law has gone full circle and turned back on itself in an effort to grant equality to the black man it could be we have brought inequality to both black and white.

Mr. HOLLAND. That is exactly what Mr. Blakeney says and I thought his treatise was so completely persuasive and so completely unanswerable that I wanted to place the major contents of it in this debate.

Mr. SAXBE. It certainly makes for an outstanding case. As a lawyer we look with great concern on the fact that something that is attempted fails or that it brings a different end than was foreseen. But it is not that simple, as he states in that article.

It is a situation with many ramifications because the case of Brown against Board of Education upset a procedure of some 55 years or longer whereby the separate but equal system had survived in this country; and the separate but equal system had evolved into a separate black society, separate and second class; and it had resulted in a rather hopeless outlook. As we came into the Brown decision, and into allied Supreme Court decisions, and then to the civil rights laws that were passed by this body, it seemed that we were taking away the barriers that held the black man to this second class position.

All over the country it was heralded as "Now we are going to have equality in education and equality in opportunity," because everywhere education was considered as the doorway, the key, to achieving the opportunities that awaited everyone in this country.

But then nothing happened; and we waited and we waited. And we saw that there were other forces at work. Even with freedom of choice, we found that there were economic forces, there were social forces; we saw that a parent did not want to send a child to a school where he was not wanted, where he was a stranger in his own community, where the educational level was so different that he could not meet the requirements. And so he drifted backward, to a society that, even though second class, was one where he felt comfortable.

So we had the situation, as we have today, where a high school sophomore could not read a newspaper.

In our northern cities I know, as the Senator from Mississippi (Mr. STENNIS) and others have pointed out, as the black man took over the center city and the ghetto developed, we have had schools—and it has happened in my State—that were more than 95 percent black. We have schools here in Washington that are practically 100 percent black.

Mr. HOLLAND. Leave out "practically." They are 100 percent black.

Mr. SAXBE. That has resulted in a segregation that was never foreseen in

Brown against Board of Education. What has resulted is a segregation that has put the black man in a worse situation, from the education and economic opportunity standpoint, than he was years ago.

But the very idea that we are going to turn this around and we are going to change it by saying, "All right, we will stop the Court in its attempt to make integration work"; we will change it around and say, "All right, let them go to school wherever they want to"—this is exactly what the black militant wants, the black separatist, because he says there is no area of reconciliation between the black man and the white man. And the Black Panther says, "There is nothing but revolution that is left, because we have been crowded out. We have been put in a position where the opportunities that exist are purely visionary and do not really exist in fact."

On the other hand, the white separatist says, "Well, we cannot integrate this school, because there is too great a difference, and the 10th grade black student and the 10th grade white student have really nothing in common. So when we go in to teach them geometry, we might as well be trying to teach Greek to a person totally unacquainted with the basics of English. So we have to segregate if we are going to preserve the educational system in America."

What comes out of all this is not an answer that is obvious to all of us. A jurist or an attorney who says this problem can be solved so easily by making Brown against Board of Education again the simple law of the land does not have the whole answer. He satisfies himself. On the other hand, what we have today in Washington, in Cleveland, is not a satisfactory answer.

I personally am one who believes that we must have integration if we are going to have any kind of peace in this country. I think that 90 percent of the black people of this country believe that there is hope for integration, and it is only the few who are giving up the idea and who have turned to militancy who refuse to believe it. I think most of the white people in this country want to believe that this can be so.

As we look at the history of the world, it cannot be too optimistic. We know that racial mixing has been the only permanent solution, and it has happened only in a few countries, and racial mixing does solve the problem. But here we see no evidence that it is going to happen on such a major scale that it is going to solve our problem.

However, I do not believe that to turn the clock back and say, "Well, let us make it freedom of choice and this will solve the problem" is the answer. What I am afraid of is that freedom of choice will perhaps work in the North in a few areas, but that in most areas where the aggravation is today, in the South, and the rural South especially, we will be right back where we were at the time of Brown against Board of Education, because the ones who want to go to school will settle quietly for the segregated school, or what will amount to the segregated school. The few bold ones who are willing to stand the taunts and the hurts and the social injustice that comes, not from the institution, but the people, will attend the white high schools and undergraduate schools. But generally it will sift itself out until we have segregated schools and we will be back where we were before Brown against Board of Education.

