the Committee on Interstate and Foreign Commerce.

Mr. RIVERS:

H.R. 16358. A bill to amend section 808 of title 10, United States Code, to clarify the application of that section to prisoners and members who are absent without leave from the Armed Forces; to the Committee on Armed Services.

By Mr. ROONEY of Pennsylvania (for himself, Mr. ADDABBO, Mr. ANDERSON of Illinois, Mr. BIAGGI, Mr. BRASCO, Mr. BROWN of California, Mr. BUTTON, Mr. CARTER, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. CONYERS, Mr. DANIELS of New Jersey, Mr. DERWINSKI, Mr. EDWARDS of California, Mr. FRIEDEL, Mr. FULTON of Pennsylvania, Mr. FULTON of Tennessee, Mr. GAYDOS, Mr. GUBSER, Mr. HANLEY, Mr. HALPERN, Mr. HASTINGS, Mr. HATHAWAY, Mr. HAWKINS, and Mr. HECHLER of West Virginia):

H.R. 16359. A bill to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself and Mr. HELSTOSKI, Mr. HOWARD, Mr. HUNGATE, Mr. KUYKENDALL, Mr. KYL, Mr. MATSUNAGA, Mr. MCEWEN, Mr. MIKVA, Mrs. MINK, Mr. MOORHEAD, Mr. MURPHY of New York, Mr. NIX, Mr. OLSEN, Mr. PEPPER, Mr. PODELL, Mr. POLLOCK, Mr. REES, Mr. ROYBAL, Mr. ST GERMAIN, Mr. STANTON, Mr. TUNNEY, and Mr. WHITEHURST):

H.R. 16360. A bill to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUDEBUSH (for himself and Mr. DEVINE):

H.R. 16361. A bill to establish an educational assistance program for the children of police officers who died as a result of a disability or disease incurred in line of duty; to the Committee on Education and Labor.

By Mr. WYATT:

H.R. 16362. A bill to authorize the Council on Environmental Quality to conduct studies and make recommendations respecting the reclamation and recycling of material solid wastes, to extend the provisions of the Solid Waste Disposal Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WYDLER:

H.R. 16363. A bill to establish a Department of Environmental Affairs, to transfer certain existing agencies and programs concerned with environmental quality to such department, and for other purposes; to the Committee on Government Operations.

By Mr. ALBERT (for himself, Mr. GERALD R. FORD, Mr. BOGGS, Mr. POAGE, Mr. PATMAN, Mr. STAGGERS, Mr. ASPINALL, Mr. PERKINS, Mr. FALLON, Mr. HOLIFIELD, Mr. MILLER of California, Mr. GARMATZ, Mrs. DWYER, Mr. HOSMER, Mr. FULTON of Pennsylvania, Mr. MAILLIARD, Mr. BLATNIK, Mr. DINGELL, Mr. REUSS, Mr. PRICE of Illinois, and Mr. PICKLE):

H.J. Res. 1117. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. ALBERT (for himself, Mr. ADDABBO, Mr. ANDERSON of California, Mr. ANDERSON of Tennessee, Mr. ASHLEY, Mr. BENNETT, Mr. BINGHAM, Mr. BRADEMAS, Mr. BRASCO, Mr. BROWN of California, Mr. BURTON of California, Mr. CASEY, Mr. CHAPPELL, Mr. DADDARIO, Mr. DANIEL of Virginia, Mr. DELANEY, Mr. DONOHUE, Mr. DULSKI, Mr. EVINS of Tennessee, Mr. FASCELL, Mr. FLOWERS, Mr. FOLEY, Mr. WILLIAM D. FORD, Mr. FRASER, and Mr. GIBBONS):

H.J. Res. 1118. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. ALBERT (for himself, Mr. GILBERT, Mr. GRAY, Mr. HANNA, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HELSTOCKI, Mr. HOWARD, Mr. HUNGATE, Mr. JACOBS, Mr. JOHNSON of California, Mr. KEE, Mr. KOCH, Mr. KYROS, Mr. LEGGETT, Mr. LENNON, Mr. MCFALL, Mr. MATSUNAGA, Mr. MELCHER, Mrs. MINK, Mr. MOORHEAD, Mr. MOSS, Mr. MURPHY of New York, Mr. NEDZI, and Mr. MIKVA):

H.J. Res. 1119. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. ALBERT (for himself, Mr. OBEY, Mr. O'HARA, Mr. OLSEN, Mr. OTTINGER, Mr. PEPPER, Mr. PODELL, Mr. RANDALL, Mr. ROBERTS, Mr. RODINO, Mr. ROGERS of Florida, Mr ROSTENKOWSKI, Mr. ROYBAL, Mr. ST. ONGE, Mr. SCHEUER, Mr. STOKES, Mr. STRATTON, Mrs. SULLIVAN, Mr. TIERNAN, Mr. TUNNEY, Mr. ULLMAN, Mr. VANIK, Mr. VIGORITO, Mr. WALDIE, and Mr. WRIGHT):

H.J. Res. 1120. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. ALBERT (for himself, Mr. YATES, Mr. ADAIR, Mr. BEALL of Maryland, Mr. BROYHILL of Virginia, Mr. BUTTON, Mr. CAMP, Mr. CLEVELAND, Mr. CUNNINGHAM, Mr. DUNCAN, Mr. HALPERN, Mr. HOGAN, Mr. KYL, Mr. LATTA, Mr. LUJAN, Mr. MOSHER, Mr. PELLY, Mr. STANTON, Mr. WYATT, Mr. WYDLER, Mr. HANLEY, Mr. DANIELS of New Jersey, Mr. MURPHY of Illinois, Mr. DIGGS, and Mr. HALEY):

H.J. Res. 1121. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. ROUDEBUSH (for himself and Mr. DEVINE):

H.J. Res. 1122. Joint resolution providing for the addition to the uniform of the U.S. Capitol Police of a special insignia constituting an exact reproduction of the flag of the United States of America, and for other purposes; to the Committee on House Administration.

By Mr. BROOMFIELD:

H. Con. Res. 532. Concurrent resolution relating to an Atlantic Union Delegation; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GUDE introduced a bill (H.R. 16364) for the relief of Ruben Crisolo, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

321. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the Emergency Detention Act of 1950; to the Committee on Internal Security.

322. Also, a memorial of the General Assembly of the State of Rhode Island and Providence Plantations, relative to increasing income tax deductions for mentally retarded and physically handicapped children; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

411. By the SPEAKER: Petition of the common council of the city of Buffalo, N.Y., relative to Federal and State aid for Cazenovia Creek flood relief; to the Committee on Public Works.

412. Also, petition of Henry Stoner, York, Pa., relative to improving the tax system; to the Committee on Ways and Means.

SENATE—*Monday, March 9, 1970*

The Senate met at 11:30 o'clock a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O God, our Father, we come to Thee not by our merit but in our need. Enable us to heed Thy written word, "He that hath ears to hear, let him hear." Instill within us the high discipline of hearing with understanding.

Help us to hear the words of others instructing our judgments.

Help us to hear the voice of conscience monitoring our souls.

Help us to hear the "still small voice" of Thy transcendent wisdom.

And hearing may we know and do Thy will.

In Thy holy name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 9, 1970.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

the Journal of the proceedings of Friday, March 6, 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.

ORDER FOR RECOGNITION OF SENATOR COOK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the speech of the distinguished Senator from Maryland (Mr. TYDINGS), the distinguished Senator from Kentucky (Mr. COOK) may be allowed to speak for not to exceed 30 minutes.

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

SUGGESTED PROCEDURE TO ACCOMMODATE SENATORS ON SPEECHES

Mr. MANSFIELD. Mr. President, may I suggest, on behalf of the joint leadership, that if Senators wish to speak for any length of time beyond the 3-minute limitation during the transaction of routine morning business—for example, for a half hour or an hour—the joint leadership is prepared at all times to convene the Senate earlier to accommodate them.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER DISPENSING WITH THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent to waive the call of the calendar of unobjected-to bills under rule VIII.

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

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Kentucky (Mr. COOK) there be a period for the transaction of routine morning business with a limitation of 3 minutes on statements.

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, pending the arrival of the Senator from Maryland (Mr. TYDINGS), I ask unanimous consent that I may be recognized for not to exceed 3 minutes.

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

THE CRIME PROBLEM AND THE SENATE'S RESPONSE

Mr. MANSFIELD. Mr. President, the crime problem in the District of Columbia is indicative of similar problems experienced in other urban areas throughout the Nation. It is a problem that deserves the attention of every segment of government and the focus of attention of those with responsibility on every level.

An excellent interview with one of the Nation's most renowned trial attorneys, Mr. Edward Bennett Williams, was published in the Washington Post of Saturday, February 28, 1970. Mr. Williams, who has established his credentials as a protector of individual rights and liberties, makes specific recommendations with respect to the direction that should be taken by public officials in an attempt to reduce the level of crime in our urban areas. I ask unanimous consent that this interview be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, in addition, although the maintenance of order and the prosecution of criminals are primarily local and State functions, contributions at the Federal level have been proposed, and in particular, the Federal responsibility for local matters in the District of Columbia.

The Senate has discharged in an extraordinary manner the recommendations made to it by this administration, and, in addition, other proposals have been generated within the Senate itself and supported by the administration in an effort to fulfill its responsibilities in this area.

I ask unanimous consent that a table showing action taken on administration proposals as well as Senate-initiated measures endorsed by the administration be printed at this point in the RECORD.

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

CRIME LEGISLATION

BILL NUMBER AND TITLE	STATUS
(1) S. 2022—Illegal gambling control.	Passed Senate (S. 30), January 23, 1970.
(2) S. 2637—Drug bill (S. 3246).	Passed Senate, January 28, 1970.
(3) S. 2657—Included in drug bill.	Included in S. 3246—Passed Senate January 28, 1970.
(4) S. 2601—District of Columbia court reorganization.	Passed Senate, September 19, 1969.
(5) S. 2602—Public defender, District of Columbia.	Passed Senate, November 21, 1969.
(6) S. 2869—Criminal law revision, District of Columbia.	Passed Senate, December 5, 1969.
(7) S. 2981—Juvenile Code, revision, District of Columbia.	Passed Senate, December 22, 1969.
(8) S. 3036—Increase penalties, Sherman Antitrust Act.	Hearings concluded; full committee exec. this month; (H.R. 14116 passed House Feb. 16, 1970).
(9) Obscenity:	
(9)(a)(9) S. 2073—Obscene mail to minors.	To be reported soon.
(9)(b)(10) S. 2074—Prurient advertising.	To be reported soon.
(9)(c)(11) H.R. 10877—Obscene mail—Title II of postal rates bill.	
(12) S. 2600—Bail reform.	Administration promises report by March 31, 1970.
(13) S. 3132—Criminal appeals.	Hearings scheduled.
CRIME BILLS SUPPORTED BY ADMINISTRATION, ORIGINATED IN SENATE	
(14) S. 952—Omnibus judgeship bill.	Passed Senate, June 23, 1969.
(15) S. 2122—Federal immunity of witnesses.	Passed Senate, January 23, 1970.
(16) S. 2292—Sources of evidence.	Passed Senate, January 23, 1970.
(17) S. 1861—Corrupt Organizations Act.	Passed Senate, January 23, 1970.
(18) S. 30—Organized Crime Control Act of 1969.	Passed January 23, 1970.
(19) S. 1624—Wagering tax amendments.	Pending before full committee.
(20) S. 1461—Criminal Justice Act amendments.	Pending before full committee.

EXHIBIT 1

[From the Washington (D.C.) Post, Feb. 28, 1970]

AN ATTORNEY'S VIEW OF THE DISTRICT OF COLUMBIA CRIME SITUATION

(NOTE.—Trial attorney Edward Bennett Williams, one of a number of civic leaders who have recently met together in search of new solutions to the problem of crime in Washington, was asked about some of his conclusions in a recent interview with Joseph McCaffrey on WMAL–TV. Following are excerpts from the interview.)

MCCAFFREY. As an attorney and a trial attorney, are you concerned about what we all refer to rather too liberally, perhaps, as the rising crime rate?

WILLIAMS. I am terribly concerned about it. I'm terribly concerned about it at the natonal level, and I'm terribly concerned about it here in our city. We've been called the crime capital of the world, and I'm afraid it's with some validity. Crime has been spiraling out of control in our city. . . .

There are all kinds of crimes, but the crime I think that has bestirred the alarm of our country and the alarm of our city is the kind of crime that's directed against private property, and often attendant with

violence to the person. I'm talking about robberies and muggings and yokings, larcenies and burglaries, which have been on the rise here in Washington and across the country. We have a terrible situation here in the District of Columbia. Last year there were 18,000 plus burglaries. There were 9,000 plus armed robberies, and there were 9,000 larcenies of property over $50.

And the thing that disturbs me most is that four out of five persons who committed a robbery on the streets of Washington went unapprehended....

MCCAFFREY. All right, now let me yield to you, without any interruption, and as an attorney, tell me what you think should be done to combat current crime rates.

WILLIAMS. I think the system has broken down in all three of its divisions. First of all, I think, we desperately need in our city, and I think we should take our city as symbolic of the 30 big cities in the country, we desperately need more policemen. During the Johnson administration there was an authorization for 4,100 policemen. President Nixon said we needed 5,100. I think we need more. I think we need more than 6,000. At the moment we have fewer than 3,500 on the streets. Though they give you a figure of 3,950, but 450 of these are in training. We have lagged terribly in recruiting policemen. The greatest deterrent to crime in the street is a visible policeman. And as long as these kids who are committing these crimes, and they are kids, 75 per cent of them are being committed by kids under 21, as long as the odds are five to one they won't be caught, as long as the odds are 14 to one they won't be caught when they go out and steal property worth $50 or more, as long as the odds are nine to one they won't be caught when they break into your house, they're going to keep committing these crimes.

MCCAFFREY. Pretty good odds.

WILLIAMS. Well, our talk about the fact that well, their decisions out of the old Warren Court were too liberal, were too soft on the criminal, but I think that this is really not addressing one's attention to the real problem. You wouldn't find one kid who gave one fleeting thought to his constitutional rights or criminal procedures before he went out in the streets to do his crime. They go out on the premise that they aren't going to be caught. And the record shows that they're pretty much right. The odds are overwhelmingly with them that they aren't going to be caught.

So, I say we desperately need more police. The record shows that when Chief Wilson saturated the third district with police in an experiment to see whether he could curb robbery, and burglary, and larceny, he reduced it tremendously. Now we've got to spend the money and saturate the city with police. But that isn't the end of the problem. There's still, I think, an equally bad problem. And it's a problem of which I, as a lawyer, am not proud. I think there has been a terrible breakdown in the criminal justice system of this country.

Now, we've already seen that the criminal justice system, the courts, are irrelevant to a large segment of the crimes that are being committed, because these crimes never get into court. But when they do get into court, a very bad thing takes place. The average lawyer today, if he exploits all the rights of his client, can keep his client at liberty on the street for from 18 months to two years after he commits an armed robbery.

MCCAFFREY. While they're working to pay him.

WILLIAMS. Well, 60 per cent of the people who are committing these crimes aren't able to pay a single dollar. They're indigent. And they're given free counsel, they're given the right to a free appeal, so naturally they all appeal. And the whole system stalls because even after the defendant is brought to trial, which may be several months after he's arrested and indicted, and even after he's convicted by a jury, it takes from six to eight to ten months before an opinion comes out of the appellate court affirming or reversing his conviction. And then there is an equal amount of time that is used up while the Supreme Court avenue is explored.

Now, if punishment really is to work, it doesn't have to be severe, but it has to be swift. You know from your experience with your own children, that if one of them deliberately spills the milk at the breakfast table, unless there is a quick meeting of his derriere with the front of your hand, there is not an understanding of the punishment. You can't wait for three days and then administer the punishment. The same thing is true at the level of society, unless punishment is administered swiftly, it does not have a deterrent effect.

So, I think we have to take a new look at our whole criminal justice system and speed it up if it is going to work effectively. We have to eliminate this delay of 18 months between the offense, and I'm giving the system the benefit of the doubt when I say 18 months because it's longer than that in many, many cases—we've got to eliminate that delay.

Third, part of the system where there's been a terrible breakdown is in the prison system. Of course, the last thing that you can ever get the legislature to address itself to is the prison problem. It's the last item on national state prirority. I can say this to you in all candor, in my 25 years of practicing law, I have met only one person who I think was benefited by a term in prison. The one person who was really rehabilitated. Unfortunately the prisons have become a breeding ground for crime. You put young boys in the prisons today and they come out hardened criminals. It's terrible, it's really terrible. The whole prison system needs a tremendous reformation. It's broken down.

So I say the system is broken down in three places. We don't have enough police, we don't pay them enough. We expect so much of them now. We expect our policemen to be professionals, we should treat them like professionals. We expect them to know the law. We expect them to know first-aid. We expect them to be family counsellors. We expect them to be sociologists. We expect them to have the wisdom of Solomon and the patience of Job, the agility of a Jim Brown, and we give them $150 dollars a week, and a gun. We've got to escalate our police force both quantitatively and qualitatively across this country. We can't do it with the money that's available to the cities because the people who can provide the funds from a tax basis are fleeing into the suburbs. The only way it can be done is from a massive subsidy from the federal government to the cities to correct this problem. I think this should be the number one priority in the cities because until we restore order in the cities, there is going to be no progress in education; there's going to be no progress in health; there's going to be no progress in job opportunities, there's going to be no progress in any of those many things that are crying out for attention. We have to restore order. And we have cities out of control. One of them is ours.

EXTENSION OF VOTING RIGHTS ACT OF 1965

AMENDMENT NO. 549

Mr. COOPER. Mr. President, I submit an amendment which I intend to purpose to the amendment in the nature of a substitute for amendment No. 544, proposed by the Senator from Pennsylvania (Mr. SCOTT) for himself and other Senators, to H.R. 4249, an act to extend the Voting Rights Act of 1965, with respect to the discriminatory use of tests and other devices.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed and will lie on the table.

Mr. COOPER. The amendment offered by the Senator from Pennsylvania (Mr. SCOTT) and other Senators would extend the Voting Rights Act of 1965 with respect to States and subdivisions brought under its provisions under section 4(b). The amendment which I offer would, in addition, bring within the scope of section 4(b) additional States or subdivisions thereof if it were found that they fell within the same provisions of section 4(b)(1) as the 1965 act prescribes.

I shall read the amendment:

On page 2, between lines 6 and 7, insert the following new section:

"SEC. 4. Section 4 (b) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by adding at the end of the first paragraph thereof the following new sentence: 'On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.'"

On page 2, line 7, strike out "SEC. 4" and insert in lieu thereof "SEC. 5".

I think this is in the spirit of the Voting Rights Act of 1965, to apply to all States and subdivisions of States whether in the North, West, East, the South, the same provisions of law.

I intend to propose this amendment for consideration at an appropriate time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland is recognized for not to exceed 30 minutes.

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may yield not more than 8 minutes to the Senator from California (Mr. CRANSTON), without losing my right to the floor or having his address counted against my time.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hearing none, the Senator from California is recognized for not to exceed 8 minutes, his time not to be charged against the time of the Senator from Maryland.

LAOS—THE PRESIDENT AND THE PRESS

Mr. CRANSTON. Mr. President, I say thank God for the American press, that it has not been intimidated by the efforts of this administration to soften it or silence it in its reporting on the war in Laos, not to mention the war in Vietnam.

The President stated in his report on Laos on Friday:

No American stationed in Laos has ever been killed in ground combat operations.

It has now been revealed—by the press—that Capt. Joseph K. Bush, Jr., was indeed killed in hostile action on the ground in Laos. Apparently the President was not told about the death of Captain Bush by his staff. The President, like all Americans, has to depend upon the press for full information about occurrences in Laos.

The reporter who revealed the death of Captain Bush states that he was indeed killed in combat on the ground in Laos. The administration, in the person of Gerald L. Warren, Deputy White House Press Secretary, admits that he was killed, but quibbles and quarrels and states that he was not killed in "ground combat" in Laos.

I suggest that we skip the matter of trying to define "ground combat" and "ground combat troops." There are all too many ways to cover up what men are doing on the ground, what their missions are, and exactly what they are doing when they find themselves under fire, when they find themselves firing, when they kill, or when they are killed.

There is a second nicety of definition that I believe we cannot overlook, however. Choosing his words in his report on Laos on Friday with great care—or using words chosen by others in the administration with great care—President Nixon declared:

No American stationed in Laos has ever been killed in ground combat operations.

The key phrase that was chosen with such great care is "stationed in Laos."

I ask the President two questions.

The first question is, how many Americans not stationed in Laos have been killed in Laos? I ask this question because both before I made a statement on Laos on Friday and since that time I have talked with a number of young Americans who have told me that while on military duty in Southeast Asia, they were ordered to go across the border from Vietnam into Laos—armed, on military missions, under instructions to tell the enemy if they were captured that they got lost, that they read their maps wrong, that they strayed across the border, and that they did not know that they were in Laos, but thought they were still in Vietnam.

I wonder just how many men have been on such missions? I have talked to a surprising number who have. I think we are entitled to know more about it, when these men are being killed or involved in combat on the ground in Laos. Of course, technically they would fit within the President's definition that they were not "stationed in Laos." They were stationed in Vietnam; they just happened to be under orders to go into Laos to perform military missions.

My second question to the President of the United States relates to his efforts to lead us to believe that most of the intervention in Laos has been by the North Vietnamese. He stated, in regard to North Vietnamese troops in Laos:

Today they are at an an all-time high of some 67,000 men.

He compared that figure to what he stated was a total of 1,040 Americans directly employed by the U.S. Government in Laos, or employed under contract by the Government, or by Government contractors in Laos.

My question to the President is as follows: How many Meo tribesmen, recruited, trained, armed, and paid by the United States, have been engaged in military operations in Laos? I ask for the maximum figure during the Johnson administration, and I ask for the maximum figure during the Nixon administration. My information is that between 15,000 and 40,000 Meo tribesmen have been on our payroll at one time or another, engaged in combat in the civil war in Laos.

Only the President can make public the exact figure. I ask him to do so. We will then have a more accurate measurement of the exact degree of what really amounts to American involvement in the Laos civil war, as compared to the involvement of North Vietnam in that civil war.

I thank the Senator from Maryland.

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

Mr. CRANSTON. The Senator from Maryland has the floor.

Mr. COOPER. Will the Senator yield me 2 minutes?

The ACTING PRESIDENT pro tempore. The Senator from California has time remaining on his allotment.

Mr. CRANSTON, I yield 2 minutes, or whatever time I have remaining, to the Senator from Kentucky.

Mr. COOPER. Mr. President, I think it is certainly a proper exercise of our responsibility as Members to inquire about all the facts which pertain to American activity in Laos.

I consider the President's statement a comprehensive, and factually correct statement.

I have been critical about our involvement in Laos, since last August when I introduced an amendment to the defense authorization bill to deny funds for the use of U.S. forces in Laos in support of a civil war.

I have great regard for the Senator from California, but I must take exception to these words: He said the President "led us to believe." I know that he is directing his statement to that part of the President's report——

Mr. CRANSTON. Mr. President, will the Senator yield for one moment there?

Mr. COOPER. I will be glad to yield in a moment—which said that no Americans stationed in Laos had been killed in ground combat.

My judgment is that the President was absolutely sincere in that statement. It may be that it is incorrect, as are statements we make without knowledge of all the facts. If it should turn out that it is incorrect, I am sure the President will be the first to say so.

The Senator has spoken of the Meo tribesmen who have been engaged in combat in Laos. They are Laotians; and as it is a fact that the North Vietnamese were the first to invade Laos I see nothing wrong in the Meo tribesmen defending their country against aggression. It is also correct that we have aided the Meo, and that we have supplied funds, equipment, and training to Laotian forces including the Meo. We may differ as to whether or not it should have been done, but Congress, year after year, has authorized assistance, equipment, and training to Laotian forces.

The Senator knows that, beginning about a year ago, I protested, and others protested, the use of U.S. forces in a local war in Laos. I hope that the Geneva conference will assume jurisdiction as the President suggested. I believe the President performed a valuable service to Congress, to the people, and to the administration by his very comprehensive statement of last Friday.

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

Mr. CRANSTON. I ask for 1 additional minute.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the Senator from California may have 1 additional minute, without my losing my right to the floor.

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

Mr. CRANSTON. I thank the Senator.

I raise no question about the sincerity of the President of the United States. I do question whether the staff that he has relied upon or others within the executive branch have given him full information. The discrepancy already divulged by the press about his statement with reference to Captain Bush is indicative of this.

A simple answer to the questions I have addressed to the President will resolve whether or not there is more than has yet come to light about the extent of our involvement in Laos.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the completion of the remarks of the able Senator from Kentucky (Mr. COOK). the Senator from Iowa (Mr. HUGHES) be recognized for not to exceed 15 minutes, and that following that speech the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. HARTKE in the chair). Without objection, it is so ordered.

THE FUTURE OF SHIPBUILDING IN MARYLAND

Mr. TYDINGS. Mr. President, the purpose of this speech is to recount events concerning a ship named the *Sansinena*. These events raise some serious questions about the future and the employment of many thousand Maryland workers in the Bethlehem shipbuilding yards and the Bethlehem Steel works at Sparrows Point. Anything involving the well-being or the employment of the citizens of Maryland involves the senior Senator. But the events concerning the tanker *Sansinena* raise other questions. They raise questions about the manner in which high level governmental decisions are reached and, quite possibly, these events may raise some basic issues of propriety.

Let me emphasize that I make no accusations. I am rather raising questions and seeking information about what I consider to be a puzzling set of circumstances.

Since colonial days shipbuilding has been a key industry in the State of Maryland. One of the early Navy's most famous ships, the frigate *Constellation* was built in Baltimore. At a later date, Maryland shipyards constructed many of the magnificent clipper ships that hauled American goods around the globe. During World War II, these yards built the sturdy Victory ships that brought supplies to Allied troops in Europe and the Pacific. Today, shipbuilding continues to be an important Maryland industry. The largest containership ever built in the United States, the *Hawaiian Enterprise,* was just recently launched at the Sparrows Point Shipyard of Bethlehem Corp. at Sparrows Point along the Patapsco River.

This yard employs approximately 4,000 people. Presently it has 28 ships under construction or on order. At least 10 of these are tankers whose cost total over $200 million. Significantly, all 10 tankers are 60,000 tons or over and thus may be considered large by American-flag standards. Sparrows Point is one of the few shipyards that has the facilities to construct such large tankers. Together with the facilities of Maryland Shipbuilding and Drydock Co., the Sparrows Point Shipyard constitutes a major economic asset of Maryland.

As a nation dependent upon the sea, shipbuilding has always been an important industry to the United States. At the present time, contrary to popular impression, business prospects for most American shipyards are considered bright. The president of the Shipbuilders Council of America recently predicted that the decade of the 1970's would bring $50 billion in business to these yards. While much of this is naval work, $2.4 billion is estimated for allocation to the United States tanker fleet. An April 1969 report by the Center for Maritime Studies entitled "Improving the Prospects for United States Shipbuilding" found American shipyards to be efficient industrial operations and, in the area of tanker construction except for wage scales, more efficient than either Japanese or British yards.

Tankers are particularly important as the opening of the Alaskan oil fields has increased the demand for bulk carriers to carry petroleum products from well to market. Today some twenty tankers are under construction or on order in U.S. shipyards. The recent development of an oil trade from Cook Inlet, Alaska, to mainland refineries on the west coast has already brought about a noticeable increase in tanker orders. Should the Northwest Passage prove economically feasible, it is estimated that American yards will be called upon to construct upwards of 25 large new tankers.

It is thus evident that shipbuilding in the United States has a bright future and an important role to play in the continued economic prosperity of our Nation. The industry's position must therefore be maintained. Any threat to this position would immediately warrant a full-scale examination by Congress and would be deeply disturbing to me as Maryland's senior Senator and a member of the Committee on Commerce and the Subcommittee on the Merchant Marine.

The United States has historically protected its coastal trade with traditional maritime cabotage laws. Cabotage means trade or transport in coastal waters or between two points within a country. A coastal nation like ours must develop its own capacity for waterborne commerce Cabotage laws help do this. Other countries have similar laws. One element of this capacity is shipbuilding. To encourage native shipbuilding and to protect the industry from unfair foreign competition, Congress codified in the Jones Act of 1920 a requirement that ships engaged in coastal trade be both built and registered in the United States—see 46 U.S.C. 883—that is, fly the American flag. Just as we would not think of permitting Air France to fly the route between New York and Miami, or let British Overseas Airways or Liberian Airways fly between Baltimore and Los Angeles, we do not permit foreign-registered ships, under "flags of convenience," to ply local waters and compete with our own vessels. Coastwise privileges are extended solely to U.S.-flag vessels constructed in American yards.

Only one exception to this requirement is permitted. By an act of December 27, 1950—see historical note to 46 U.S.C. 1—the Secretary of Defense or head of a department "responsible for the administration of the navigation and vessel-inspection laws" is permitted to issue a waiver, if such an action is "necessary in the interest of national defense." Foreign-built or foreign-registered ships may engage in U.S. coastal trade if deemed necessary for reasons of national security, upon obtaining the required waiver.

I ask unanimous consent that title 46, United States Code, chapter 1, be printed at this point in the RECORD.

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

TITLE 46.—SHIPPING

CHAPTER 1.—ADMINISTRATION OF SHIPPING LAWS

WAIVER OF COMPLIANCE WITH NAVIGATION AND INSPECTION LAWS; TERMINATION DATE

Act Dec. 2, 1950, ch. 1155, §§ 1, 2, 64 Stat. 1120, provided that:

"The head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. The head of such department or agency is authorized to waive compliance with such laws to such extent and in such manners and upon such terms as he may prescribe, either upon his own initiative or upon the written recommendation of the head of any other Government agency, whenever he deems that such action is necessary in the interest of national defense.

"SEC. 2. The authority granted by this Act shall terminate at such time as the Congress by concurrent resolution or the President may designate."

Similar provisions were contained in Joint Res. Mar. 31, 1947, ch. 27, 61 Stat. 33; July 31, 1947, ch. 408, 61 Stat. 685; Feb. 27, 1948, ch. 78, § 2, 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; Joint Res. June 29, 1949, ch. 281, § 1, 63 Stat. 349; June 30, 1950, ch. 427, § 4, 64 Stat. 309.

TEMPORARY SUSPENSION OF NAVIGATION AND INSPECTION LAWS

Act Mar. 31, 1947, ch. 28, 61 Stat. 33, providing for the suspension of navigation and inspection laws as applied to the Department of the Army upon the termination of section 635 of Title 50, Appendix, War and National Defense, was repealed by act Dec. 27, 1950, ch. 1155, § 3, 64 Stat. 1120.

§ 1. Bureau of Marine Inspection and Navigation; establishment.

CODIFICATION

Section, acts July 5, 1884, ch. 221, § 1, 23 Stat. 118; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for a Bureau of Marine Inspection and Navigation in the Department of Commerce.

This Bureau was created by act July 5, 1884, as the Bureau of Navigation. By act June 30, 1932, above, it was consolidated with the Steamboat Inspection Service to form a new bureau to be known as the Bureau of Navigation and Steamboat Inspection, which name was changed to Bureau of Marine Inspection and Navigation by act May 27, 1936. The "Director" of the Bureau of Marine Inspection and Navigation was the designation given to the chief of the bureau by the Secretary of Commerce under act June 30, 1932, § 502(b). The Bureau and the office of its Director was abolished by 1946 Reorg. Plan No. 3, § 104, set out under this section.

Mr. TYDINGS. It is interesting to note, Mr. President, that since the enactment of this waiver provision, there has never been, to my knowledge, a single foreign-flag tanker which has been given a carte blanche waiver to come in and take the benefit of flying the American flag.

There have been cases when the waiver was granted for a special reason to engage in the development of a specific project. This is known as a project waiver. But according to the Bureau of Customs, there have been no general or carte blanche waivers.

A little history may be helpful here.

After the Suez crisis of 1956, world demand for large tankers rose considerably. European yards could not meet the unexpected heavy demand. American yards were called upon to help, even though their tankers cost more than those constructed in Europe. Companies owning the syndicates which have operated tankers in the world-flag traffic were willing to pay the extra cost in the American yards because they could get a ship 2 years sooner, because the European and Japanese yards were filled to capacity with orders. Some 60 tankers were eventually built in the United States, and with "flags of convenience" paid no U.S. taxes and employed foreign crews.

Several companies were formed to finance the building of these American tankers. One such company was Barracuda Tanker Corp., set up by Americans but registered in Hamilton, Bermuda. My colleagues may be familiar with Barracuda for it was this company that fi-

nanced and owned the *Torrey Canyon*, the tanker that broke apart in the channel and spilled oil all over the beaches of southern England and northern France.

I now ask unanimous consent that page 37 of the 1969 Directory of Shipowners, Shipbuilders, and Marine Engineers which lists the directors of Barracuda Tanker Corp. be printed in the RECORD.

There being no objection, page 37 of the Directory was ordered to be printed in the RECORD, as follows:

SHIPOWNERS

Barnett Bros. & Borchard Ltd. *See* Atid Cargo Lines Ltd.

Baron Shipping Co. Ltd.; Baroness Shipping Co. Ltd.: Baronet Shipping Co. Ltd. *See* Livanos Shipbrokers Ltd., S.

Barracuda Tanker Corp.

Offices: P.O. Box 630, Bell Building, Gorham Road, Hamilton, Bermuda. *Tel. No.:* Bermuda 1–1246. *President & Managing Director:* Peter M. Flanigan. *Directors:* John S. Magrane, Arthur B. Treman, Jr., Nicholas B. Dill, Jr., John C. Prizer, Jr. *Secretary:* Nicholas B. Dill, Jr.

Fleet: Lake Palourde. 61275gt. 48485nt. 117966dw. 51′ 5½″dft. 1959. *Sansinena.* 38652gt. 25231nt. 6683dw. 45′ 2″dft. 1969. b. Newport News S.B. & D.D., N.N. e. Newport News S.B. & D.D., N.N. b. Newport News S.B. & D.D., N.N. e. Newport News S.B. & D.D., N.N.

Baumare Skips A/S *See* Klaveness, Torvald

Beaconsfield Cia. Nav. S.A. *See* Karageorgis, M.A.

Beaver Shipping Co. S.A. *See* Nereus Shipping.

Bedford Steamship Co. Ltd. *See* Vergottis Ltd.

Belcan S.A. *See* Ubem.

Belfast Steamship Co., Ltd., *See* Service Craft and Ferries section.

Belge (Lloyd Royal) S.A., Cie. Maritime

Head Office: St. Katelijnevest, 61 Antwerp, Belgium, T.A.: "Comarbel, Antwerp." *Tel. Nos.:* 32.18.90, 32.10.10 and 33.88.90. *Telex:* 31366 and 31355 *Reg Com.:* Antwerpen 2077. *Chairman & Managing Director:* A. De Spirlet. *Directors:* C. De Brouwer. G. Dufour. *General Manager:* Ch. Evard, *Managers:* R. Tersy, P. Pluys, Capt. A. J. Hubert. *Secretary of the Board:* R. Bosmans. *Marine Superintendent:* Capt. V. Rasquin. *Loading Berths:* Dock Berths: Nos. 208, 210, 212, 214, 216, 218, 220, 222, 224. *Managing Agents:* Agence Maritime Internationale S.A.

Mr. TYDINGS. Mr. President, I invite attention to the name of the president and managing director, Peter M. Flanigan.

Another tanker financed and owned by Barracuda is the *Sansinena*. Built in 1958 at Newport News, Va., she flies a Liberian "flag of convenience." Thus, she has avoided the payment of taxes to the United States. Barracuda has time chartered the vessel to Union Oil Co. of California.

As a 12-year-old, 66,000-ton tanker, the *Sansinena* can no longer be considered a modern vessel in international trade. Tankers in today's world fleets come much larger. The newest tankers are 200,000 to 300,000 tons. Yet in U.S. coastal trade the *Sansinena* is still a large ship. At the present time there are approximately 250 American-built and U.S.-registered tankers which handle U.S. domestic trade. Their average size is but 25,000 tons. The *Sansinena*, if permitted to engage in coastal trade, would be the sixth largest vessel in the U.S. domestic tanker fleet.

Mr. President, now consider the value of the waiver of the Jones Act for the *Sansinena* which has flown the flag of Liberia for 12 years. My staff has consulted with experts, brokers, and others, who have provided these figures for the record. These figures are estimates. The actual figures fluctuate with the market. But they are reliable estimates.

When the *Sansinena* was built in 1958, the shipyard costs for it—that is, not including financing costs, insurance, and so forth—were about $16 million. To replace the *Sansinena* today with a new ship would cost about $7.7 million in a Japanese shipyard or about $18 million in an American shipyard.

Today, the market or sale value of the *Sansinena* in the foreign market would be $4.5 million. In the U.S. market before March, its value would be zero, of course, because it could not operate in the U.S. coastal trade and under American registry its operating costs with U.S. crew wages, and so forth, would double or triple.

However, with the ability to engage in the U.S. coastal trade granted by the waiver of the Jones Act, the *Sansinena*'s market value—again, according to some of the best experts in the field—would be conservatively about $11 million.

In other words, in the present market situation, the granting of the waiver probably can be given a cash value of at least $5–$7 million. This represents a conservative estimate of the change in sale value for the *Sansinena* when switched from the international market to the domestic market. Of course another increase in value occurred when it is remembered that with inclusion of the *Sansinena* in the domestic tanker fleet, the need to construct a new U.S.-flagship is gone. Such a new ship, or to duplicate this ship in American yards under present market conditions would run anywhere from $18–$22 million. Thus, a mere stroke of the pen enhances the sale value of the ship, conservatively speaking, some $5–$7 and relieves the necessity to spend $18–$22 million in constructing a new American-flagship in the United States.

Now, let me point out, Mr. President, what this waiver means. It means that Maryland citizens who work in the Sparrows Point shipyards and steel mills, if the integrity of the Jones Act is once breached and weakened, will be out of work for the American shipbuilding industry, particularly the tanker building industry, for all practical purposes, will be significantly crippled. This means that the jobs of over 4,000 Marylanders at Sparrows Point will be in great jeopardy. This is not idle talk. I ask unanimous consent that a letter dated March 6 from Mr. D. D. Strohmeier, vice president, shipbuilding at Bethlehem Steel Corp. to me be printed in the RECORD. I point out the second to last paragraph.

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

BETHLEHEM STEEL CORP.
New York, N.Y., March 6, 1970.

Hon. JOSEPH TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: In response to your request, I outline herein the basis for our concern at Sparrows Point over potentially adverse effects of the *Sansinena* Jones Act waiver.

Our recent and current program includes:

Tankers of 37,000 tons	9
Chemical carriers of about 35,000 tons	3
Tankers of 61,000 tons	3
Tankers of 69,000 tons	6
Tankers of 120,000 tons	3
Tanker and sulphur jumbos	4
Container ships	2
Total merchant ships	30

Our only other work embraces 2 ammunition ships for the Navy. All 30 merchant ships are unsubsidized and are for the domestic trades. None would have been built in the United States except for the requirements of the coastwise laws. None would have been ordered if their owners had had any doubts as to the integrity of the protection afforded by those laws. Those contracts represent a tacit trust by ship owners that the coastwise laws would not be weakened by waivers.

The *Sansinena* waiver cannot be considered a special case as the terms of the waiver imply. The *Sansinena* is only one of more than 80 tankers under foreign registry built in the United States since 1948.

If the waiver for the *Sansinena* is sustained, it is hard to conceive of grounds for refusing any other U.S. built foreign-flag tanker a similar waiver.

Unless the *Sansinena* waiver is reversed.

(1) Our tanker segment of the Merchant Marine will be flooded with old ships instead of new ones,

(2) Seagoing labor will man old ships instead of new,

(3) The country in terms of National Defense will not have the new ships that would be built but would have only the old existing ones which it has available anyway under the U.S. requisitioning rights upon which their construction permits were granted.

The implications of the *Sansinena* waiver include the cessation of shipyard programs such as ours at Sparrows Point, probable closing of such facilities, and a double loss to National Defense by destroying construction capabilities and curtailing the supply of new tankers.

By law the only grounds for a Jones Act waiver are the *needs of National Defense*. The loss of construction capability which the coastwise laws are intended to preserve and the curtailment of supply of new tankers cannot by ordinary logic be related to the needs of National Defense.

Sincerely yours,

D. D. STROHMEIER,
Vice President.

Mr. TYDINGS. Once the Jones Act is breached, there will be no reason to build tankers or ships in the United States because they can be built overseas at half the price, and they can be brought in here and given all the advantages of our own coastal trade. I repeat again that the logical implications of such a waiver would be devastating to the shipbuilding industry here, not only in Maryland but across the Nation. If this waiver is granted to the tankers built in America and registered elsewhere, they will seek and expect a similar privilege.

The ultimate windfall value of this

waiver—if it stands—and its costs to U.S. shipyards and steelworkers—thus may well be hundreds of millions of dollars. If foreign ships like the *Sansinena* can be registered for the U.S. coastal trade, who will pay the tens of millions extra which the cost of U.S. tankers involve?