Now, if that is what we want, if that is satisfactory to us, then I suppose it is a solution. But, for me, I hope for something more. Perhaps I am optimistic, but I hope for something more, and that is that integration can become a reality and that men can come to live one with another as brothers in this country; that education will open the doors so that there will be equal opportunity, so that we do not have economic stratification, which we have today, with the very limited top for the black man; and that the dream that Martin King talked about, and the dream that many optimistic citizens of this country still hold, has a chance to become a reality.

If we turn it around and start back down the Jim Crow road, even though legally condoned, it is going to kill the hopes of those who feel that there is a chance for it to work.

I see the argument. I understand it. As I say, it was, and is, most persuasive. But I view it with fear, fear that what we say and what we mean are two different things, and that, unequally applied, even though conceived in the greatest of justice, it can achieve distortion and result in evil.

Mr. HOLLAND. Mr. President, I thank the Senator for his comments. I can see that they are based on a deep conscience, and he just does not know what the answer is. I do not think any of us are sure at this stage what the answer is. But certainly the argument which I made, and the argument which I have repeated, which was made by the learned Charlotte attorney, Mr. Blakeney, does not suggest turning back, as the Senator has said, to the Jim Crow days.

I may mention to the Senator that I have 15 grandchildren. They are all in school. Every one of them is going to school attended by both white and colored students, in varying numbers, depending upon the situation. They are learning to get along with the matter. But the trouble begins when this new course of decisions comes in that says, "We are not going to permit this thing to go according to the freedom of choice of the individuals; we are not going to allow neighborhoods to solve this situation for themselves; we are going to bring in a new and contradictory interpretation of the meaning of this particular part of the 14th amendment to the Constitution which the Court leaned upon in its two Brown cases." That is what disturbs the whole picture.

In closing, I wish to come back where I started. I call attention to the fact that the State of New York, through its legislature, had passed last year and had made the law of that great State, either our largest or next largest State, the following—and I read into the RECORD that part of the statute which applies:

> Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creed, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

Mr. President, that is the present law of the State of New York. I followed with a good bit of interest the events which led up to the enactment of that law. It began shortly after the Brown cases, when there began the urge for busing of great numbers of students from the black areas of New York City into the white areas, and from the white areas into the black ones, in the effort to obtain a better balance racially in the schools of the great city of New York.

I read in the New York Times, day after day, the stories told there of the vast disapproval of the parents, both white and Negro, of that busing of their children. I read in the Times of the disapproval of the carrying of their children far away from their own homes, far away from the places where they were able to get home for their warm lunch, far away from the influence of their own parents, through their PTA's, and so forth; and the outcry became so great that it finally resulted in the enactment of this statute last year, which, as I have already stated, was enacted by a huge majority. The vote in the House of Representatives of the State of New York was 114 to 41, or a good deal of better than 2 to 1—better than 2½ to 1; and a substantial vote in the senate of the legislature and Governor Rockefeller signed it.

The reason was that the people of that State, having tried busing, having tried the overriding of the freedom-of-choice principle for their own people, found it not good, and decided, in their own wisdom and through their own legislature, that the busing of students for the preservation or making of a racial balance should not be permitted, and that freedom of choice should never be disturbed.

I think that was a very compelling showing by the State which had made, I think, the greatest trial of the philosophy that by busing this problem could be solved. I said yesterday, in an exchange on this floor, that a learned educator, the president of one of the great universities in the Nation, had just a few years ago written a book on this subject, in which he said that busing, the transporting of students away from their own homes, was not the answer, that the answer was the building of better education in the districts that so greatly needed it, and for the benefit of the children who were so backward and so very behind in their educational opportunities.

Dr. Conant made this point clear over and over again in his book. I had occasion to read excerpts from that book in the debate on a kindred bill dealing with that subject some years ago here on the Senate floor.