For the past 3 years the Union Oil Co. has been trying to bring the *Sansinena* into the international coastal trade. The company has been seeking a waiver to the Jones Act.

If the waiver were granted, other tankers built in America but registered elsewhere will seek and expect a similar privilege. Many such tankers now ply the seas, enjoying the benefits of foreign-flag documentation. Since 1948 Sparrows Point Yard alone has built 62 tankers for foreign owners.

A letter dated March 7 to me from Mr. Page Groton, director, Boilmakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, States that presently there are 70 ships like the *Sansinena*. I ask unanimous consent that this letter be printed in the RECORD at this point and that the enclosures be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

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

BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS, & HELPERS,
Kansas City, Kans., March 7, 1970.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: We have just been informed that the request of the Union Oil Company for a waiver of the Jones Act to utilize the Liberian flag tanker *Sansinena* in the domestic trades has been approved.

In our opinion, the approval of the waiver constitutes a serious breach of the Jones Act and there is absolutely no justification for it. Therefore, I respectfully urge you to do everything in your power to have the Treasury Department reverse its decision.

For your information, there are 70-odd tankers which were built in the United States for foreign registry which are in the same category as the *Sansinena*. The approval of this waiver to allow the *Sansinena* to be used in the domestic trades will certainly result in a flood of claims for similar privileges. The result to the American tanker fleet and our American shipyards would be disastrous.

The enclosure contains a listing of foreign-flag tankers built in the United States, the number of U.S. vessels built in U.S. shipyards for registry since 1948 plus a listing of merchant vessels delivered by private yards since 1948. I feel this information will be helpful to you.

Your support in getting this waiver revoked and protecting the Jones Act will be sincerely appreciated.

If I can help in any way, please let me know.

With best wishes, I am
Respectfully,

PAGE GROTON,
Director, BISMC.

Mr. TYDINGS. With U.S. coastal trade open to foreign-flag ships, no one will build tankers in this country when it is possible to use vessels like the *Sansinena*—registered abroad although built here—instead. It will cost millions less to move these ships into U.S. coastal trade and replace them on international routes with new vessels constructed abroad than to build new vessels here for domestic use. Moreover, weakening of the 1920 law in regard to tankers could well lead to general cargo vessels demanding, and rightly so, similar privileges. By granting this one waiver to this particular vessel, the door is open to all ships and the ultimate destruction of the American shipbuilding industry.

That means that the citizens of Maryland will be looking for another job. It would close other shipyards as well. This simply cannot be permitted to happen. The shipbuilding industry is too vital for our economy and national security.

Our shipbuilding industry is thus dependent upon maintaining the integrity of the Jones Act.

Now for a little bit of interesting history. These are all facts which I will document in the RECORD.

In October 1967, the Union Oil Co. of California sought to obtain for the *Sansinena* from the Department of Defense a waiver of the Jones Act to permit it to operate in American coastal trade. The Department denied the request. In a letter dated March 5, 1968, to Mr. M. S. Thomson, a vice president of Union Oil, the then Under Secretary of the Navy Charles F. Baird wrote:

DEAR MR. THOMSON: I have carefully reviewed your request for a waiver which would permit the use of SS *Sansinena* for the carriage of crude oil to Alaska.

I have concluded that the possible increase in U.S. flag tankers available to fulfill the requirements of the Department of Defense, which might result from a waiver, is too speculative to provide the basis for such a waiver. Further, as you are already aware, the Military Sea Transportation Service cannot utilize your vessel because of its size. Additionally, it has been established that there are American flag tankers available to you that do not meet the qualifications pertinent to the cabotage laws of this country.

Therefore, since the serving of a national defense interest cannot be persuasively established, as required by the cabotage laws, I must deny your request.

Sincerely,

CHARLES F. BAIRD.

Secretary Baird's letter is to the point. It offers specific reasons for rejecting the oil company's request. Further consultations between the Department of Defense and Union Oil took place after this rejection but no change in the position of the Department resulted.

A month prior to this letter, in a letter to the then senior Senator from Maryland, Mr. Brewster, Paul H. Riley, Deputy Assistant Secretary of Defense for Supply and Services stated:

Although we have not received a formal recommendation from the Navy at this time, a conversation with the office of the Under Secretary and a review of the facts in this case indicate that sufficient grounds to warrant a waiver request to the commissioner of Customs have not been established.

Mr. President, I ask unanimous consent that the full text of the letter be printed at this point in the RECORD.

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

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., February 10, 1968.

Hon. DANIEL B. BREWSTER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BREWSTER: This is in response to your letter of February 2, 1968, regarding the request by the Unilon Oil Company of California for the waiver of navigation laws to permit the operation of a foreign-flag tanker between Alaska and West Coast Ports.

The Secretary of Defense is authorized to request the Commissioner of Customs to waive applicable navigation laws when he feels that such a waiver is in the interest of national defense. The law that permits this, 64 Stat. 1120, was passed by Congress primarily to relieve the burden of the various U.S. shipping restrictions in times of urgent shipping requirements. In keeping with the intent of this statute, the Department requests waivers only when there is no suitable American-flag shipping available and when the national defense interest can be persuasively established.

The Union Oil Company request is presently under review by the Office, Under Secretary of the Navy. Although we have not received a formal recommendation from the Navy at this time, conversation with the Office of the Under Secretary and a review of the facts in this case indicate that sufficient grounds to warrant a waiver request to the Commissioner of Customs have not been established. Accordingly, favorable action on the Union Oil Company request is not contemplated.

I hope that this information is satisfactory to you. We will inform you if any action is taken in this matter contrary to what has been outlined above. If I may be of further assistance in this matter, please let me know.

Sincerely,

PAUL H. RILEY,
Deputy Assistant Secretary of Defense (Supply and Services).

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

Mr. TYDINGS. Mr. President, I ask unanimous consent that I be permitted to continue for another 20 minutes.

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

Mr. TYDINGS. Mr. President, Secretary Baird's letter is to the point, as I have indicated. It offers specific reasons for rejecting the oil company's request. Further consultations between the Department of Defense and Union Oil took place after this rejection but no change in the position of the Department resulted. The possibility of such a change, however, is indicated in a letter dated July 22, 1969, from Under Secretary of Defense David Packard to Chairman RIVERS of the House Armed Services Committee. The letter in part reads:

This matter has been discussed with Mr. Fred L. Hartley, the President of Union Oil Company, and it has been decided that the Department should not take a position, one way or the other, at this time.

Mr. President, I ask unanimous consent that the full text of the letter from Under Secretary of Defense David Packard to Chairman RIVERS of the House Armed Services Committee be printed at this point in the RECORD.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., July 22, 1969.

HON. L. MENDEL RIVERS,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your recent letter regarding the Union Oil Company's SS *Sansinena*. The Union Oil Company has recently inquired about the possibility of a waiver of coastwise trading restrictions for the SS *Sansinena*. This matter has been discussed with Mr. Fred L. Hartley, the President of the Union Oil Company, and it has been decided that the Department should not take a position, one way or the other, at this time.

I hope that the above information is useful to you. Please contact me if anything further is needed.

Sincerely,

DAVID PACKARD.

Mr. TYDINGS. Mr. President, apparently at this time the Department had reconsidered its prior firm refusal of the company's request for a waiver. The Department of Defense now stated that it had no position. Nevertheless, it is important to note that the Defense Department did not issue the waiver.

This received high-level support when, in a letter dated November 24, 1969, to Mr. Edwin Hood of the Shipbuilders Council, an Assistant to the President, Mr. Peter Flanigan, stated:

The Administration is in no way considering modification of the Jones Act at this time.

Flanigan's letter goes on to say, however, that "other policies" will be considered if American shipyards cannot provide tankers at "reasonable" cost.

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

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

THE WHITE HOUSE,
Washington, November 24, 1969.

MR. EDWIN M. HOOD,
President, Shipbuilders Council of America, Washington, D.C.

DEAR MR. HOOD: The President has asked that I reply to your telegram of November 12 regarding the Jones Act and the possibility of foreign construction for tankers to move crude oil from Alaska in the domestic trade of the United States.

The Administration is in no way considering modification of the Jones Act at this time. However, as I am sure you recognize, it will be economical for the oil industry to transport this oil to domestic refineries by tanker only if ship construction costs are reasonable. We are hopeful that this incentive, together with the incentives in the President's program, will stimulate American shipyards to reduce construction costs significantly and eventually become more nearly comparable with competitive world prices.

As the President stated in his message, this Administration is committed to providing the opportunity for the American shipping and shipbuilding industries to revitalize themselves. I know you share our confidence that this will be accomplished. It will be necessary to consider other policies to alleviate the situation only if these industries fail to respond to the challenge of the future.

Sincerely,

PETER FLANIGAN,
Assistant to the President.

Mr. TYDINGS. Mr. President, the opposition to granting a waiver by the Defense Department evidently again was stated in November when Chairman GARMATZ of the House Merchant Marine and Fisheries Committee wrote Mr. Andrew Pettis, president of the International Union of Marine and Shipbuilding Workers of America, AFL–CIO, and stated that he had been advised by the office of the Under Secretary of the Navy that the policy of opposing the *Sansinena's* waiver had not changed.

Now, a few comments about the *Sansinena*. At 66,000 tons, the *Sansinena* is too large for military use. Many ports do not have channels sufficiently deep for such a ship and of those that do, many do not have the space necessary to turn around a vessel the size of the *Sansinena*. The military seeks smaller tankers, about 25,000 tons, and has recently requested from Congress authority to build nine small tankers. Additionally, the military is now laying ships off rather than adding them on to those already under Government contract. The Department of Defense has thus maintained its opposition to granting the *Sansinena* a waiver. Its finding that the interest of national defense is not served by the ship carrying petroleum from Alaska to the west coast has not been reversed, at least as of November 1969.

As recently as this weekend, I wrote a letter to Under Secretary of Defense Mr. David Packard with respect to the *Sansinena* tanker and a waiver of the Jones Act, requesting a report on what if any developments had occurred in the Defense Department with respect to the *Sansinena*.

I ask unanimous consent that a copy of my letter to Mr. Packard be printed in the RECORD.

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

MARCH 7, 1970.

HON. DAVID PACKARD,
Under Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: I am looking into the recent decision of the Treasury Department granting to the S. S. Sansinena a waiver of the Jones Act provision requiring that ships engaged in coastal trade be built and registered in the United States.

I will be asking for a report as soon as I finish my initial research, but I am requesting in this letter that you make available to me no later than 10:30 a.m., Monday, March 9, 1970, copies of all relevant papers and documents, including the 1967 application to the Department of Defense for a similar waiver, the letter denying such a waiver and all subsequent correspondence with Union Oil Company, supporting documentation, related correspondence including any correspondence with Chairman Rivers, and the letters and records of recommendations in this matter.

Your staff may respond to me or to Mr. Terence Finn of my staff over the weekend.

Sincerely,

JOSEPH D. TYDINGS.

Mr. TYDINGS. Mr. President, I received a letter from Marry J. Shillito, Assistant Secretary of Defense for Installations and Logistics, in response to my letter. His letter is dated March 7, 1970.

He states in the letter:

In connection with the most recent application by the Union Oil Company, we did not believe the Defense Department should take a position, one way or another, inasmuch as the Defense Department has no direct or indirect interest in the outcome of any application which the Company might like to file.

Mr. President, I repeat that paragraph:

In connection with the most recent application by the Union Oil Company, we did not believe the Defense Department should take a position, one way or another, inasmuch as the Defense Department has no direct or indirect interest in the outcome of any application which the Company might like to file.

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

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 7, 1970.

HON. JOSEPH D. TYDINGS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TYDINGS: Secretary Packard has asked me to respond to your letter, dated March 7, requesting that all relevant papers and documents concerning the waiver granted to the Union Oil Company for the SS Sansinena be submitted to you. Attached you will find a copy of a letter to Mr. Thomson of the Union Oil Company, dated 5 March 1968, signed by Mr. Charles F. Baird, Under Secretary of the Navy. You will also find a copy of a letter from Secretary Packard to Chairman Rivers, dated 22 July 1969.

Since 22 July 1969 there has been no written correspondence between this Department and the Department of Treasury, the Department of Transportation, or the Union Oil Company. The only other documents concerning this case since our response to Chairman Rivers have been in the nature of internal memoranda among several officials of the Department of Defense. Therefore, I do not believe it would be appropriate to release these documents to anyone outside the Department.

In connection with the most recent application by the Union Oil Company, we did not believe the Defense Department should take a position, one way or another, inasmuch as the Defense Department has no direct or indirect interest in the outcome of any application which the Company might like to file.

Sincerely,

BARRY J. SHILLITO,
Assistant Secretary of Defense, Installations and Logistics.

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

Mr. TYDINGS. I yield.

Mr. HOLLINGS. What is the date of that letter?

Mr. TYDINGS. That is March 7, Saturday morning.

Mr. HOLLINGS. I thank the Senator.

Mr. TYDINGS. Mr. President, on March 2, 1970, 1 week ago, the Secretary of Treasury, acting on his own and in apparent opposition to the position of the Department of Defense, granted a waiver, and it was a general waiver not a project waiver, permitting the *Sansinena*, flying under the Liberian flag, owned by the Barracuda Tanker Corp., and under charter to Union Oil Co., to enter the American coastal trade.

What is most puzzling about the decision of the Secretary to grant this waiver is the absence of any apparent justification. In brief letters dated

March 2, to Mr. Edwin Hood of the Shipbuilders Council and Mr. A. Maskin of the American Maritime Association—two groups that had expressed interest in the matter—and signed by Assistant Secretary of the Treasury Eugene T. Rossides, no explanation is given. The second of two brief paragraphs reads:

After considering all aspects of the matter, including your comments along with those of others interested in the matter, the Department decided that the request for waiver will be granted. A waiver order is being issued as of this date.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters dated March 2, 1970, from Mr. Rossides to Mr. Hood and Mr. Maskin.

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

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., March 2, 1970.

Mr. EDWIN M. HOOD,
President,
Shipbuilders Council of America,
Washington, D.C.

DEAR MR. HOOD: Our recent letter to you advised that your comments concerning an application before the Treasury Department for a waiver of coastwise restrictions on the tanker SANSINENA would be fully considered before a determination in the matter was made.

After considering all aspects of the matter, including your comments along with those of others interested in the matter, the Department has decided that the request for waiver will be granted. A waiver order is being issued as of this date.

Sincerely yours,

EUGENE T. ROSSIDES.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., March 2, 1970.

Mr. A. MASKIN,
Legislative Director,
American Maritime Association,
Washington, D.C.

DEAR MR. MASKIN: Our recent letter to you advised that your comments concerning an application before the Treasury Department for a waiver of coastwise restrictions on the tanker SANSINENA would be fully considered before a determination in the matter was made.

After considering all aspects of the matter, including your comments along with those of others interested in the matter, the Department has decided that the request for waiver will be granted. A waiver order is being issued as of this date.

Sincerely yours,

EUGENE T. ROSSIDES.

Mr. TYDINGS. Mr. President, that is all that is said.

This is all that is said. No justification is offered. Yet, courtesy and fair play demand a fuller explanation. In an issue so vital as this, simple notification of approval will not suffice. The implications of the Secretary's decision are enormous. The integrity of the Jones Act is severely weakened. The impact of it is nationwide, and not just in Maryland. Perhaps there is a simple explanation. I do not know. Nor, apparently do others. All of us wish to find out, however. I believe the situation fully demands the Secretary of the Treasury to justify and document to the Senate this decision.

Moreover, the criteria under which the interest of national defense is determined should be revealed to the public. A decision involving the merchant fleet need not be made behind closed doors. How did the Secretary, in this instance, decide what the national defense was when the Department of Defense had no interest, direct or indirect, in the granting of the waiver? How would he decide in other instances? How many more waivers is he going to issue? Are other tankers involved? Did he consult with the Secretary of Defense, who is, after all, responsible for the Nation's security? Perhaps the law in this area is too loosely drafted. There has never been any problem with it before. If that is the case Congress should remedy the situation by rewriting the legislation. In the meantime, Secretary Kennedy should tell us why he granted the waiver to the *Sansinena*. Why did the Secretary of Treasury issue the waiver? Why did he do so in light of opposition to granting the waiver on the part of the Department of Defense? How did the Secretary determine that the interest of national defense required this waiver?

The questions demand an answer. On behalf of those men who work in the Bethlehem Steel yard in Sparrows Point I demand we get an answer. I demand that the Secretary speak out and explain his reasons for granting a waiver to the *Sansinena*.

The Secretary's action is particularly puzzling when it is noted that at this time—the day the waiver was issued—four U.S. flag tankers were on the west coast looking for oil. The *Overseas Vivian*, a new ship of 38,000 tons, could not find any and took grain to India instead. The *Monticello Victory* of 50,000 tons took grain to Pakistan. The *Western Hunter* and *Transeastern*, some 70,000 and 50,000 tons, respectively, also carried grain instead of petroleum at substantially less profit, I might add. At the present time, it is my understanding that the *Ogden Wabash* is open, looking for cargo, having just carried some grain.

I ask that two telegrams confirming this information now be printed in the RECORD.

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

COLONIA TANKERS CORP.,
WESTERN AGENCY, INC.,
Hoboken, N.J.

Senator JOSEPH D. TYDINGS,
U.S. Senate, Washington, D.C.:

We herewith confirm information relayed to you previously that Western Hunter Deadweight 72254 built 1961 could have been available for business on the U.S. West Coast about April 10–12. However because of absence of employment for American Cargo, we were forced to charter a foreign cargo from Arabian Gulf for discharge U.K./Continent or U.S.N.H.

OCEAN TANKSHIPS CORP.,
New York, N.Y.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.:

This is to confirm that our S/T overseas Vivian, a 37,814 ton tanker built Bethlehem Steel Shipyard, Sparrows Point, Maryland, January 1969, was available for employment end March early April and was fixed on February 27 for a cargo of grain from the U.S. North Pacific to Bombay as a result of lack of employment in the oil trade stop We also understand that the S/T Monticello Victory, S–T Ogden Wabash and S–T Western Hunter were seeking employment around the same period, the details which we will request the owners to forward to you directly.

Respectfully yours.

MORRIS L. FEDER,
Executive Vice President.

Mr. TYDINGS. As it stands now, the known facts cannot justify the Secretary's action. Apparently, considerations other than merit enter the picture.

Mr. President, our American system of government is the finest in the world. Our democratic institutions are the envy of people and nations on five continents. While by no means perfect, our democracy may well be the last great hope of mankind. In the United States today, as in the past, democratic government is on trial.

Yet, institutions of government are only as good as the people who serve them. These people must be above reproach. This requirement is absolute. For the strength of our democratic government rests on the public respect and confidence which the citizens of the United States have in their leaders.

This respect and confidence applies equally to all branches of government. Positions of power within the judicial, legislative, and executive branches are a public trust. A breach of this trust is an abuse of power. It will destroy the respect and confidence upon which free government rests. Ultimately and inevitably, it will destroy free government itself.

Impropriety or even the appearance of impropriety has no place in the Government of the United States of America.

The silence of the Secretary at the time of his decision on March 2 and the apparent absence of any legitimate reason for issuing the waiver to the *Sansinena* compel the disclosure of certain relevant facts. Let me emphasize that I make no accusation. Rather I point out these facts to shed further light on the situation and to provide information for others to consider. I note that had the Secretary fully explained on March 2 the rationale behind his decision, the controversy and puzzlement might easily have been avoided.

The president and managing director of Barracuda Tanker Corp. is Peter M. Flanigan, now an assistant to the President of the United States. This is the same Mr. Flanigan that is listed on page 37 in the 1969 edition of the Directory of Shipowners, Shipbuilders and Marine Engineers which contains a March 1969 preface.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the National Journal, volume 2, number 9, page 422, wherein on page 426 there was reference to Mr. Flanagan and his responsibilities.

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

MEN BEHIND NIXON/PETER M. FLANIGAN: GENERALIST AT THE WHITE HOUSE

Early in his Administration, President Nixon commented that his chief White House lieutenants would be "generalists in the very best sense of the word."

His objective, Mr. Nixon indicated, was to avoid creating specialists who would represent the various federal departments and other constituencies—such as the intellectual community, consumer blocs, business groups and labor organizations—rather than the Presidency.

Yet, during the Administration's first-year shakedown, individual aides became associated with specialties: Henry A. Kissinger (foreign affairs), John D. Ehrlichman (domestic matters), Bryce N. Harlow (congressional liaison), Arthur F. Burns and Daniel P. Moynihan (economic issues) and H. R. Haldeman (administrative affairs).

Specialization even spread to the junior aides. For example, John C. Whitaker was assigned to deal with environmental problems. Harry S. Dent became concerned with politics and patronage, and Patrick J. Buchanan was given the task of synthesizing each day's news developments "for the President's eyes only."

Today, there is perhaps only one member of the inner circle around the President who can truly be called a generalist—"in the very best sense of the word."

He is Peter Magnus Flanigan, 46-year-old, well-to-do, former Wall Street investment banker and Nixon campaign worker. Flanigan has what he terms a "broad mandate." Other White House assistants work within clearly defined areas. But Flanigan's duties are varied and cut across many fields. He is the resident jack-of-all-trades.

His roles include chief talent scout for top-level appointments. White House contact with federal regulatory and independent agencies, and Presidential liaison with big business.

YEARS WITH NIXON

Flanigan's association with Mr. Nixon dates back to 1959. "During that summer," he recently recalled, "I had given time to some contemplation as to the problems facing the country and where we seemed to be headed. I became firmly convinced that Mr. Nixon should be President." 1960 campaign; at that time, Mr. Nixon, who was gearing for his campaign against John F. Kennedy, had no effective campaign setup in New York and Flanigan offered his services, eventually organizing New Yorkers for Nixon. Later, in March, 1960, he organized the nationwide Volunteers for Nixon-Lodge. During that period, he shared an apartment in Washington with Haldeman, then a New York executive for the J. Walter Thompson advertising agency, who was also working for Mr. Nixon.

In his book, *Six Crises*, Mr. Nixon wrote that Flanigan was among the Catholics on his staff who urged him to make a speech denouncing "reverse bigotry."

"Republican Catholics" wrote Mr. Nixon, "were being urged to vote for Kennedy because he was one of their religion; and Republican Protestants were being urged to vote for him to prove that they were not biased against Catholics!"

Mr. Nixon rejected the counsel, however.

BETWEEN PRESIDENTIAL CAMPAIGNS

Flanigan strengthened his personal ties with Mr. Nixon when the former Vice President moved to New York in 1963 to become a partner in a law firm. The two frequented the same private clubs and traveled in the same financial and social set.

During the 1964 campaign, Flanigan served as a Republican fund-raiser. Two years later, he became a charter member of a small group of prominent Republicans who called themselves "Congress 66." The group's main function was to raise money for Mr. Nixon to distribute to Republican candidates of his choice.

Early in 1967, Flanigan was among the Nixon loyalists who gathered behind their candidate for the big push in 1968. "It was clear in 1966 there was going to be a major effort by the Republicans in 1968," he recounted.

Flanigan, who had made a spectacular rise in Wall Street, took a leave of absence in February 1968 to work for Mr. Nixon in his second Presidential campaign.

1968 CAMPAIGN

Assigned as a deputy to Campaign Manager John N. Mitchell (now Attorney General), Flanigan performed a variety of tasks. He directed voter polls, solicited campaign funds from wealthy businessmen and (as he now recalls somewhat ruefully) aided the Nixon-Agnew state campaigns in New England. Except for Vermont and New Hampshire, the region went for Hubert H. Humphrey, the Democratic Party candidate.

Flanigan points out, however, that he also participated in Mr. Nixon's campaign in New Jersey—the only industrial state in the Northeast to support the Republican candidate.

ADMINISTRATION RECRUITER

After the election, he agreed to stay on a while longer as an unpaid recruiter for high-level positions in the new Administration.

From Nixon Headquarters in the Hotel Pierre in New York, Flanigan reached out across the country to draft candidates for Administration jobs.

Over the next several months, he recruited some 300 appointees for prestige positions, many from within a wide circle of social, political and business acquaintances.

In large measure, the people Flanigan helped bring to Washington set the tone and style of the Nixon Administration. Listing the criteria he followed in seeking candidates, he said:

"First, I wanted people whose philosophy was consistent with that of the President since they would be involved in the development of policy. Second, I looked for people who were leaders and had courage. They also had to have the respect of the business community and possess a kind of prominence which would bring credit to their office. And finally, of course, they had to have ability."

INTO THE WHITE HOUSE

Flanigan says he had planned to return to Wall Street after the election, but the Administration's talent hunt ran on long after the inauguration. Then, in April, 1969, Flanigan himself was drafted by Mr. Nixon and appointed an Assistant to the President.

Flanigan moved into an office on the second floor of the West Wing of the White House and, in addition to his personnel chores, took up duties connected with the regulatory agencies and other domestic matters previously assigned to Robert F. Ellsworth, a former Representative from Kansas (1961–67) and national political director for the Nixon-Agnew campaign. Ellsworth left the White House to become U.S. Ambassador to the North Atlantic Treaty Organization.

PERSONAL BACKGROUND

Flanigan brought to the White House imposing credentials. He was brought up in a genteel political atmosphere in New York, where his father, Horace C. Flanigan, was chairman of the Manufacturers Hanover Trust Co. before retirement and is still a director. Although the elder Flanigan is a Republican and sat on the party's national finance committee, he remained a close friend of Democratic party leaders James A. Farley, Ed Flynn and Al Smith.

The younger Flanigan attended Greenwich (Conn.) Country Day School, Portsmouth Priory and Princeton University (*summa cum laude*, 1947). During World War II, he was a Navy career pilot in the Pacific.

On Wall Street Flanigan at age 30 became vice president of Dillon, Read & Co., a position he relinquished to join Mr. Nixon.

Tall, lean and tough-minded, Flanigan softens an authoritative, self-assured manner with smiling Gaelic charm.

Jonathan Rose, one of his aides, says of Flanigan: "He's exciting, extremely bright and a fast, effective decision-maker."

A Johnson Administration official who worked with Flanigan during the transition remarked. "He's tough, hard-driving and smooth, if sometimes abrasive. Above all, he's one-thousand per cent loyal to Nixon."

FLANIGAN'S OFFICE

After a false start, the domestic affairs operation of the White House evolved into a pyramidal staff system. Ehrlichman, who holds the title of Assistant to the President for Domestic Affairs, stands at the peak with a half dozen Presidential assistants just beneath him. One of these is Flanigan.

In descending order are various grades of junior assistants and technicians.

In effect, the operation is comparable to that devised by Kissinger in the national security sphere.

PROJECT ROUTE

Normally, a White House project follows a prescribed path. For example, Mr. Nixon's executive reorganization plan last July, permitting the President to appoint the Chairman of the Interstate Commerce Commission for the first time, was proposed by the President's Advisory Council on Executive Organization.

It was forwarded to a project team headed by Flanigan and including representatives of interested governmental agencies. Experts in and out of the government were requested to offer opinions. Next, the project team drafted a position paper, listing all the options and possible consequences. Flanigan and Ehrlichman then put the recommendation in final shape and presented it to the President for his decision.

Coordination of projects is fully the responsibility of the White House staff. Theoretically, this assures objectivity. Previous Administrations often allowed the department most concerned with the problem to coordinate the project. This often resulted in biased reports and recommendations, favorable to the department itself.

After the proposal is submitted to Congress, the White House conducts a press briefing explaining and elaborating on its content. Because of the myriad issues in his province, Flanigan is often called upon to brief reporters.

Occasionally, the press ruffles Flanigan's composure. This occurred recently during a briefing on the report drafted by the Cabinet Task Force on Oil Import Control. When reporters persisted in asking why Phillip Areeda, executive director of the study group, was not present, Flanigan explained that he was in Cambridge, Mass., lecturing at Harvard in keeping with his regular class schedule.

"If you like, you may get his views," Flanigan declared. "The shuttle is waiting."

STAFF

Flanigan's office consists of Rose, his administrative assistant, and four other aides who have "floating franchises" meaning that they may be assigned to projects other than those within Flanigan's jurisdiction.

Also assigned to his office are six secretaries.

WHITE HOUSE ROLE

Flanigan divides his work between talent recruiting and domestic planning.

In accordance with the White House staff system, many of his inputs are channeled up to Ehrlichman. Flanigan, however, does have frequent access to Mr. Nixon.

"When I have something that I believe warrants his attention, I generally can get to see him," Flanigan remarked.

Flanigan's search for talent to fill high-level government jobs now takes less of his time than it did last year.

He also serves as middle man between the President and Harry S. Flemming, a Special Assistant to the President who drafts candidates for lower-echelon positions.

One of Flanigan's roles is that of White House pipeline to financiers and corporation executives. During his two decades on Wall Street he has come to know many of the nation's big businessmen.

Last year when the Administration sought to get its message across to business leaders regarding action being taken to fight inflation, it was Flanigan who arranged for an estimated 1,000 of them to be brought to Washington by the Commerce Department and briefed by government officials. The highlight of the session was an appearance by President Nixon.

Flanigan is in frequent communication with top businessmen, learning their reaction to Administration measures and hearing their problems. These views are then relayed to appropriate Administration officials. One of the areas which Flanigan has had a strong influence concerns the regulatory agencies. Among the "Big Seven" commissions, Flanigan has had a hand in the appointment or reappointment of six chairmen and seven members. Almost all of these appointments have been made with individuals of what Flanigan calls the "middle-of-the-road Republican philosophy."

In connection with his agency duties, Flanigan in May of last year—less than a month after formally joining the Administration—sent a memorandum to White House staff members warning them against interference in cases before the regulatory agencies.

He noted such cases are "very closely watched for any evidence of improper procedure or influence." He further counseled that, "It is important to avoid even the mere appearance of interest or influence."

Flanigan's areas of concern also include:

He is in charge of the overall coordinating effort to reform the draft and update military manpower policies. He also is engaged in a search for a successor to former Selective Service Director Lt. Gen. Lewis B. Hershey.

He deals with both the National Aeronautics & Space Administration and the Federal Communications Commission. He drew up the White House statement on domestic communications satellite policy and was directly involved in recommendations urging innovative, competitive efforts by private industry in the field.

He is the White House contact with the Office of Consumer Affairs and is responsible for reviewing its proposals and determining if they correlate with the Administration's business and economic policies.

He is involved in formulating U.S. Tariff Commission recommendations, basically with the view of protecting domestic industries. Proposed "escape clauses" in trade regulations also come under his purview.

Proposed restructuring of the executive branch, including recommendations made by the Advisory Council on Executive Organization, are submitted to him for study.

Flanigan also fulfills the role as liaison between the White House and the Vatican. He was assigned the duty last summer when President Nixon decided against naming an envoy to the Vatican. Principally, Flanigan acts as a conduit between the Apostolic Delegate and the White House. When, for instance, the representative of the Holy See wishes to meet with a U.S. official or convey a message to the White House, he informs Flanigan, who makes the necessary arrangements. Diplomatic matters are turned over to Kissinger.

Among recent activities in which Flanigan has played a major role.

Flanigan represented the White House during conferences with officials of various departments and the Budget Bureau on the fiscal 1971 budget. One bureau official said Flanigan piqued others present: "Usually, the White House representative simply listens and observes—if he attends at all," the official said "Flanigan, however, insisted on talking and making suggestions."

Flanigan was said by a staff member of the oil import control task force to have "focused his attention on the political aspects of the issue, rather than the economic aspects."

This was in reference to possible political repercussions in Texas had the Feb. 20 report—which postponed indefinitely any major changes in the import control program—been unfavorable to the oil industry. In the Texas race for the U.S. Senate this November, incumbent Democrat Ralph W. Yarborough is expected to face formidable opposition from Rep. George Bush, R., a White House favorite and a friend of Flanigan.

The task force staff member recalled that originally an assistant to Flanigan was assigned to the study group but once it became apparent that a highly controversial issue was at stake, Flanigan took over as the White House project director.

In related activity, Flanigan has met with executives of giant U.S. oil companies having interests in the Middle East. According to some executives present at the sessions, Flanigan requested that they not increase production in the region and depress the world price of oil to the detriment of the Arab governments. They said Flanigan stressed that the Administration did not want to further aggravate diplomatic tension in the Middle East.

Flanigan and one of his assistants, Clay Thomas Whitehead, played a pivotal role in developing an Administration program designed to revitalize the U.S. merchant marine.

Unveiled last October, following a study by an interagency committee, the plan calls for $3.8 billion in subsidies over a 10-year period to increase U.S. tonnage and meet foreign competition. (*For details, see Vol. 1 p. 12.*)

Newsmaker—Another measure of Flanigan's varied duties is a series of recent news developments. On Jan. 23 the Administration's policy statement on domestic satellite communications was signed by Flanigan and sent to Dean Burch, chairman of the Federal Communications Commission. On Feb. 11, Charles J. DiBona, the White House choice to be the new Selective Service Director, bowed out after talking with Flanigan, because of pressure from key Senate leaders. (*For details, see p. 328.*) On Feb. 20, Flanigan briefed the press on the oil import report. (*See p. 392.*)

Since he arrived on the White House scene last April, Flanigan's stature has risen considerably. This was reflected in a recent item on the UPI news wire, which reported that Mr. Nixon was holding a series of private meetings with White House staff members to discuss messages on domestic programs he will be sending to Congress during the current session. Listed among those conferring with the President were Ehrlichman, Haldeman, Daniel P. Moynihan, Bryce N. Harlow, and Flanigan.

Ehrlichman is Assistant to the President for Domestic Affairs, Haldeman is an Assistant to the President, and Moynihan and Harlow each hold the Cabinet rank of Counsellor.

Usually, Flanigan puts in a 12-hour day, arriving at his White House Office at 7:30 a.m. He often attends the morning staff conference presided over by Haldeman and Ehrlichman. Later in the morning, he may hold his own staff meeting. The rest of the day is spent attacking problems which fall outside the defined areas assigned to other Presidential aides.

At night, he returns to the fashionable Spring Valley section of Washington, where he lives with his wife and five children.

Mr. TYDINGS. Mr. President, I might note that among references describing Mr. Flanigan, are references to oil.

The article states:

Flanigan was said by a staff member of the Oil Import Control Task Force to have "focused his attention on the political aspects of the issue, rather than the economic aspects."

On page 424 of the article it is stated:

One of Flanigan's roles is that of White House pipeline to financiers and corporate executives.

The article also states on page 424:

In accordance with the White House staff system, many of his inputs are channeled up to Ehrlichman. Flanigan, however, does have frequent access to Mr. Nixon.

Mr. Flanigan, as an investment banker, helped form the corporation and upon entering Government service placed his stock in Barracuda in trust with his father. On February 25, 5 days before the Secretary issued the waiver, this stock was sold to the partners of Barracuda Tanker Corp. It is my understanding that Mr. Flanigan resigned his post in the corporation upon entering the White House.

The February 28, 1970, National Journal describes Mr. Flanigan's stature in the White House as having risen "considerably" since he arrived there last April. As assistant to the President Mr. Flanigan holds one of the top five staff jobs in the White House. He is described as a "White House pipeline to financiers and corporation executives" and as having "played a pivotal role in developing an administrative program designed to revitalize the U.S. merchant marine."

In the second place, the president and chief executive officer of Union Oil Co. of California is Fred L. Hartley. Last year Union Oil incurred heavy losses at Santa Barbara, as a result of the oil leak off the California channel in southern California. Mr. Hartley, and officers of his company, I am told, are frequent financial supporters of the Republican Party, not only in California but nationally. He was one of 1,000 executives invited, in December of this year, to a special businessman's meeting with President Nixon arranged by the same Peter M. Flanigan.

The PRESIDING OFFICER. The time granted to the Senator from Maryland under the previous order has expired. Under the order of the Senate, the Senator from Kentucky (Mr. COOK) is now eligible to be recognized for 30 minutes.

Mr. TYDINGS. Mr. President, will the Senator yield me another 10 minutes?

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Maryland be allowed 10 minutes, because I want to make a little statement on this matter, too.

The PRESIDING OFFICER. If there is no objection, the previous order is temporarily suspended to give the Senator from Maryland an additional 10 minutes, as requested by the Senator from Maryland and the Senator from Washington.

Mr. TYDINGS. Mr. President, from the record of such facts as I have, the two companies that stand to benefit from

the Secretary of the Treasury's waiver of the tanker *Sansinena*—I may point out at the expense of the Sparrows Point shipyard and domestic tanker construction market—is the Barracuda Tanker Corp. and the Union Oil Co. of California.

I am not privy to the terms of the leases, or the facts of the ownership, or the relationship of these two companies, one to the other. I do know, as I have set forth, that the stroke of the pen by the Secretary of the Treasury created a windfall value of a minimum of $5 to $7 million, or perhaps more, which on the record accrues to one or both of these companies or parts of both.

The Secretary's failure on March 2 to explain fully his decision regarding the *Sansinena* and the facts noted above require the Senate to be given this information.

The Congress is entitled to some explanations. Why did the Secretary issue the waiver? What is the exact relationship of Mr. Hartley, Union Oil Co., Barracuda Tanker Corp., and Mr. Flanigan? Who benefits from the increased value of the *Sansinena*? What other decisions concerning waivers to the Jones Act are in the offing? Have the Union Oil Co. or the Barracuda Tanker Corp. requested any other waivers that are going to be issued by the Secretary of the Treasury? How many other tankers are involved? To whom do they belong? What expertise does the Secretary of the Treasury possess to decide what is "in the interest of national defense" when the Secretary of Defense himself says they have no interest in the waiver, direct or indirect? Why did he step in and, by the stroke of a pen, create a multi-million-dollar windfall?

As I stated before, I make no allegations, no accusations, no indictments. I merely state facts. I state that there are questions that should be answered.

Circumstances surrounding the *Sansinena* waiver are puzzling. They are puzzling to me. They are puzzling to those men who work in the Bethlehem Steel mill at Sparrows Point and the shipyard at Sparrows Point, and to other Americans who are employed in our shipbuilding industry across the United States.

I think the steelworkers at Sparrows Point are entitled to an explanation, I think the Senators from Maryland are entitled to an explanation, and I believe that this body is entitled to an explanation.

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

Mr. TYDINGS. I am glad to yield.

Mr. MAGNUSON. I have listened with great interest to the Senator's well-documented presentation of this matter. As chairman of the Committee on Commerce, the matter poses many questions to me, but it would be somewhat conservative to say that this is most unusual. I do not know of any time when the Secretary of the Treasury has done this. There may have been some occasions with respect to small boats relating to Coast Guard operations.

Mr. TYDINGS. I have been advised that since the 1950 act there has never been a general waiver in the history of the country.

Mr. MAGNUSON. Every time the Defense Department has granted waivers—which has not been unusual relating to ships of this size and cost—it has specifically stated its reasons and many times has sent to the committee a bill which it proposed for introduction, which is done by law. So this situation is most unusual.

But it is bad on another account. As the Senator says, there may be an explanation, but I do not know what it is. I will say it is bad because for many years we have been trying to build up the American merchant marine and American shipbuilding by trying to stop what we call runaway flags. As a matter of fact, they have become so prevalent that the Panamanian and Nicaraguan merchant marines today are larger than the U.S. merchant marine, or, I guess, any merchant marine in the world.

As Standard Oil of New Jersey pointed out when its representatives appeared before our committee, the only purpose of these runaway flags is to avoid corporate taxes. When they establish these oil companies in Panama, Nicaragua, or other places where they are sheltered, they pile up the profits and then bring the profits into this country at an opportune time or in an opportune year, when they can make use of their millions of dollars in profits.

We have been trying to discourage that. There is a legal or constitutional question involved as to whether an American concern has a right to make and spend its money somewhere else and build ships, which certain concerns have done. Most of the crowding of the foreign shipyards is due to American contracts. That is what has filled them up.

For years we have been trying to reverse that trend and to build up a depleted American merchant marine. American ships are handling—I do not have the exact figures before me—only about 7 percent of our imports and exports, which is deplorable. Along comes the Secretary of the Treasury, a self-styled expert, apparently, in these matters—which he must have thought he was—and, with the stroke of a pen decides what is needed for defense purposes. What does he do? After a ship has, for 12 years, been making money on a runaway flag——

Mr. TYDINGS. The Liberian flag.

Mr. MAGNUSON. Liberian flag, now it is of no value in the foreign trade, or of a very depreciated value. He is rewarding them for being out under the runaway flag for 12 long years.

Regardless of all the other facts, this is the worst kind of policy. If the White House, as the Senator described in his statement, looks upon him as "having played a pivotal role in developing an administrative program designed to revitalize the U.S. merchant marine," the Secretary of the Treasury surely has "fixed it up."

Mr. TYDINGS. He has.

Mr. MAGNUSON. He has fixed it up good in one stroke of the pen.

I do not know all the facts. I think the Senator has been very fair in saying he does not know. I do not know what it would be, but there could be a reason for this; but it is quite significant that all of a sudden it has been shifted to the Treasury Department and all of a sudden no one is notified about it.

Mr. TYDINGS. That is right.