The history of the effort in the State of New York has resulted in this statute, and we, in almost the same words—in identical words so far as they can be adapted to the Federal conditions—are asking, through the Stennis amendment, No. 481, to solve this problem for all of the people in all of the 50 States in the same way that the people of New York, through their legislature, have solved it for themselves.

Mr. President, it is going to be a very interesting thing, when we start voting on this proposal next Tuesday, to see where the Senators from the great State of New York stand on this matter. Has the experience recognized by the legislature had the effect upon them that they believe in freedom of choice, that they still believe in the freedom which is declared to be the primary purpose of our Constitution and of our Bill of Rights? It is going to be very interesting to see their reaction to the proposed amendment.

Mr. President, unless there be further questions, I yield the floor.

S. 3434—INTRODUCTION OF A BILL TO AMEND THE ADMINISTRATIVE PROCEDURE ACT TO PROVIDE FOR THE ESTABLISHMENT OF A PUBLIC COUNCIL CORPORATION

Mr. KENNEDY. Mr. President, the Federal administrative rulemaking processes reach almost every activity of every American. Children attend federally assisted schools; laborers work on Federal or federally assisted construction projects or in industries contracting with or regulated by the Government; the Indian, the Alaskan native, the farmer, the disabled veteran, the widow, often rely heavily on Government assistance. The tax system is administered through regulations of the Internal Revenue Service; the meat we eat has been inspected pursuant to Department of Agriculture regulations; the products we buy—food, drugs, appliances, cosmetics, automobiles—are all manufactured and distributed within the framework of rules and regulations worked out by the FTC, the FDA, the Department of Transportation and other agencies of the Federal Government.

Yet how many of the people know of, much less participate in the determination of, the rules and regulations that so vitally affect them? Surely, the Washington law firms specializing in administrative practice follow closely and participate vigorously in any proceeding affecting the interests of their paying clients. But who looks out for the interests of the poor, the consumer, the elderly? Who is their advocate in the decisionmaking process? In fact, until now they have been unrepresented.

At present, practically the only resort for the unrepresented public is to complain to congressional offices, where staff generalists, usually not lawyers, may contact agencies regarding particular constituents or groups of constituents. Yet congressional staffs have neither the time nor resources adequately to handle all matters of administrative decisionmaking "appealed" to Capitol Hill, and often their involvement in administrative proceedings, however well intentioned or casual, creates problems of appearance.

One recent study undertaken for the Administrative Conference of the United States by Prof. Arthur Bonfield examined the extent to which Federal agencies attempt to ascertain the views of one element of the unrepresented public; namely, poor people, with respect to those rulemaking proceedings aimed at or having a substantial impact on them, and the extent such persons participate in those proceedings. The results were not surprising. To begin with, a number of agencies did not even recognize that programs they administered had a substantial impact on the poor. For example, the Department of Agriculture omitted from its enumeration of programs having a substantial impact on the poor the Rural Electrification Administration programs and the Federal Extension Service programs. In fact, these programs have a major influence on areas where a substantial part of the population is poor.

Even when agencies recognize that their programs substantially affect the poor, Professor Bonfield's study reports that about one-third of these agencies had not attempted to ascertain the views of those affected by the programs, and of the two-thirds stating they made some efforts to ascertain the views of the affected class, the efforts described appeared haphazard, unsystematic, and sporadic. Of those agencies acknowledging that they administer programs substantially affecting the poor, about half reported that no particular groups or organizations had intervened or otherwise participated in their rulemaking proceedings.

Often an agency feels that it has done all that is expected of it when it publishes in the Federal Register notices of proposed rules and regulations and of rulemaking proceedings. Yet, how many television watchers or automobile purchasers can pay the $25 a year for the Federal Register, will read it regularly, will recognize a notice of a rule or proceedings by the Federal Communications Commission, Federal Trade Commission, or Highway Safety Administration affecting their interests, and will be able to understand that notice when they focus on it? Most importantly, how many consumers have the expertise, time, and financial ability to represent themselves or obtain counsel to represent their interests before the relevant agency?