Mr. MAGNUSON. This is not a case that was not known. This ship's case has been around for some time.

Everybody else is standing on the sidelines. They have old ships under the runaway flags by which they have evaded taxation waiting to see what happens.

Mr. TYDINGS. That is right.

Mr. MAGNUSON. Just sitting there waiting. If we do it for this one, Standard Oil of New Jersey has a merchant fleet under foreign flags the size in tonnage of which you would not believe. When they get old, they will say, "Well, let's make our money and not pay American taxes until we feel like it, and then, when they get a little old, we will bring them in here and use them up and down the coast, and they will be worth more."

Mr. TYDINGS. That is right.

Mr. MAGNUSON. So I think, despite what the Senator has said about some of the things that have happened here, this is the worst kind of breach of policy, if the administration or the Secretary of the Treasury or the people in the White House are honest and sincere about wanting to help revitalize the American merchant marine; and I hope the Senator will follow this matter through.

The PRESIDING OFFICER. The additional time allotted to the Senator from Maryland has expired.

Mr. MAGNUSON. I can speak only for myself, on the Committee on Commerce.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the time of the Senator from Maryland be extended.

Mr. COOK. Mr. President, reserving the right to object—and I shall not object—I would like to know how much longer this is going to go. The Senator from Maryland was scheduled to begin at 11:30 and speak for 30 minutes, and it is now 20 minutes until 1.

Mr. TYDINGS. Mr. President, I ask for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Maryland is allocated 5 additional minutes.

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

Mr. TYDINGS. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, perhaps this is the administration's Peter Principle. These waivers are a new type, indeed.

The distinguished Senator from Maryland is well known for his investigative abilities as an outstanding U.S. attorney; and I am glad to see him bring those talents to his service as a Senator, because I think he has done Congress a service, and no doubt has done the President a service. I cannot imagine the President knowing what was going on on this score.

Specifically, did the Senator have an opportunity to search into the legality of this particular waiver involving the *Sansinena*? I ask that question because

2 years ago we took the Coast Guard away from the Treasury Department and put it in the Department of Transportation. Since then, I have had quite a bit of difficulty getting the Coast Guard to guard the coast. But I have wondered about the legal authority for the waiver.

Mr. TYDINGS. The language is so broad that so long as it is done for reasons of national defense, apparently any head of a department or agency of the Government can request such a waiver.

Apparently a general waiver for a tanker, since enactment of the 1950 act has never been made by the Secretary of Defense or anyone else. As far as I know, this is all new.

Mr. HOLLINGS. And the best evidence the Senator from Maryland has with respect to the defense need is that neither direct nor indirect interests of defense are served?

Mr. TYDINGS. As of Saturday morning, from the office of the Secretary of Defense, they stated—let me read it:

In connection with the most recent application by the Union Oil Company, we did not believe the Defense Department should take a position one way or another inasmuch as the Defense Department has no direct or indirect interest in the outcome of any application which the company might like to file.

This is on top the letter from the Assistant Secretary of the Navy a year and a half ago, in which he said specifically, "The ship is too big; we do not need it; we have other adequate military transport."

This seems to show clearly that the Defense Department did not feel the need for it.

Mr. HOLLINGS. How much of a financial windfall does it constitute to the owners?

Mr. TYDINGS. The minimum increase in value of that tanker, when it is brought from the Liberian flag to the American coastal flag is $5 to $7 million. That is conservative; and if it is going to be actually operated in American coastal waters, then the company which owns it or controls it is saving upward of $18 to $22 million, because the company does not have to build another tanker in an American shipyard.

So the most conservative figure, if it is to be given voluntarily, is a $5 to $7 million windfall on the stroke of the Secretary of the Treasury's pen.

Mr. HOLLINGS. Mr. President, the merchant marine program of the President of the United States has recently been submitted, and hearings have commenced, which I chaired on last Monday at this hour. We all have, to be sure, high regard and affection for Mr. Andrew Gibson, the Maritime Administrator. We think the President has finally come to grips with the merchant marine program. But this kind of hanky-panky, if not explained, may well becloud the entire administration maritime proposal. We hope this is not true.

There has been some concern that we are going to build only 30 ships. Is that going to be further limited by the Treasury? Is the Treasury going to start issuing waivers, or, more particularly, is the Secretary of the Treasury going to come before Congress and testify about the need for the President's Maritime Administration program while at the same time the waivers are issued?

The PRESIDING OFFICER. The additional time allocated to the Senator from Maryland has expired.

Mr. MAGNUSON. I ask for half a minute. I think, in view of the fact that the Treasury has not taken on the merchant marine, Gibson ought to be brought up and asked what happened.

Mr. TYDINGS. I agree. I ask unanimous consent that a telegram dated March 6 be printed in the RECORD at this point, and I call it to the attention of my colleagues.

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

EXHIBIT 1

MARCH 6, 1970.

HON. JOSEPH TYDINGS,
U.S. Senate,
Washington, D.C.:

We were shocked to learn of the waiver received by the tanker *Sansinena* clearing her for carriage of oil products in the domestic trade. Such waiver was not justified as national security or defense interests are not involved. There are many American flag tankers which were never transferred out to foreign registry for owners convenience available for the carriage of oil from Alaska to the west coast and many more tankers are now being built for such purpose. Our company has invested over twenty million dollars in building American tankers and is planning to invest further considerable monies building new American ships in American shipyards. The granting of the waiver undermines President Nixon's new maritime program because there will be no purpose or justification to build new American ships if the Jones Act is being violated. Unless such waiver is promptly revoked we must reconsider our building program.

PENN TANKER COMPANY.

EXHIBIT 1

FOREIGN-FLAG TANKERS BUILT IN THE UNITED STATES AS OF JUNE 1969

Name of ship	Year built	Dead-weight tons	Gross tons	Speed (knots)	Flag
Mona Pass	1945	16,761	10,225	14.0	Liberia.
Brighton	1959	48,542	26,544	17.0	Panama.
Texaco Maine	1959	46,442	26,544	17.0	Do.
Trinidad	1958	48,734	26,530	17.0	Do.
A. N. Kemp	1950	28,264	18,127	16.0	Liberia.
Atholl McBean	1950	28,276	18,127	16.0	Do.
Chevron Transporter	1950	28,264	18,127	16.0	Do.
Gage Lund	1952	28,264	18,125	16.0	Do.
Pail Pigott	1951	28,264	18,127	16.0	Do.
Robert Watt Miller	1951	29,680	18,125	16.0	Do.
Esso Chelsea	1945	5,374	4,352	8.0	United Kingdom.
Esso Fulham	1945	5,374	4,352	8.0	Do.
Esso Glasgow	1944	16,143	10,727	15.0	Do.
Esso Lambeth	1943	5,400	4,352	8.0	Do.
Esso Advance	1945	4,902	3,930	11.0	Panama.
Esso Centro America	1945	4,626	4,595	11.0	Do.
Esso Bogota	1949	27,403	17,612	16.0	Do.
Esso Brooklyn	1943	16,424	10,399	15.0	Do.
Esso Colon	1949	27,350	17,420	16.0	Do.
Esso Montevideo	1949	27,355	17,420	16.0	Do.
Esso Norfolk	1942	16,635	10,501	15.0	Do.
Esso Santos	1950	27,315	17,328	16.0	Do.
Cities Service Valley Forge	1954	39,254	22,595	18.0	Liberia.
Cradle of Liberty	1954	38,937	22,610	18.0	Do.
Liberty Bell	1954	38,937	22,610	18.0	Do.
Statue of Liberty	1954	39,255	22,610	18.0	Do.
Capiluna	1960	47,183	28,434	16.0	Do.
Capisteria	1960	47,183	28,435	17.0	Do.
Capulonix	1959	47,183	28,435	16.0	Do.
Waneta	1952	54,335	26,155	16.0	Panama.
Wapello	1953	53,221	30,626	17.0	Do.
Wenatchi	1939	19,254	11,977	13.0	Do.
Winamac	1939	19,254	11,981	15.0	Do.
Marine Chemist	1942	13,018	8,137	13.0	Liberia.
Mobil Bataan	1945	4,110	3,498	13.0	Philippines.
Mobil Micronesia	1945	4,110	3,155	13.0	Do.
Mobil Visayas	1945	1,350	1,165	10.0	Do.
Chevron Genoa	1944	16,547	10,448	15.0	Panama.
Chevron Venice	1945	22,646	13,991	15.0	Do.
Texaco Bombay	1945	23,334	13,899	14.0	United Kingdom.
Texaco Rome	1945	16,630	13,892	15.0	Do.
Texaco Saigon	1945	22,368	13,892	14.0	Do.
Texaco Wellington	1944	22,367	13,887	14.0	Do.
Texaco Melbourne	1945	22,381	13,899	15.0	Do.
Canopus	1945	4,000	3,143	10.0	Panama.
Deneb	1945	4,110	3,155	13.0	Do.
Procyon	1945	4,000	3,145	11.0	Do.
Regulus	1945	4,000	3,155	11.0	Do.
Sea Horse	1944	1,496	1,294	10.0	Do.
Sea Raven	1945	2,219	1,296	8.0	Do.
Philidora	1959	48,422	30,165	17.0	Liberia.
Philine	1959	48,422	29,742	17.0	Do.
Philippia	1959	47,856	29,742	17.0	Do.
Standard Service	1923	1,500	1,324	8.0	Canada.
Texaco Bristol	1944	23,426	14,412	15.0	Panama.
Texaco Kentucky	1949	28,081	17,892	16.0	Do.
Texaco London	1944	23,500	14,397	15.0	Liberia.
Texaco Pennsylvania	1949	28,081	17,872	16.0	Panama.
Texaco Texas	1949	28,081	17,892	16.0	Do.
Raban	1949	7,342	5,011	10.0	Do.
Aldine	1943	16,423	10,670	14.0	Liberia.
Bulkoceanic	1949	30,016	17,328	16.0	Do.
Bulktrader	1950	30,004	15,798	16.0	Do.
Lake Palourde	1959	117,966	62,275	16.0	Do.
Chevron Leiden	1944	22,403	13,785	14.0	Netherlands.
Chevron The Hague	1945	22,352	13,894	14.0	Do.
Esso Caernarvon	1962	1,550	1,103	11.0	United Kingdom.
Barbara Jane Conway	1945	23,526	14,424	15.0	Panama.
Betty Conway	1943	23,524	14,424	15.0	Liberia.
Carolyn E. Conway	1945	23,580	14,450	15.0	Panama.
Eina N. Conway	1945	23,524	14,449	15.0	Do.
Mary Ellen Conway	1945	23,573	14,456	15.0	Do.
Phyllis T. Conway	1944	23,578	14,417	15.0	Do.
Texaco Ohio	1949	28,081	17,892	16.0	Do.
Conoco Humber	1943	16,811	10,602	15.0	Liberia.
Sansinena	1958	66,883	38,562	17.0	Do.
Princess Sophie	1959	65,000	43,000	16.8	Greece.

VESSLES BUILT IN U.S. YARDS FOR FOREIGN REGISTRY

Year	Tankers		Cargo		Bulk		Others		Total	
	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons
1948	4	27,692	14	49,956	0		0		18	77,648
1949	30	484,773	0		0		1	3,100	31	487,873
1950	19	307,082	0		0		0		19	307,082
1951	2	32,142	0		1	3,425	0		3	35,597
1952	4	70,559	0		1	3,423	0		5	73,982
1953	7	123,500	0		0		0		7	123,500
1954	11	230,800	0		0		0		11	230,800
1955	1	18,790	0		0		0		1	18,790
1956	1	12,802	0		2	6,844	0		3	19,646
1957	3	63,800	0		0		0		3	63,800
1958	7	186,700	0		0		0		7	186,700
1959	11	345,400	0		0		0		11	345,400
1960	2	56,000	0		0		0		2	56,000
1961	0		0		0		0			
1962	0		0		0		0			
1963	0		0		0		0			
1964	0		0		0		0			
1965	0		0		0		0			
1966	0		0		0		0			
1967	0		0		0		0			
1968	0		0		0		0			
1969	0		0		0		0			
21-year totals	102	1,960,040	14	49,956	4	13,692	1	3,100	121	2,026,788

MERCHANT TYPE VESSELS DELIVERED BY U.S. PRIVATE SHIPYARDS

[1,000 gross tons and over]

Year	Total		Built with construction subsidy		Built for Government account		For U.S. flag, no subsidy		For foreign registry	
	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons	Number	Gross tons
1948	29	164,600			2	30,900	9	56,000	18	77,700
1949	34	538,900					3	51,000	31	487,900
1950	26	415,500			1	21,600	6	86,800	19	307,100
1951	10	147,600	2	47,400	1	8,900	4	55,700	3	35,600
1952	31	397,200	1	53,300	9	95,300	16	175,900	5	72,700
1953	45	570,300			15	138,200	23	308,600	7	123,500
1954	38	563,800			10	92,100	17	241,000	11	230,800
1955	8	105,200			3	37,800	4	48,700	1	18,800
1956	9	125,900			2	28,200	4	78,000	3	19,700
1957	23	320,000			7	58,200	13	198,300	3	63,800
1958	31	573,400	4	60,700	3	20,400	17	305,600	7	186,700
1959	32	716,800			1	15,000	20	356,400	11	345,400
1960	25	404,200	9	90,500	1	2,700	13	255,000	2	56,000
1961	25	369,100	18	190,100			7	178,900		
1962	27	385,000	23	260,387	1	13,400	3	111,200		
1963	34	421,800	26	295,600			8	126,200		
1964	16	223,800	11	122,200			5	101,600		
1965	16	180,200	11	120,300			5	59,900		
1966	13	161,100	12	138,100			1	23,000		
1967	13	162,900	10	126,300	1	12,000	2	24,600		
1968	24	329,300	17	234,000			7	95,300		

Note: MSTS construction and mariner program included under "Built for Government Account."

Mr. TYDINGS. Mr. President, I thank the Senator from Kentucky for his kind indulgence. I hope to be able to return the favor some day.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. I yield to the Senator from Idaho (Mr. CHURCH).

GOVERNMENT AUTO PURCHASES BILL

Mr. CHURCH. Mr. President, I am introducing today a bill to require the General Services Administration and the Post Office Department to buy, after January 1, 1971, only motor vehicles that will operate on fuel free of lead additive.

This bill is in harmony with developments in both car manufacturing and gasoline production. Last month, General Motors Corp. said its 1971 model cars—or some of them—will be able to use a low-grade, unleaded gasoline. The Ford Motor Co. has indicated it will produce "substantial numbers" of engines for 1971 that will accept unleaded fuel at lower octane ratings. Chrysler Corp. has indicated it is following in a similar direction. In addition, several oil companies have made it known recently that they are preparing to market lead-free gasoline by 1971. In the East, one company now sells an unleaded "gas."

It is commonly accepted, Mr. President, that 60 percent of air pollution is generated by automobiles and that leaded fuel accounts for a major portion of this pollution. Unleaded fuel, as we know, results in fewer unburned hydrocarbons in the exhaust. These unburned hydrocarbons are an important factor in causing air pollution and smog. Engines using lower octane unleaded fuel would also mean, in the words of the automobile industry, fewer "muscle" cars and, conceivably, this might well lead to fewer serious accidents.

Adoption of the procurement restriction, as provided for by my bill, would furnish automobile manufacturers with a major incentive to move more swiftly toward developing engines that operate on unleaded, low-octane fuel. Second, such a purchasing program would inform the industry as a whole that the Federal Government is proceeding to translate its words into action on the antipollution front. The Federal Government must not, in my view, simply exhort and admonish the American people about the hazards of our deteriorating environment. The Government must act upon its own warnings and thereby set an example for the entire industry. This bill would help move the Government in that direction.

Mr. President, I thank the Senator from Kentucky for giving me the opportunity to speak.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William D. Brewer, of Connecticut, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Mauritius, which was referred to the Committee on Foreign Relations.

ALLOWING 18-YEAR-OLDS TO VOTE

Mr. COOK. Mr. President, the question of allowing 18-year-olds to vote has become not whether but when and how. With the exception of a few aged relics in Congress, the overwhelming majority of the peoples' representatives now realize we must enfranchise 18-year-olds and do it as soon as possible.

Since almost all Senators now recognize the need to lower the age of democratic participation to 18 and are familiar with the arguments for such a step, I will be very brief in describing the other ways in which this age group fully participates in our society. Deputy Attorney General Kleindienst, indicating the support of the Nixon administration for lowering the voting age, named just some of the ways in which they are currently involved, in his testimony before the Constitutional Amendments Subcommittee the other day. He stated:

> We do not wait until 21 years of age to permit our young people to enter the labor market or to require the payment of income taxes. Before 21 many states permit our young men and women to shoulder the responsibility of marriage; we ask that they man our Armed Forces and "provide for the common defense." We hold them liable for their civil and criminal actions.

In that regard, I should like to note for the RECORD that, according to Defense Department statistics of June 1968, of the 3,510,000 men in the Armed Forces, 27,000 were 17 years of age, 123,000 were 18 years of age, 266,000 were 19 years of age, and 567,000 were 20 years of age. In other words, of the 3,510,000, 983,000 were under 21.

With regard to the present conflict in Vietnam, I should like the RECORD to show that of this group and of those who have lost their lives for this country, nine were 17, 2,413 were 18, 6,368 were 19, and 10,421 were 20.

Little more needs to be said in answering the question "whether?" except to relate, briefly, the experience in my own State of Kentucky. In 1954, the general assembly of my State enacted a bill submitting to the electorate the matter of lowering the voting age to 18. In November 1955 the voters ratified the proposal with little or no controversy.

We have now had the benefit of 14 years experience with responsible voter participation by this block. Contrary to the allegations of many of my conservative friends, there has not been any discernable pattern of voting behavior. In fact, it could be strongly contended that the growth of the Republican Party in Kentucky, generally considered to be the more conservative of the two parties, has directly paralleled the enfranchisement and increase in participation of this age group.

Every major statewide candidate in recent memory has had a fulltime youth chairman whose sole function it was to seek out and secure the support of this block of roughly 100,000 potential voters. For those who attend a college in Kentucky, politics is a way of life. Some argue we should keep politics off the campuses. I agree to the extent that that means political interference by State officials or even Federal officials with academic and political freedom of thought and expression. I most emphatically do not agree if it means college people should not be allowed to vote and in a meaningful way support the candidates of their choice.

Politics on the campus in Kentucky means that for a candidate to be credible he must appear and subject himself to the intelligence and insight of today's politically sagacious youth. Our bright young Kentuckians are a great force against the hypocritical handshaking, backslapping, baby kissers of the old school of politics. In fact, it could be argued very persuasively that their participation has significantly up-graded both the caliber and the campaigns of the Kentucky politician of today.

In summary, the Kentucky experience has been a complete success, and I would venture a wager that one could not find 1 percent of Kentuckians, whether liberal or conservative, mountaineer or farmer, city dweller or tobacco grower, who would advocate raising the age.

The next question is, "How?" We have traditionally believed that lowering the voting age must be done by constitutional amendment, primarily because we took this course in enfranchising blacks and women. This view, however, does not take into account our living Constitution and the expanding role of the 14th amendment, when aided by an act of Congress, in striking down the irrational barriers which States have placed between those who would otherwise be qualified to vote and the ballot box.

The expanded role of the 14th amendment in this area, when supported by an act of Congress, is a relatively new feature in the constitutional law of our land traceable to the historic Voting Rights Act of 1965 and the case of *Katzenbach* v. *Morgan*, 384 U.S. 641, which rules section 4(e) of that act constitutional. It is upon the authority of this case that we can reasonably predict that a statute lowering the voting age to 18 under the authority of the 14th amendment, section (5), would be upheld as constitutional.

Let us look briefly at the facts of that case to see how they apply to what we are seeking to do this year. The Morgan case tested the constitutionality of section 4(e) of the Voting Rights Act which provides that no person who has successfully completed the sixth primary grade in a public school in, or a private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction was other than English shall be denied the right to vote in any election because of his inability to read or write English. New York claimed the statute to be justified because of a State interest in assuring intelligent use of the franchise.

As Prof. Archibald Cox pointed out in his testimony before the Constitutional Amendments Subcommittee, in the absence of statute, the Supreme Court might have sustained New York's position. However, the court said, in effect, as Professor Cox put it, that "Congress may decide, within broad limits, how the general principle of equal protection applied to actual conditions."

The Court cited, in Morgan, the early case of *Ex parte Virginia*, 100 U.S. 339, 345, in describing what section (5) of the 14th amendment intended to give to Congress—

> It is the power of Congress which has been enlarged. Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendment fully effective.