Many bureaus and agencies, of course, have advisory panels, groups, or commissions, which are set up by statute or by regulation to assist them in obtaining the views of those outside of Government in a regular and orderly fashion. Yet the presence of a representative of any consumer or lay organization, or minority group, is almost totally lacking on any of these panels. For example, the Federal Communications Commission has a number of advisory committees, manned by representatives and employees of licensees, equipment manufacturers, broadcasters, and the like; but one wonders who advises the agency on the needs, and interests of the radio listeners, telephone users, and television watchers.

This past fall the Subcommittee on Administrative Practice and Procedure published a compilation of responses from members of the major regulatory agencies to a questionnaire I sent to them on citizen involvement and responsive agency decisionmaking. The same theme echoed on page after page. The Chairman of the Civil Aeronautics Board observed that "ordinarily, the Board does not specifically seek out the views of persons who would not otherwise be likely to present their views to the Board." That's a shorthand way of saying that only commercial interests regulated or directly affected are involved in agency decisionmaking. Commissioner Nicholas Johnson of the Federal Communications Commission observed the "citizen participation in the Federal Communications Commission's decisionmaking process is virtually nonexistent." Former Chairman Lee White of the Federal Power Commission wrote:

> On the whole, I believe meaningful citizen involvement in the administrative process is sorely lacking.

And even the Interstate Commerce Commission, which maintained that basically everything was fine in the agency, admitted that citizen participation before that agency is "somewhat limited."

This phenomenon is certainly not limited to the regulatory agencies. How often do aliens participate in rulemaking by the Immigration and Naturalization Service? What input do draft-age men have into the policy formulation of the Selective Service System? How often are passengers represented in ICC rulemaking proceedings? How is the automobile driver's interest represented before the various subagencies of the Department of Transportation? How often is the Indian heard before the Bureau of Land Management or the Bureau of Reclamation?

Obviously no one can insure that the public's voice will be followed in administrative rulemaking proceedings. And it certainly is not a monolithic voice. But presently there is no way we can be sure that diverse segments of the unrepresented public will be given an opportunity to be heard in those proceedings. A number of bills have been introduced in this Congress to give the consumer, the poor, and other segments of the unrepresented public a vehicle through which their interests can be translated into effective representation and channeled through the proper administrative processes to reach Government decisionmakers. Specifically, there are bills to establish a Department of Consumer Affairs, a Utility Consumers Counsel, and an Independent Consumer Council, and to authorize the Attorney General to contract for representation of the poor before Federal agencies. Each approach has its advantages and disadvantages, and many of these have been brought out and will continue to come out in hearings on the bills. We no longer question the need for effective representation of the public interest in

the agencies of the Government. We are now searching for the means for more of such representation.

Today, I am introducing a bill to amend the Administrative Procedure Act to provide for the establishment of a Public Counsel Corporation. This bill is based on the premise—reinforced time and again in the studies by the Administrative Conference, in articles and books on administrative law and procedure, and in volumes of testimony before a number of House and Senate committees—that large segments of the American public are not adequately represented in the Federal rulemaking process, and thus that the views of those directly affected by administrative agencies of all types are frequently not heard in the formulation of policy.

There are a number of privately funded organizations, many with offices in Washington, that are now making first efforts at representing before Government agencies segments of the heretofore unrepresented public in specific substantive areas. Examples of these are the Center for the Study of Law and Social Policy, the Center for the Study of Responsive Law, the Washington Research Project, the Citizens Advocate Center, the Citizens Communications Center, the Consumer Federation of America, Action on Smoking and Health, Citizens Board of Inquiry into Health Care, and the Welfare Rights League, to name but a few.

These are beginning to take their place beside older organizations, for example, the Legal Defense Fund, the NAACP, the ACLU, and the Sierra Club. These organizations have performed and will increasingly perform important functions in representing citizens' interests before Federal agencies. But the demand for such representation far exceeds that which they can on their own supply. They are all dependent on individual contributions or foundation funding, and thus they often have neither the present resources nor the long range financing to budget complex projects or long range activities, both of which are necessary for effective participation on administrative proceedings. Thus there remains a huge public representation gap which only public resources can fill.

The Public Counsel Corporation I propose would be a nonprofit Corporation modeled after the Public Broadcasting Corporation, funded by the Federal Government and directed by a board of presidential appointees. The Corporation would be authorized to represent directly or by contract the interests of the unrepresented public in agency proceedings, either on its own initiative or by request of the agency. It could initiate rulemaking proceedings and could represent individuals or groups seeking judicial review or consideration of administrative actions or inactions where the issues involved substantially affect the interests of the unrepresented public.

The Corporation would also serve a clearinghouse function of collecting and disseminating information concerning rulemaking affecting the unrepresented public.

The term "unrepresented public" is generally defined in the bill as "persons or groups of persons whose collective interests are not likely to be adequately represented in regulatory agencies of the United States because such persons or groups lack resources or institutional mechanisms to provide such representation." I believe that the Board of the Corporation can determine the precise substantive areas of involvement based on input from presently existing public interest organizations and on a study of areas where the public is not at present adequately represented by any groups or organizations.

The Public Counsel Corporation cannot insure that Government regulators will consider the needs of the consumer, the poor, the elderly, the minority groups, and other citizens. It is not an exclusive remedy. The Corporation set up by the bill might exist side by side with a Utility Consumers Counsel, or might be incorporated into and utilized to expand the representational elements of the Independent Consumers Counsel.

I hope that hearings on my proposal will bring out not only the value of independent representation of public interests before Government agencies, but how the various proposals currently before Congress can be amalgamated to insure that the processes of Government are opened to widespread public participation.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3434) to amend title 8, United States Code, to provide for the establishment of a Public Counsel Corporation to insure full participation by and on behalf of unrepresented citizens in administrative rulemaking proceedings, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on the Judiciary.

ADJOURNMENT TO MONDAY, FEBRUARY 16, 1970

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the provisions of House Concurrent Resolution 497, and in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock noon on Monday, February 16, 1970.

The motion was agreed to; and (at 4 o'clock and 51 minutes p.m.) the Senate adjourned until Monday, February 16, 1970, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate, February 10, 1970:

U.S. ATTORNEY

D. Dwayne Keyes, of California, to be U.S. attorney for the eastern district of California for the term of 4 years, vice John P. Hyland.

U.S. MARSHAL

Carl H. Slayback, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years, vice James J. Moos resigned.

IN THE MARINE CORPS

The following-named (Naval Reserve Officers Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Beagley, Larry E.
Braun, Frank IV
Ekle, Thomas L.
Rickman, Dwight G.

HOUSE OF REPRESENTATIVES—*Tuesday, February 10, 1970*

The House met at 12 o'clock noon.

His Grace, Bishop Papken, primate's legate of the diocese of the Armenian Church of America, Washington, D.C., offered the following prayer:

O Father of all, You are the source of all inspiration and wisdom. Be with these leaders of our country.

Give them Your strength to solve the complex problems of today and every day.

As they are seeking divine guidance, be with them and attend to their various needs with a faith that will not shrink under the pressure of external foes and internal crises.

Fortify them all to uphold and protect the freedom we inherited and enjoy. As children of God let them strive earnestly to be just peacemakers.

In February as we honor the memory of George Washington and Abraham Lincoln, additionally Armenian-Americans take pride in honoring their greatest ancestral heroes, the Vartanian Saints, who 1,500 years ago protected the Christian faith from the onslaught of the sun worshipers.

O God, replace our weakness with Your courage; endow us with Your generous love and hope. Take our indifference and make us men of charity and understanding in dealing with friends and foes.

Fervently we invoke Your protection upon our country. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed a bill and joint resolutions of the House of the following titles:

On February 4, 1970:

H.J. Res. 1051. Joint resolution designating the week commencing February 1, 1970, as International Clergy Week in the United States, and for other purposes.

On February 9, 1970:

H.R. 15149. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes; and

H.J. Res. 1072. Joint resolution making further continuing appropriations for the fiscal year 1970, and for other purposes.