Section (1) of the 14th amendment provides that no State shall deny to any person within its jurisdiction equal protection of the laws. The equal protection clause is violated by any State which imposes an arbitrary or unreasonable discrimination or an invidious classification. This is then followed by section (5) of the amendment which gives Congress the power to enforce the amendment by "appropriate" legislation.

It would be entirely possible to find two different results on the same set of facts where in one instance Congress had acted pursuant to section (5) to strike down invidious discrimination and in the other case where it had not so acted. Thus, the speculation earlier that the result might have been different in Morgan in the absence of the passage of 4(e) of the Voting Rights Bill pursuant to section (5) of the 14th amendment.

In support of this assertion, the Court said in the Morgan case:

> Without regard to whether the Judiciary would find that the equal protection clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the state law by legislating under section (5) of the 14th Amendment? In answering this question, our task is limited to determining whether such legislation is, as required by section (5), *appropriate* [emphasis added] legislation to enforce the equal protection clause.

The Court then proceeded to consider whether section 4(e) was "appropriate" legislation—the *McCulloch* v. *Maryland*, 4 Wheat 316, 421, standard. In deciding what was appropriate legislation to enforce the equal protection clause, the Court said:

> It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. *It is not for us to review the Congressional resolution of these factors. It is enough that we are able to perceive a basis upon which the Congress might resolve the conflict as it did.* [Emphasis added.]

The question, then, is whether the language and logic of Morgan would be equally applicable to a statute passed by Congress pursuant to section (5) of the the 14th amendment lowering the voting age to 18. Under the 14th amendment, in the absence of statute, the question would

be whether denying the right to vote to 18-, 19-, and 20-year-olds is arbitrary or capricious. I agree with Professor Cox that the Supreme Court would not so hold.

However, if Congress passed legislation under section (5) of the 14th amendment then the Court, it is reasonable to predict, would uphold the constitutionality of such a statute, with a supporting statute the Court's inquiry would be, under Morgan, could it "preceive a basis upon which the Congress might resolve the conflict (between state interest in not allowing 18, 19 and 20 year olds to vote and Congress' interest in lowering the age to 18) as it did."

In examining the congressional basis for the passage of such a statute the Court would surely find as Cox put it:

Congress would seem to have power [under section (5), 14th Amendment] to make a similar finding [as in *Morgan*, that English language requirement is constitutionally irrelevant] about the state laws denying the franchise to eighteen, nineteen, and twenty year olds even though they work, pay taxes, raise families, and are subject to military service.

I might suggest, for those who would deny the vote to 18-, 19-, and 20-year-olds, in regard to that service, that we allow young men at 18 to go into officers candidate school in this country and become officers in the military service of this Nation.

It is clear to me that we are constitutionally able to proceed with the long-overdue task of lowering the voting age to 18 in all elections in one of two ways.

The final question is "when?" We may, out of some inexplicable reverence for the past, choose the difficult route of the constitutional amendment or we may, recognizing that we exist under a living, changing Constitution, choose a more expeditious alternative. I see no virtue in masochistically proceeding with a constitutional amendment which will require years to ratify, when the Congress could have the courage to act now to remedy one of the most pervasive injustices of our day.

I, therefore, introduce for appropriate reference a bill to provide for lowering the minimum age at which citizens shall be allowed to vote in all elections to 18. Also, I ask unanimous consent that the bill be printed in its entirety at the end of my remarks, and that the following Senators be added as cosponsors: Mr. GOLDWATER, Mr. DOMINICK, Mr. SCOTT, Mr. JAVITS, Mr. PACKWOOD, Mr. HATFIELD, Mr. CASE, Mr. BOGGS, Mr. SCHWEIKER, Mr. BROOKE, Mr. FONG, Mr. PERCY, Mr. YOUNG of Ohio, Mr. BAYH, Mr. RIBICOFF, Mr. MCGEE, Mr. CHURCH, Mr. CRANSTON, and Mr. HUGHES.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). The bill will be received and appropriately referred; and, without objection, will be printed in the RECORD at this point.

The bill (S. 3560) to provide for lowering the minimum age at which citizens shall be eligible to vote in elections, was received, read twice by its title, referred to the Committee on Rules and Administration, and ordered to be printed in the RECORD, as follows:

S. 3560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting at Eighteen Act".

SEC. 2. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens who are eighteen years of age but not twenty-one years of age to vote, which is unfair in view of the national defense burdens imposed on such citizens;

(2) has the purpose and effect of denying to citizens who are eighteen years of age but not twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution, particularly in view of the unreasonable classification based upon the proposition that such citizens are not intelligent or mature enough to exercise the right to vote; and

(3) does not bear a reasonable relationship to any compelling State interest in the conduct of elections.

(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

SEC. 3. No citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

SEC. 4. (a) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution and section 5 of the fourteenth amendment of the Constitution the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this Act.

(b) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this Act, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

SEC. 5. Whoever shall deny or attempt to deny any person of any right secured by this Act shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 6. As used in this Act the term "State" includes the District of Columbia.

SEC. 7. The provisions of this Act shall take effect with respect to any primary or election held on or after January 1, 1971.

Mr. COOK. Mr. President, I also ask unanimous consent to have printed in the RECORD a statement made today by the Senator from Arizona (Mr. GOLDWATER) before the Subcommittee on Constitutional Amendments entitled "18 Is Old Enough."

This is one of the finest statements I have ever read on this subject, and I recommend it to the reading of all Senators.

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

EIGHTEEN IS OLD ENOUGH

Mr. Chairman and Members of the Subcommittee: It is a pleasure to have the opportunity to testify on the important question of whether or not the minimum voting age should be lowered to 18.

Mr. Chairman, I want to say at the outset that I think it should. This is a goal that I have worked for over a long period of years. And I am delighted to be able to restate my position at this time.

The main argument that I have heard against the proposal is the claim that young persons are not mature enough. They are said to be too rebellious and militant.

But I want to say here and now that this kind of reasoning is nonsense. Talk about young people being irrational. What about the supposedly mature persons who would deny the right to vote to nearly 11 million citizens just because a tiny minority has engaged in militant behavior?

When will people learn that what they see and hear through the mass media is not necessarily typical of the way things really are? Yes, if all people do is to sit in front of their T.V. screens or skim over the headlines, then the predominate image which they are going to get of our young men and women is one of an unclean, vile-tongued, rock-throwing, campus-storming, street-rioting bunch of hoodlums and misfits.

But, Mr. Chairman, I want to state as firmly as I can that this picture is distorted, stupid, and absolutely wrong. All that the major networks and liberal newspapers have achieved by their endless over-exposure of the extremist tactics used by a piddling few of our young Americans is to prejudice the judgement of many of their elders against youth in general.

Mr. Chairman, I ask the public to think for themselves. I want the average American to make his impressions from what he himself has actually seen. Don't rely upon the defamatory bunk which you are being fed by liberal journalists and reporters who are falling all over each other to see who can shock their audience the most.

If the average viewer or the average reader could travel through the length and breadth of our nation as I have to meet with students on the campuses of universities, both large and small, then I know that they would agree with me that this generation of young people is the finest generation that has ever come along.

Mr. Chairman, I have probably visited more colleges and universities in the last decade than anyone in the country. And I am constantly impressed by the wisdom and interest, and concern with vital matters, that is shown by the students whom I have met.

In fact, their grasp of national issues is downright amazing. Far from being the possible victims of demagogues, I think the challenging, probing minds of today's youth will serve to expose the dishonest politician quicker than anything else.

Unless a person has honest convictions and sincere principles, these eighteen year olds, and nineteen and twenty year olds, will shatter his veil of hypocrisy in short order. They will see through the phony promise and the faked crisis sooner than many of their elders do.

Mr. Chairman, I have confidence in our nation's educational system. I have pride in the way our young people are being taught to analyze issues and to think things through for themselves. Unlike many older persons, these young Americans are willing to question what they read and what they watch in the mass media.

Some people, who should know better, say eighteen-year-olds are too idealistic. They are said to be unable to follow the complicated, practical reasons why the things politicians promise them don't really happen.

Well, I want to say that this is exactly what we need more of in this country. We

need more citizens who are concerned enough to pose high social and more goals for the nation. Civil servants and legislators, of any political party, need to be prodded to cut through the bureaucratic jungle of red tape so that the government will serve the people in the way it is intended.

Some more idealism will do us all good. It will help remove the crustry, shop-worn reasons why the policies and goals which are promised to voters don't ever seem to get accomplished. It will make us find the positive answers that will put us on the right track. Instead of explaining why this law or that program can't benefit the public the way we thought it would when it was passed, idealism will send us searching for innovations and new departures that will get the job done.

Whether we are speaking of world peace, cleaning the air and water, stopping crime in the streets, eliminating smut in the mails, or any other important goal, the energies and enthusiasm and urgings of young Americans will help us do our best.

Mr. Chairman, I support extending the vote to young citizens because I know it is right. I do not rely on the argument that because a person is old enough to serve in the Armed Forces he is old enough to vote. That is a duty of citizenship.

But there are other impressive arguments which demonstrate that eighteen-year-olds have reached maturity. Insurance companies hold a person to be an adult when he is eighteen. Eighteen-year-olds are treated as adults by penal codes. Eighteen-year-olds are allowed to obtain unrestricted automobile operator's licenses in every State. Young Americans can enter the Federal Civil Service at 18, be taxed at 18, and marry in any State at 18. Indeed, 25% of all girls are married at 18 and 19, and 50% are married at 20.

So they can raise families, hold jobs, be taxed, be tried in adult courts, and be trusted on the public highways. And yet they are not allowed to vote.

Mr. Chairman, this attitude is outmoded and archaic. It is literally based on a tradition which dates back to medieval times.

Perhaps, in the days around the turn of the century, it once had meaning. In 1900 only 6% of Americans who had reached 18 were high school graduates. In fact, as late as 1940, only one-half of all 18-year-olds had completed high school.

But this is 1970. This is the age of instant communications, all-news radio stations, T.V. news, and the most avid political concern on the part of young Americans that I have ever witnessed.

Today fully 81% of Americans have graduated from high school before they reach 18. Almost 50% of 18-, 19-, and 20-year olds are enrolled in college. And the education which they are receiving is more advanced and intense than at any time in our history.

In short, youth today is better informed and better equipped than any previous generation. They are without a doubt equally mature, both mentally and physically, as the average citizen who had reached 25 when I was growing up. In fact, they may be better able to comprehend the dramatic technological advances and changing perspectives of modern life than many of their parents.

Therefore, I hold that there is no sensible reason for denying the vote to 18-year-olds. What's more, I think we have studied the issue long enough. The voting age should be lowered and lowered at once across the entire nation.

To my mind, the change can validly be achieved by either a Constitutional Amendment or a statute. For once a person reaches the conclusion, as I have, that there is no reasonable justification for denying the right to vote to eighteen-year-olds, then it is quite clear that Congress can act to protect and enhance that right.

It is true that the States possess a power to set reasonable qualifications for voters in their elections. When these requirements are applied in a sensible way, they should not be altered by Federal intrusion.

But not even the strongest advocate of State's rights could claim that a State may limit the right to vote on arbitrary or unreasonable grounds. It would be nonsense to say that a State could fence out all left-handed persons from the polls. Or all Catholics. Or all males with long hair.

Clearly there are limits as to how this authority may be used. To say that the States may establish voting qualifications is not to say that their power is absolute.

To me, where there is a conflict between the fundamental, personal right to vote and the purely administrative power of a State to regulate its elections, the State power may prevail over the right of the individual citizen only if it serves a major and compelling State interest. Since no such interest has been shown in the case at hand, I believe it is entirely fitting for Congress to act to protect the freedom to vote of young Americans.

While I am not a lawyer, I would like to present a few arguments which will establish the principles on which I base my conclusion.

The first principle which I want to set forth is as old as our Union itself. This is the concept that Congress may act by statute to secure the rights which are inherent in National citizenship.

Mr. Chairman, one of the most firmly imbedded concepts of Constitutional law is the premise that there are certain fundamental personal rights of citizenship which arise out of the very nature and existence of the Federal government. Without these basic rights, there would be no national government and no meaning to United States citizenship.

Thus, in the case of *Ward* v. *Maryland*, 12 Wallace 418, 430 (1870), the rights of National citizenship were held to embrace "nearly every civil right for the establishment and protection of which organized government is instituted."

The Supreme Court has consistently interpreted these rights as belonging to United States citizenship, as distinguished from citizenship of a State. In the *Slaughter-House Cases*, 16 Wallace 36, 79 (1872), the Court remarked that these fundamental rights "are dependent upon citizenship of the United States, and not citizenship of a State."

Perhaps the best exposition of the scope of National citizenship is found in the opinion written by Justice Frankfurter in *United States* v. *Williams*, 341 U.S. 70 (1951). At pages 79 and 80, the learned Justice presents a history of the broad recognition accorded to what he calls the "rights which arise from the relationship of the individual with the Federal government."

Consequently, the existence of a separate category of implied rights that are based upon the nature and character of the national government has been confirmed in case after case throughout the history of the nation.

Furthermore, it is well settled that the right to vote is included among these fundamental rights. *Ex parte Yarbrough*, 110 U.S. 651, 663, (1884), is but one of many decisions by the Court in which the right to vote for Federal officers has been held to be a right granted or secured by the Constitution and not one that is dependent upon State law.

The rule was expanded by the recent case of *Texas* v. *United States*, 384 U.S. 155 (1966), in which the Supreme Court affirmed the decision of a three-judge District Court that the right to vote in all elections, State or Federal, "clearly constitutes one of the most basic elements of our freedom—the 'core of our constitutional system.' "

It is clear that Congress may act to protect a national right under the Necessary and Proper Clause. As it was said by Chief Justice Waite in *United States* v. *Reese*, 92 U.S. 214, 217 (1875), "Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress in the legitimate exercise of its legislative discretion shall provide."

The doctrine was also defined in *Strauder* v. *West Virginia*, 100 U.S. 303, 310 (1879), where the Court held that: "A right or an immunity, whether created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress."

Mr. Chairman, the test to be applied in cases where Congress is acting to enforce or enhance an inherent Constitutional right is the one laid down by Chief Justice Marshall for all cases involving the power of Congress under the Necessary and Proper Clause.

According to this rule, three questions must be asked: (1) Is the end "legitimate?" (2) Is the statute "plainly adapted to that end?" and (3) Is the approach used "not prohibited, but consistent with the letter and spirit of Constitution" *McCulloch v. Maryland*, 4 Wheaton 316, 420 (1819).

In applying these standards to the proposal at hand, I believe the Courts would uphold the power of Congress to pass a statute reducing the voting age in all elections, Federal, State and local.

First, there can be no doubt that the end is "legitimate." The legislation would be designed to protect the fundamental right to vote for almost 11 million citizens.

Second, the proposal is "plainly adapted to that end." By removing a voting impediment which Congress has found to be unnecessary and unfair, the Constitutional right to vote will be immediately and effectively enhanced for millions of Americans.

Third, the law is "not prohibited, but consistent with the letter and spirit of the constitution."

Here is where the crux of the whole issue must stand or fall. It will unquestionably be argued by some that since the Constitution allows the States to create reasonable voting qualifications, Congress may not override those State requirements.

However, I believe that the rule of *United States* v. *Texas*, 252 Federal Supplement 234 (1966), which I have cited above, settles the question.

In this case, a three-judge District Court, convened under section 10 of the Voting Rights Act of 1965, sustained the power of Congress to prohibit the use of the poll tax as a prerequisite to voting in State elections.

Although the Court recognized that the poll tax system in Texas had the important function of serving "as a substitute for a registration system," it held that payment of the tax as a precondition to voting must fall because it restricted "one of the fundamental rights included within the concept of liberty." (252 Federal Supplement 250.)

In reaching its decision, the Court said it was following the rule announced by the Supreme Court that "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling." *Bates* v. *City of Little Rock*, 361 U.S. 516, 524 (1959).

Also, the lower Court cited the principle of *McLaughlin* v. *State of Florida*, 379 U.S. 184, 196 (1964), that such a State law "will be upheld only if it is necessary, and not merely rationally related, to the accomplishment of a permissible state policy."

Since the judgment of the District Court was affirmed by the Supreme Court, 384 U.S. 155 (1966), I believe it offers the con-

trolling principle which must be applied to cases involving a conflict between the assertion of an individual's Constitutional right and a State law that touches on that right but serves a permissible State objective.

Another recent case that follows the same rule is *Shapiro* v. *Thompson*, 394 U.S. 618 (1969). This case concerned the validity of waiting periods imposed by the States to deny welfare assistance to new residents of the States.

The case is relevant to the question which we are considering because the Court specifically rejected the argument that a mere showing of a rational relationship between the qualification and a permissible State purpose is enough to justify the denial of welfare benefits to otherwise eligible applicants.

The Court held that "in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional." (394 U.S. 634)

Since the State qualifications involved here also touch on the exercise of a fundamental Constitutional right, I believe the same rule will be applied. Congress may, in order to protect the exercise of the right to vote, regulate State laws which deny that right, unless the State laws are shown to be necessary in order to promote a "compelling" State interest.

Under this standard, I conclude that Congress may, consistent with the Constitution, establish a minimum voting age of 18 years.

There simply is no compelling reason why a State has to deprive citizens who are between the ages of 18 and 21 of their right to vote. As I have discussed earlier in my statement, the only reason put forth to justify the present minimum of 21 is a distrust of the intelligence or maturity of young persons.

There is no rhyme or reason to either of these points in today's setting. They are based strictly on emotion rather than facts. Unless a State can come up with a better explanation than this, I believe Congress can and should act to enhance the right of young citizens to vote.

Mr. Chairman, there is another ground upon which Congress may act. For the Supreme Court has held that Congress may act independently of the courts to enforce the guarantees of the Fourteenth Amendment.

This doctrine was first announced in the recent case of *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966).

There the Court was faced with deciding whether or not Congress could preclude the enforcement of New York's English language literacy test as applied to Puerto Rican residents of that State. The Court was also faced with its decision in *Lassiter* v. *Northampton Election Board*, 360 U.S. 45 (1959), in which it had rejected a challenge to the English literacy test of North Carolina.

Nevertheless the Court held that Congress could override the New York law. In writing the Court's opinion, Justice Brennan said that the true question was: "Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the State law by legislating under section 5 of the Fourteenth Amendment?" (384 U.S. 649)

Justice Brennan said: "In answering this question, our task is limited to determining whether such legislation is, as required by section 5, appropriate legislation to enforce the Equal Protection Clause." (384 U.S. 649–650).

The basic test of what constitutes "appropriate legislation," according to the *Morgan* decision, is the same as the one formulated by Chief Justice Marshall in *McCulloch* v. *Maryland*, when he defined the powers of Congress under the Necessary and Proper Clause. As adapted to legislation passed under section 5, this test requires that three questions shall be asked: (1) Is the statute designed to enforce the Fourteenth Amendment? (2) Is it "plainly adapted" to that end? and (3) Is it consistent with "the letter and spirit of the Constitution?" (384 U.S. 651).

In deciding the answers to these questions, the Court said. "it is enough that we are able to perceive a basis upon which the Congress might predicate a judgment" for acting as it did. (384 U.S. 653).

Thus the Court upheld the power of Congress to preclude the enforcement of the New York literacy requirement. And so, I believe it would uphold the power of Congress to preclude the enforcement of State laws which deny the right to vote to eighteen-year-olds.

It may be granted that the Courts have never held that the enforcement of a 21-year-old voting requirement is invalid. But according to the rule of *Morgan* this doesn't matter. When the case involves an enactment of Congress which is designed to enforce the guarantees of the Fourteenth Amendment, the question is not whether the judicial branch itself would decide that the State law violates that Amendment. Rather the question is whether or not the Congressional measure is appropriate legislation under section 5 of the Fourteenth Amendment.

Under this doctrine, I have no difficulty in believing that the enactment of a uniform voting age is Constitutional. The identical analysis would apply here that I have given above with regard to the power of Congress to act under the Necessary and Proper Clause.

The proposed statute is clearly meant to carry out the legitimate purpose of enhancing the right to vote, is plainly adapted to that end, and is consistent with the Constitution in the absence of a compelling State interest.

Mr. Chairman, this completes my discussion of the authority under which Congress may act. But we must also consider the policy questions. Is this an appropriate issue to tackle by legislation? And is this the time to do it?

Only two States have set the voting age at 18. Should we impose a standard on 48 States which has been accepted in merely two States?

Since 1960, voters in nine States have turned thumbs down on proposals to reduce the voting age below 21. Should we change the laws in these States whose residents have expressely voted not to do so?

In 1970 the voters of ten States will be asked to pass on amendments which would lower the voting age in their States. Should we preempt the issue and remove the choice from the local citizens themselves?

These are the kinds of hard questions which we must consider and discuss in detail. We must set out the conflicting considerations fully and fairly. We must balance a proper concern for the preservation of State authority against the attractive opportunity to enhance the right to vote for nearly 11 million citizens—a full 15% of the number of Americans who went to the polls in 1968.

So, let each of us make his own decision. Let us determine what we believe the citizens in our State want us to do and what we believe to be right.

To me, one thing is clear. The idea has found its time. This is the year to act. The proposal for giving full citizenship to young Americans is right. To use an old quote: I know it in my heart.

For my part, I shall join with the distinguished Senator from Kentucky (Mr. Cook) in proposing a bill to extend complete voting privileges to all Americans 18 and over.

Our bill is not a gesture. It is not put forth merely to promote a discussion. We are firmly convinced that Congress may act by way of a statute.

But we don't intend to risk the voting opportunities of tens of millions of Americans by tossing the age issue into the Voting Rights struggle.

Nor do we intend to cast a cloud over the 1970 general elections by enacting a law whose validity is likely to be unsettled by the time the elections are held.

Let's face it. There have been no prior extensive hearings in the Senate. There has been no previous consideration of the Constitutional issues in the House of Representatives. And the Chairman of the House Committee which holds jurisdiction over the subject is known to possess a career-long record of opposition to dropping the voting age.

In circumstances such as these, the House is not about to follow the statutory route until it can study the matter for itself.

This means that passage of the Voting Rights bill is certain to be endangered, and at the very least held up, if the voting age question is tied to the pending Senate bill.

Let's also face up to the fact that we do not yet have the kind of solid legislative record that is needed to bring the issue before the Courts. We have only the testimony of two or three United States Senators and two Professors of law to show that this can be done by a statute.

While this might be impressive to those of us who are among this group, I am not so certain we have won our case before the entire Congress or before the nine men in black robes who sit in the chamber across the street.

We still need to hear the ring of clashing viewpoints that will help us sort out and refine the strongest legal arguments for our cause.

We still have not heard from any State or local officials who might want to advise us of their problems or give us their recommendations as to the swiftest way in which the Constitutional questions can be decided in the courts.

Therefore, the junior Senator from Kentucky and I will seek to lower the voting age by means of a separate bill, which can be considered on its own merits.

Our bill will provide for the unusual step of an appeal directly to the Supreme Court from a three-judge District Court. By removing the Court of Appeals as the "middle man," the time between the filing of the case and its disposition by the Supreme Court will be greatly shortened.

And if there are any other means by which we can improve this feature of our bill, I will stand ready to support it.

For example, I am working on the draft of a provision which would allow a court action to be filed for the purpose of obtaining a declaratory judgment as to the validity of the statute. Something on this order has been used in the original Voting Rights Act of 1965, and if appropriate here, it would provide a means to settle the legal issues without tying up an election.

In any event, Mr. Chairman, I agree 100% with the proposal to grant full voting rights to our young Americans. To me, 18 is old enough.

Mr. Chairman, I have prepared a four-part summary on the most recent State actions to lower the voting age, and I ask that this material be inserted at the end of my statement.

APPENDIX TO SENATOR GOLDWATER'S TESTIMONY

I. 18-, 19-, AND 20-YEAR-OLD POPULATION

1. Age 18:

Male	1,830,000
Female	1,776,000

2. Age 19:

Male	1,781,000
Female	1,729,000

3. Age 20:

Male	1,791,000
Female	1,747,000
Total males	5,402,000
Total females	5,252,000
Total population	10,654,000

SOURCE.—United States Bureau of the Census, as of July 1, 1969.

II. RECENT STATE ACTION TO LOWER THE VOTING AGE

1. *Alaska.* In 1969 the legislature passed an amendment to lower the voting age from 19 to 18. The proposal will go to the voters in the 1970 elections.

2. *California.* In 1969 the California Constitutional Commission recommended lowering the voting age to 19.

3. *Connecticut.* In 1969 the Connecticut legislature approved an 18-year-old vote proposal which will go on the ballot in November, 1970.

4. *Delaware.* The State legislature passed a 19-year-old vote amendment in 1969. If repassed by the legislature in 1970 or 1971, it will take effect.

5. *Hawaii.* In 1969 the legislature approved an 18-year-old vote amendment. It will be on the ballot in 1970.

6. *Maine.* In 1969 the legislature passed a 20-year-old amendment. It will go before the voters in 1970.

7. *Massachusetts.* In 1967 the General Court approved a reduction in the voting age to 19. That approval was confirmed again by the General Court in 1969. It will be submitted to the voters in 1970.

8. *Minnesota.* In 1969 the legislature approved an amendment lowering the voting age to 19. This proposal will be on the ballot in 1970.

9. *Montana.* In 1969 approval was given to a 19-year-old amendment by the legislature. It will be submitted to the voters in 1970.

10. *Nebraska.* The legislature approved a 20-year-old vote amendment in 1969. This proposal will be submitted to the voters in 1970.

11. *Nevada.* In 1969 the legislature approved an 18-year-old voting amendment. It must reapprove in 1971 to place the question on the 1972 ballot.

12. *Oregon.* The legislature passed a 19-year-old vote amendment in 1968. It will go to the voters in 1970.

13. *Wyoming.* In 1969 the legislature passed a 19-year-old vote proposal. It will be submitted to the voters in 1970.

III. VOTER APPROVAL OF PROPOSALS TO LOWER THE VOTING AGE

1. *Alaska.* The State constitution contains a provision making all citizens 19 years of age and older entitled to vote. The constitution was approved by a 2 to 1 majority of the voters on April 24, 1956.

2. *Georgia.* In 1943 the voters ratified the 18-year-old voting amendment. The vote was 42,284 (yes) and 19,682 (no).

3. *Hawaii.* The State entered the Union in 1959 under the constitution of 1950, which lowered the voting age to 20. Ratification: 82,788 (for) and 27,109 (against).

4. *Kentucky.* In 1955 a referendum was held to lower the voting age to 18. The proposal passed by a 2 to 1 margin: 190,838 (for) and 107,650 (against).

IV. VOTER REJECTIONS OF PROPOSALS TO LOWER THE VOTING AGE

1. *Idaho.* In 1960 a referendum was held on the proposal to amend the constitution to lower the voting age to 19. The measure was defeated: 113,594 (yes) and 155,548 (no).

2. *Hawaii.* In 1968 the voters specifically rejected a part of the new constitution which would have lowered the voting age to 18. The vote was 72,930 (yes) and 80,660 (no).

3. *Maryland.* In 1968 a constitutional provision to lower the voting age to 19 was defeated by the electorate. The vote was 283,050 (yes) and 366,575 (no).

4. *Michigan.* In the 1966 elections, the Michigan voters defeated a referendum to lower the voting age to 18. The vote was 1,267,872 (yes) and 703,076 (no).

5. *Nebraska.* In 1968 a proposal to lower the voting age to 19 was submitted to the voters. The vote was 246,672 (yes) and 255,-051 (no).

6. *New Jersey.* In 1969 the voters decisively rejected a proposal to lower the voting age to 18 years old. The vote was 788,978 (yes) and 1,154,606 (no).

7. *North Dakota.* In 1968 a 19-year-old voting age amendment went to the voters. It was rejected: 59,034 (yes) and 61,813 (no).

8. *Ohio.* In 1969 the voters considered a 19-year-old vote amendment. It was rejected: 1,226,59 (for) and 1,274,334 (against).

9. *Oklahoma.* In 1952 the proposal to lower the voting age to 18 was overwhelmingly defeated at the referendum. The vote was 233,-094 (yes) and 639,224 (no).

10. *South Dakota.* In 1958 the voters defeated a proposal to lower the voting age to 18. The vote was 71,033 (yes) and 137,-942 (no).

11. *Tennessee.* In 1968, the voters rejected a referendum proposal to allow the Constitutional Convention to consider lowering the voting age to 18. The vote was 236,214 (yes) and 290,922 (no).

SOURCE.—For Items 2, 3, and 4: Library of Congress, Legislative Reference Service, Report Number 69, 241, December 11, 1969.

Mr. GOLDWATER. Mr. President, the goal of extending full voting rights to all Americans 18 and over is one which I have worked for throughout a long time.

Today it was my privilege to restate my position before the Senate Subcommittee on Constitutional Amendments. At that time I announced that it was my intention to join as a coauthor of a bill to be introduced today by the distinguished Senator from Kentucky (Mr. COOK).

Our bill is designed to establish a nationwide minimum voting age of 18 and to obtain a swift judicial decision on the constitutional issues involved.

Our bill is not a gesture. It is not put forth merely to promote a discussion. We are firmly convinced that Congress may act by way of a statute.

But we do not wish to risk the voting opportunities of tens of millions of Americans by adding the age issue into the voting right struggle.

Nor do we intend to cast a cloud over the 1970 general elections by enacting a law whose validity is likely to be unsettled by the time the elections are held.

In our view, the responsible way to handle this proposal is to offer a completely separate bill to lower the voting age, which can be considered in committee and stand on its own merits.

One important feature of our bill is that it provides for the unusual step of an appeal directly to the Supreme Court from a three-judge district court. By removing the court of appeals as the middle man, the time between the filing of the case and its disposition by the Supreme Court will be greatly shortened.

And if there are any other means by which we can carry out this goal of our bill, I will stand ready to support it.

For example, I am working on the draft of a provision which would allow a court action to be filed for the purpose of obtaining a declaratory judgment as to the validity of the statute. Something like this has been used in section 10(b) of the original Voting Rights Act of 1965. And, if appropriate here, it would provide a means to settle the legal issues without tying up an election.

It is this kind of question that we need time to study in detail.

We also need to hear the ring of clashing viewpoints that will help us sort out and refine the strongest legal arguments that will support our cause.

Mr. President, it is for these reasons that I believe the wisest course is for Congress to act on separate legislation, rather than on an amendment to the voting rights bill.

Mr. President, to my mind Congress may properly act by means of a statute.

To me, the proposal for giving full voting privileges to our young Americans is right. It should be enacted sometime in this year.

But let us do it right. Let us build a strong legislative history and work on shaping a means of judicial review that can produce a court ruling without throwing an election in doubt.

Mr. President, I am pleased to join with my good friend from Kentucky in this effort and I hope that most of our colleagues will see fit to pursue this goal in the manner we suggest.

Mr. PERCY. Mr. President, the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT) intended to be here at this time in order to compliment the Senator from Kentucky (Mr. COOK) on his presentation. However, he was called away for a speech he had to give and is not in the Chamber now. I, therefore, ask unanimous consent that the statement he intended to deliver in person be printed in the RECORD.

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

STATEMENT BY SENATOR SCOTT

Mr. President, I rise to compliment the distinguished Senator from Kentucky on his presentation on lowering the voting age to 18. I cosponsored this legislation with nine other distinguished Senators.

The time has come to lower the voting age in the U.S. and to bring our young people into the main stream of our political process. We can do no less than to give the legislation introduced today by Senator Cook, my colleagues, and me, the fullest attention and consideration. I think it is possible, constitutionally, for the Congress to adopt a statute permitting the lowering of the voting age. As I have stated before, I tend to feel that 19 may perhaps be a better age than 18. However, I have cosponsored this legislation in order to stress my particularly strong feelings that the legislation now before this body—the Voting Rights legislation—not be encumbered with what, in esesnce, is a very complex and complicated matter. The legislation which the distinguished Senator from Kentucky has proposed would permit voting at the age of 18 in all elections, but would not be operative until January 1, 1971. There are, of course, many alternatives to be considered including a constitutional amendment.

I believe it possible and essential for this body to act favorably on the issue of lowering the voting age this session. But I do not feel that an amendment to the present leg-

islation is the proper way to proceed. Hearings on this subject are progressing well within the Judiciary Committee and I would think the members of this body would want to avail themselves of the opportunity to study the alternative which Senator Cook, my colleagues, and I have proposed today in detail.

However, I do not want to delay the consideration of an 18 or 19 year old vote beyond a reasonable time.

I am suggesting, however, that we should not risk embroiling the extension of the Voting Rights Act of 1965 with the subject of an 18 or 19 year old voting age.

Federal action on lowering the voting age is both necessary and appropriate this year. I believe that Congress has the authority to act in this area by statute, by establishing a uniform minimum voting age applicable to all states and to all elections.

Mr. PERCY. Mr. President, I, too, should like to commend the distinguished Senator from Kentucky (Mr. COOK) on his presentation this morning. He has answered the questions thoroughly and completely which I had in my own mind as to whether we could, by statute, provide for 18-year-olds to vote. I am content that his arguments are complete and thorough in that regard.

Second, I think that we are blessed by the fact that four States have had tested the 18-year-old vote. As the Senator from Kentucky has indicated, it has been a successful experience in Kentucky, and in other areas. We see that England itself has gone to the 18-year-old vote so it is not a radical proposal. It has been tested here and in other countries.

The Senator has pointed out, and the research I have done myself has proved, that the young vote is not a radical vote; it follows pretty much the patterns of the established vote in the various regions.

We need to acknowledge that there is, presently, an antiyouth feeling in the country. Two States have tried to lower the voting age, and the effort was rejected at the polls. But I believe that those voters who feel antagonistic toward youth are penalizing the majority of the young today for the excesses of some of them.

In studying the violence on campus in the Committee on Government Operations, we determined that less than one-half of 1 percent of college and university students in the United States were engaged in any kind of disruptions that involved violence.

I look upon the college and university student as an intelligent, concerned, and deeply involved individual. I think he is worthy of support, and the privilege to vote.

Mr. President, I think the proposal of the Senator from Kentucky is an excellent one and ask unanimous consent that my name be added as a cosponsor of the bill he has just introduced.

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

Mr. COOPER. Mr. President, I join in congratulating and commending my colleague from Kentucky on his very able presentation.

I recall that I made five statewide races in Kentucky before the voting age was lowered to 18. The contrast since that time is remarkable. In days before, meetings were usually attended by partisan members of one's party and seldom were questions directed to the candidate about the points at issue. But now, candidates speak before colleges and even high school classes and are subjected and properly so, to important and penetrating questioning. I believe that it has attained its greatest purpose and value, in that it gives the young men and women of our country the right of participating in their government, State, local, and National, in its decisions, and under the processes of law.

I understand that the Senator is not intending to offer the bill as an amendment to the Voting Rights Act. Is that correct?

Mr. COOK. That is correct.

Mr. COOPER. I thank my colleague. I am glad because in my studies of two recent cases—South Carolina against Katzenbach and Katzenbach against Morgan—the court indicated that the Congress must provide the facts upon which the country can determine that the Congress has acted rationally, under section 5 of the 14th amendment. The purpose of the Senator's bill is one in which I concur, but there are grave questions about the constitutionality of a statute as compared to an amendment. I am very happy to have heard my colleague from Kentucky.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa (Mr. HUGHES) is now recognized for 15 minutes.

S. 3562—INTRODUCTION OF FEDERAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT AND REHABILITATION ACT OF 1970

Mr. HUGHES. Mr. President, I introduce for myself, Mr. MANSFIELD, Mr. YARBOROUGH, Mr. JAVITS, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, and Mr. SCHWEIKER, a bill entitled the "Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1970."

I send the bill to the desk and ask unanimous consent that it be referred to the Committee on Labor and Public Welfare, with the understanding that the subject matter contained in title IV of the bill will be rereferred to the Judiciary Committee, should that be the desire of that committee, and with the further understanding that the subject matter contained in title VI of the bill will be rereferred to the Finance Committee, should that be the desire of that committee.

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

Mr. HUGHES. Mr. President, I also ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD and that the bill be printed in the RECORD following the section-by-section analysis, all of this to follow my remarks.

The PRESIDING OFFICER. Without objection, the Senator's request is granted.

(See exhibits 1 and 2.)

Mr. HUGHES. Mr. President, this legislation would establish the administrative structure and authorization for an unprecedented, massive, across-the-board, Federal attack on the drug epidemic in this country from a prevention, treatment, and rehabilitation point of view.

Mr. President, after years of trying other approaches that have failed to stem the tide, the time has come to attack the drug problem at its source—and on a scale that offers some conceivable hope of arresting the malignant growth of addiction in America.

It is beyond contention that in dealing with the abuse and illicit distribution of narcotics and dangerous drugs, stern laws and strict enforcement are essential. But the most efficient system of enforcement and punishment cannot do the job alone.

A civilized society in the late 20th century recognizes that narcotics addicts and people who abuse drugs—including the most widely abused drug of all, alcohol—are sick people and not necessarily criminals.

It is also well known that a great many addicts resort to criminal acts simply to support the considerable financial burden of their addiction.

It would seem logical that if we recognize the seriousness of the drug problem in the United States and its contribution to crime, and if we realize that drug addiction is a sickness, we would be determined to make a maximum public effort to prevent, cure, or control this sickness.

After all, if we send a narcotics addict to jail, he will eventually be released, only to return to society and to his addiction—and usually to a life of crime to support his costly habit.

The truth of the matter is, however, that, despite some scattered highly dedicated work at National, State and local levels, we have made only token inroads toward getting at this urgent health problem at its source.

It seems that we are willing to spend almost any amount of public funds to punish the addict, but a pitifully small amount to provide the professional services he needs to kick the habit, or preventive programs that might have enabled him to avoid becoming addicted in the first place.

In the meantime, the number of narcotics addicts and drug abusers in the United States has reached epidemic proportions and is growing at an alarming rate, especially among young people, including children in elementary grades.

The legislation I am proposing would work along the following lines:

First, it would establish within the Public Health Service of the Department of Health, Education, and Welfare, a Drug Abuse Prevention, Treatment, and Rehabilitation Administration, which would have a completely comprehensive range of responsibilities with respect to the prevention, treatment, and rehabilitation of drug dependents and drug abusers.

Second, it would replace present legislation governing treatment and rehabilitation services available to drug dependent persons charged with, or convicted of, violating Federal criminal laws with updated and stronger legislation, which, while continuing the same basic policy of treatment and rehabilitation, would greatly expand the number of persons eligible for such treatment and rehabilitation and would make more definite the Federal Government's obligations to carry out that policy.

Third, it would require the establishment of programs of prevention and the recognition and encouragement of treatment and rehabilitation programs for all Federal employees, and members of the armed services. It would also require the establishment of treatment and rehabilitation programs for veterans and the inclusion of drug abuse and drug dependence in group health and disability insurance policies made available to Federal employees.

Fourth, it would require the recognition of drug abuse and drug dependence as a significant health problem in a broad range of programs affecting health matters, including vocational rehabilitation programs, the Economic Opportunity Act programs, welfare programs, highway safety planning programs, medicare, medicaid, and social security.

Fifth, it would authorize the Secretary of Health, Education, and Welfare to make grants to and enter into contracts with State and local organizations, agencies, institutions, and individuals to carry out a comprehensive range of activities in the drug education, prevention, treatment, and rehabilitation areas.

Sixth, it would establish an independent Secretary's Advisory Committee on Drug Abuse and Drug Dependence, appointed by the Secretary of Health, Education, and Welfare, to advise and consult with the newly created Administration and to assist it to carry out the purposes of this act. It would also establish an intergovernmental Coordinating Council on Drug Abuse and Drug Dependence to assist the Secretary of Health, Education, and Welfare to coordinate all Federal prevention, treatment, and rehabilitation efforts dealing with problems of drug dependence and drug abuse.

This particular piece of legislation is very comprehensive. I should say that there are at least two sections of the legislation which I myself raise questions about. I think, however, that it is very important to present it at this time and that it be debated appropriately in the committees and on the floor of the Senate. By virtue of the comprehensiveness of the legislation, it enables us to take an entirely new approach to the problem of drug abuse and drug dependence in the United States.

In designing legislation to get at the roots of the drug problem from the health standpoint, it seemed absolutely essential to me that such legislation be thorough and comprehensive.

The drug problem has become so pervasive and many-faceted in our society that only a very comprehensive approach will cover all aspects of it.

Moreover, problems of treatment and rehabilitation and law enforcement are inevitably closely interrelated, as my distinguished colleagues who worked so diligently in the law enforcement aspects of the drug problem can attest.

While the major part of the bill comes clearly within the province of the Labor and Public Welfare Committee, certain portions of the legislation will need to be considered by the Judiciary and Finance Committees.

The dimension and growth of drug abuse and narcotics addiction in America justify an all-out approach to getting at the roots of the problem.

It is estimated by Government health authorities that there are approximately 100,000 to 125,000 active narcotic abusers in the United States. The estimated range of persons directly affected by abuse of nonnarcotic drugs such as sedatives, stimulants, tranquilizers, and related drugs lies somewhere between a quarter and a half million people.

A conservative estimate of persons in the United States, both juvenile and adult, who have used marihuana at least once is about 8 million and may be as high as 12 million people.

President Nixon has pointed out that—

> Between the years of 1960 and 1967, juvenile arrests involving the use of drugs rose by almost 800 percent; half of those now being arrested for the illicit use of narcotics are under 21 years of age. New York City alone has records of some 40,000 heroin addicts, and the number rises between 7,000 and 9,000 a year. These official statistics are only the tip of an iceberg whose dimensions we can only surmise.

But the statistics, as frightening as they are, are only the beginning of the problem. The Subcommittee on Alcoholism and Narcotics, of which I am chairman, has been conducting a series of general hearings on the problems of addiction and drug abuse. To date, hearings have been held in Washington, New York, Los Angeles, Denver, and Des Moines.

What we have found is that the drug problem is a ranking public concern in all of the areas where hearings were held. The number of drug abusers and experimenters is increasing at a rate that seems to be a geometric progression. Drug use is spreading to ever younger children—especially in the elementary grades in our large cities. Hard narcotics have invaded the suburbs and the small towns. A dramatically increasing number of substances is being used to induce kicks, and drugs are being employed in weird and dangerous combinations.

The price we have been paying as a society for essentially ignoring the drug priorities in the country is almost beyond comprehension. We do not have to go far to recognize that illegal drug trafficking is one of the principal causes of crime in this country. The use of illegal narcotics is a principal cause of crime here in the Nation's Capital and in the surrounding metropolitan area. Between half and three-fourths of the serious crime in the area is drug-related. Drug-related crime costs the citizens of the Washington metropolitan area upward of $30 million a year. A figure offered at the first White House Conference on Narcotic and Drug Abuse attributes $500 million a year in property damage to addicts in the New York area alone. Drug-related crime also takes a tragic toll in human life and human injury.

The cost in terms of crime is only the beginning. The quantifiable factors associated with narcotic abuse includes costs for law enforcement, crime associated with abuse, lost productivity, the cost of research and treatment programs, and welfare costs associated with broken families and unemployed abusers. Government health authorities have estimated that the total of involuntary social costs of narcotic drug abuse alone amounts to $541 million per year.

But the greatest price of all is the price we are paying in terms of human life—the lives of the hundreds of thousands of narcotics addicts and drug abusers who are only living in the shadows of society—half alive, half free.

We need a variety of approaches and the wisdom of various professional disciplines, plus massive education to promote human understanding, if we are to make any real headway in meeting a problem that is unbelievably complex, many-faceted and deeply rooted in the contemporary culture of our society.

The drug takeover of children and youth is the most elusive and frightening phenomenon of all.

In the Los Angeles hearings of our Subcommittee on Alcoholism and Narcotics, we heard testimony from a 15-year-old boy who revealed that he was in the sixth grade and 10 years old when his first experience with drugs began.

He began his career with drugs by experimenting with tranquilizers and sleeping pills snitched from the medicine closet of the bathroom in his home. He went on to pep pills, alcohol, marihuana, hashish, cocaine, benzedrine, LSD, and methedrine, until, with great and understanding help from parents, doctors, and friends, he broke the grip of his addiction.

This boy testified:

> There is a need of a place to go. When a teen-ager is so strung out and hopeless he wants to die, I don't mean a jail or an asylum. But a place in all hospitals with substantial medical aids, like a clean bed and food.

Consider the case of the 15-year-old boy who had been on drugs for years and whose body was found, last year, in a storm sewer in an affluent subdivision in the Washington metropolitan area, the apparent victim of an overdose of drugs.

A couple of months ago, I was back home in Iowa, where I visited the detoxification center in Des Moines. There a baby had been born to parents who were both addicted to heroin. The baby was born with heroin withdrawal symptoms and the doctors, in the first weeks, had to treat the infant with drugs to enable him to live.

I could go on citing dozens of cases such as these that illustrate the urgency of the situation. It is important to note that youngsters and other addicts can be helped if we get to them in time.

But facilities and programs, involving substantial public outlays, are required.

President Nixon pointed out in his July 14, 1969, message to Congress on the drug problem:

> It has been a common over-simplification to consider narcotics addiction, or drug abuse, to be a law enforcement problem alone.

And Attorney General Mitchell, testifying before the Juvenile Delinquency Subcommittee of the Judiciary Committee on September 15, 1969, stated that—

> The Department of Health, Education, and Welfare has the primary functions of providing for research, education and treatment in the field of drug abuse.

It is clear to everyone by now, I think, that law enforcement efforts alone are not the answer to the drug problem. What we need, in combination with a solid, reasonable, and enforceable law enforcement structure, is a massive, across-the-board Federal attack on the drug epidemic in this country, from a prevention, treatment, and rehabilitation point of view. I believe that the legislation which I am introducing today will establish the administrative structure and authorization for that kind of an effort.

The present statutes authorizing Government efforts in narcotics addiction and drug abuse prevention and rehabilitation lack the kind of unity, comprehensiveness, structural visability, and specificity that command attention and financing in our system and which make regular legislative review of our efforts more manageable.

This legislation attempts to remedy that problem by establishing within the Public Health Service of the Department of Health, Education, and Welfare, a drug abuse prevention, treatment, and rehabilitation administration, which would have a completely comprehensive range of responsibilities with respect to the prevention, treatment, and rehabilitation of drug dependents and drug abusers, these powers would be utilized and directed in accordance with a specific and comprehensive drug abuse and drug dependence control plan which would be drawn up and carried out by the newly created administration and would be submitted annually to Congress for review.

The American correctional system, an extremely diverse amalgam of facilities, theories, techniques, and programs, handles nearly 1.3 million offenders on an average day. Correctional institutions have 2.5 million admissions in the course of a year. Ninety percent of the convicted criminals and accused persons held in custody are housed in State or local institutions. The Federal corrections system is in a position to be a model of reform and proving ground for the rest of the country's prison institutions. As the Task Force on Corrections of the President's Commission on Law Enforcement and Administration of Justice has stated:

> A major role for Federal corrections should be the initiation of innovative programs to serve as proving grounds and as models for state and local corrections. This role as innovator would not, of course, be the exclusive domain of the Federal government. Such programs should be primarily a stimulus to change at the local level. Much that is new and promising will continue to be generated locally. But the prestige and visibility of the Federal service and its national character give it unique advantages.

Our prisons are a national scandal. Nineteen out of every 20 persons who are sent to prison eventually return to society. What happens to them while they are in confinement is a tremendously important question for our country.

In the hearings of our subcommittee across the land, we heard testimony from numerous witnesses who had served time in penal institutions of all descriptions and at all levels of government.

Without exception, they testified that drugs and narcotics were available within the prison; in some cases it was stated that they were more readily available in the jails or prisons than on the outside.

Forty percent of those who are released from confinement later return to prison.

President Nixon pointed out in his message on prison reform:

> It is a tragic fact that juveniles comprise nearly a third of all offenders who are presently receiving correctional treatment and that persons under the age of twenty-five comprise half of that total. Yet our treatment facilities are least adequate for these same age groups.

Rehabilitation efforts may, to some extent, conflict with the deterrent and punishment goals that are a fact in our criminal justice system, and rehabilitation has been opposed by some people in the past for these reasons, but the issue here is not simply whether new correctional methods amount to "coddling." The ultimate goal of corrections under any theory is to make the community safer by reducing the incidence of crime. Rehabilitation of offenders to prevent their return to crime is, in general, the most promising way to achieve this end.

It is clear that, in terms of rehabilitation, the Labor and Public Welfare Committee has a clear concern for and interest in this aspect of the problem. It is clear also that the Judiciary Committee has legitimate jurisdiction over this area, and to some extent, has concerns that may be different in scope. Consequently, this portion of the bill should be referred to the Judiciary Committee for their review, after consideration by the Labor and Public Welfare Committee.

The Civil Service Commission has, at the present time, no established Federal policy guidelines for the handling of Federal personnel who are drug addicts or drug abusers. This would appear to be the time to adopt such a policy.

In order to deal with these problems, this legislation would require the establishment of prevention programs and the encouragement of treatment and rehabilitation programs for all Federal employees and members of the armed services. It would also require the establishment of treatment and rehabilitation programs for veterans and the inclusion of drug abuse and drug dependence in group health and disability insurance policies made available to Federal employees.

All too often care and attention for narcotics addicts and drug abusers have been wanting in our present Federal health programs because of the feeling that these individuals are harder to handle than other patients, because of lack of knowledge on the part of the professionals as well as nonprofessionals about the problem, or because of downright lack of concern.

This legislation would require the recognition of drug abuse and drug dependence as a significant health problem in a broad range of programs dealing with health, such as the Economic Opportunity Act programs, welfare programs, highway safety planning programs, medicare, medicaid, and social security.

Because of the very neglect that permeates these areas, these provisions may have significant consequences to some of the programs I have listed. Because of this, appropriate portions of the bill should be referred to the Finance Committee for their consideration.

As the Subcommittee on Alcoholism and Narcotics held hearings here in Washington and, as we have listened to testimony around the country, it has become clear that local resources alone are not going to be sufficient if we are to mount an effective offensive against this rapidly growing health problem. Cities have a crying need for funds, leadership, and information which can only be obtained rapidly and effectively through Federal sources.

Consequently, this legislation would authorize the Secretary of Health, Education, and Welfare to make grants to, and enter into contracts with, State and local organizations, agencies, institutions, and individuals to carry out a comprehensive range of activities in the drug education, prevention, treatment, and rehabilitation areas. This would include, but would not be limited to, development of model curriculums, curricular materials, and curricular dissemination programs; training and education programs for medical schools, outreach workers, and other professional and nonprofessional persons; support of community planning and educational programs; organization of community personnel; support of services to juveniles and young adults; and services in correctional institutions.

In this program, education, through the use of all media, should be of key importance, for the economic facts of life about drug addiction and abuse make the investment potential of education programs dramatically clear.

Independent advice and coordination of all of the Government's efforts in this area have obvious administrative advantages. That is why this legislation would establish an independent Secretary's Advisory Committee on Drug Abuse and Drug Dependence, appointed by the Secretary of Health, Education, and Welfare, to advise and consult with the newly created administration. And that is why this bill would establish an intergovernmental coordinating council on drug abuse and drug welfare to coordi-

nate all Federal prevention, treatment, and rehabilitation efforts dealing with problems of drug dependence and drug abuse.

Realistically, Mr. President, without faulting the valiant efforts that dedicated individuals and groups have made in a difficult field, treatment for drug abuse in America is scarcely a scratch on the surface of the problem.

The same statement can be made with reference to rehabilitation facilities and research and prevention programs.

It stems from the fact that we are working almost entirely from a prosecution, rather than a public health, approach.

We are concerned with punishing people, not educating them or healing them.

We cannot wish narcotics and mind-altering drugs out of existence; we cannot legislate them away; we cannot enforce them into oblivion.

But we can do something about healing sick people and about preventing others from incurring the illness.

We are properly concerned about protecting society from crime induced by drugs.

But the protection is a delusion, unless we get at the problem of addiction itself.

Somehow public programs and policies get diverted from the central point, the need for salvaging human beings—both for the protection of society and for simple humanity.

Armed with this understanding, I am convinced that we can meet the drug problem sensibly and be a stronger and better society for so doing.

The legislation I am introducing today is a substantial step in that direction.

The section-by-section analysis, presented by Mr. Hughes, is as follows:

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL DRUG ABUSE AND DRUG DEPENDENCY PREVENTION, TREATMENT AND REHABILITATION ACT OF 1970

TITLE I—FINDINGS AND DECLARATION OF PURPOSES

Section 101—finds that drug abuse and drug dependence are increasing throughout the country; that drug dependence is an illness or disease that requires treatment through health and rehabilitation services; that existing laws have not been effective to prevent drug abuse and drug dependence or to provide adequate education, treatment, and rehabilitation of drug abusers and drug dependent persons and that a major federal commitment is needed in these areas; that effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism among those persons incarcerated in government institutions; that present federal programs for drug abuse and drug dependence are relegated to a low level of priority and remain uncoordinated within the government; that the federal government has failed to effectively handle drug abuse and drug dependence among those for whom the government has special responsibilities—civilian employees, military personnel, and veterans; and that existing federal health and rehabilitation laws have not properly been used to attack problems of drug abuse and drug dependence.

Section 102—declares that a Drug Abuse Prevention, Treatment, and Rehabilitation Administration shall be established within HEW to coordinate all federal health or rehabilitation programs related to the prevention and treatment of drug abuse and drug dependence; that federal action and assistance programs should be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, reporting and classification with respect to drug abuse and drug dependence, and to provide drug abusers and drug dependent persons with access to care, treatment and rehabilitation, and that all present federal or federally-assisted research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug related crime.

TITLE II—DEFINITIONS

Section 201—incorporates the definitions of the Controlled Dangerous Substances Act of 1969.

Section 202—sets out additional definitions which apply throughout the Act.

"Prevention and treatment" is defined to include all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency medical care, inpatient, intermediate care, and outpatient), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

Other definitions include those for the terms "drug abuser," "drug dependent person," "drug related offense," "emergency medical care services," "inpatient services," "intermediate care services," and "outpatient services."

The remaining definitions are routine.

TITLE III—DRUG ABUSE PREVENTION, TREATMENT AND REHABILITATION ADMINISTRATION

Establishment of the Administration

Section 301—establishes a Drug Abuse Prevention, Treatment, and Rehabilitation Administration within the Public Health Service of the Department of Health, Education, and Welfare. Remaining sections of this title set out the responsibilities of the Administration.

Administrative functions of the Administration

Section 302—sets out the administrative functions of the Administration. They include administration of programs for federal employees, administration of the programs for the treatment and rehabilitation of federal criminal offenders, appropriate reviews in the health planning area, and administration of the grants and contracts authorized in Title VII of this Act.

Planning functions of the Administration

Section 303—sets out the planning functions of the Administration. They include development of a detailed, comprehensive federal drug abuse and drug dependence control plan to implement the objectives of this Act; the development of model drug abuse and drug dependence control plans for state and local governments; and the providing of assistance and consultation with respect to the prevention and treatment of drug abuse and drug dependence to state and local governments (and to private groups and institutions).

Coordination functions of the Administration

Section 304—sets out the coordination functions of the Administration. They include assistance of the Civil Service Commission, the Department of Defense, the Veterans' Administration and other departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence; service as consultants to courts, departments and agencies, including those responsible for programs affected by Title VI of this Act; coordination of all federal health and rehabilitation efforts to deal with problems of drug abuse and drug dependence; encouragement of and assistance of state, local and non-profit private programs and services; cooperation with appropriate federal departments and agencies to develop a policy and program for federal employees who are drug abusers or drug dependent persons, assistance of state and local governments in coordinating programs among themselves; and cooperation in disseminating medical guidelines for the use of controlled dangerous drugs in medical practice.

Statistical functions of the administration

Section 305—sets out the statistical functions of the Administration. They include the gathering and publishing of statistics pertaining to drug abuse, drug dependence and drug related problems, and the promulgation of rules and regulations relating to statistical information, reports, records, etc.

Research functions of the administration

Section 306—sets out the research functions of the Administration. They include the carrying out and encouragement of research, investigations, experiments and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis and treatment of drug abuse and drug dependence and relating to the toxicology, pharmacology, chemistry effects on the health of drug abusers, and danger to the public health of controlled dangerous substances; coordination of the research conducted by the Administration with that done by other departments, agencies, etc., and the establishment of a research register; maintenance of an adequate supply of controlled dangerous substances; the awarding of grants-in-aid to and contracts with universities, hospitals, laboratories, agencies, institutions, etc. for such research; the establishment of a research information center; the establishment and maintenance of a research fellowship program; investigation of methods of drug detection; evaluation of existing and proposed new programs, services, and methods for the prevention and treatment of drug dependence and drug abuse.

Training functions of the administration

Section 307—sets out the training of the Administration. They include establishment of training programs for professionals and non-professional; encouragement of such programs by state and local governments; and establishment of training fellowships.

Education functions of the administration

Section 308—sets out the educational functions of the Administration. They include development of model curricula for instructing children and for use by parent-teacher associations, adult education centers, private citizen groups, etc. concerning drugs, drug use, drug abuse, and drug dependence; preparation of educational materials for use in all media for public and private education about drugs, drug use, drug abuse, and drug dependence; establishment of educational courses for various federal officials; development of educational courses for use by state and local agencies on the causes of drug abuse and drug dependence; acting as a clearing house for the collection, preparation, and dissemination of information relating to drug abuse and drug dependence; recruitment, training, organizing and employment of professionals and non-professionals to organize and participate in programs of public education in relation to drug abuse; coordination of activities carried on by the federal government relating to the health education aspects of drug abuse and drug

dependence; and such other activities as the Secretary may consider important to a national program of education relative to drug abuse and drug dependence.

Classification functions of the administration

Section 309—sets out the classification functions of the Administration. For purposes of carrying out its administrative, planning, coordination, statistical, research, training, education, reporting, treatment, and other functions, the Administration shall place every controlled dangerous substance within one of the following three classes: 1) such substances that have the most harmful effects on the health of drug abusers or that most significantly contribute to crimes of violence, 2) such substances that have intermediate harmful effects on the health of drug abusers or that make an intermediate contribution to crimes of violence, 3) such substances that have the least harmful effects on the health of drug abusers or that least significantly contribute to crimes of violence.

Reporting functions of the administration

Section 310—sets out the reporting functions of the Administration. An annual report to Congress, specifying actions taken and services provided under each provision of this Act and an evaluation of their effectiveness is required. Additional reports, as requested by Congress or the Secretary, and appropriate recommendations to the Congress and to the Secretary are also required.

TITLE IV—TREATMENT AND REHABILITATION OF FEDERAL OFFENDERS

Treatment and rehabilitation services

Section 401—sets out the types of treatment and rehabilitation services which shall be provided to persons charged with, convicted of or serving a criminal sentence for any criminal offense under federal law. Such services shall include emergency medical care services, inpatient services and intermediate care and outpatient services. Persons receiving such assistance may be required to contribute toward the cost of treatment. Regulations shall specify how government funds available to any person for treatment under federal state programs shall be used to pay for such treatment.

Emergency medical care services

Section 402(a)—provides that the persons charged with a misdemeanor who either appear to be drug abusers or are taken into custody for what appears to be a drug related offense shall be taken for emergency medical services. After an initial screening, those persons determined not to be in need of medical attention will be handled as in any other criminal case. The remaining individuals will be detained for medical care during withdrawal, possible diagnosis for drug dependence, and initiation of any civil commitment proceedings under section 403 or 405. Such detention may not exceed five days.

If the person is not diagnosed as drug dependent, the government attorney, with the recommendation of the medical officer, will decide whether he should be prosecuted, or permitted to follow voluntary education and treatment for drug abuse. If the person is diagnosed as drug dependent, the government attorney will decide, with the recommendation of the medical officer, whether the person should be prosecuted, civilly committed, or permitted to follow voluntary treatment. If he is prosecuted and convicted, he may still receive a suspended sentence and probation conditional on treatment, or be civilly committed for treatment, rather than being criminally sentenced.

The bill provides that the medical officer shall make his recommendations to the government attorney at every stage of the decision-making process with respect to such an individual. In all instances, however, the government attorney has the ultimate decision, and can either accept or reject the medical officer's recommendation. Similarly, the judge is free to accept or reject the recommendations made by the medical officer.

Section 402(b) contains similar provisions relating to a person taken into custody by the police for a felony who either appears to be a drug abuser or is charged with a drug related felony. Initial screening will single out those persons not in need of medical attention. The remaining persons, after any necessary withdrawal, may be detained for up to ten days for diagnosis of possible drug dependence. If such a person is not diagnosed as drug dependent, the criminal charges are prosecuted. If he is diagnosed as drug dependent, the criminal charges are prosecuted, but after conviction the court, with the recommendations of the medical officer, must decide whether to impose a suspended sentence, to institute civil commitment proceedings under section 405 or to impose a criminal charge. If he is convicted, he may also receive treatment through civil commitment.

Section 402(c) provides the the government attorney shall institute involuntary civil commitment proceedings for additional short-term emergency medical treatment pursuant to Section 403 whenever any patient requires such care and the findings required by section 403(a) can be substantiated.

Section 402(d) provides that civil commitment proceedings for treatment for drug dependence shall be instituted by the government attorney pursuant to section 405 whenever there is a finding that a person taken into custody for a violation of the Controlled Dangerous Substances Act of 1969 as (1) a drug dependent person who (2) is charged with a drug related offense.

Section 402(e) provides that civil proceedings for pre-trial detention for treatment shall be instituted by the government attorney pursuant to section 404 whenever there is a finding that (1) a person taken into custody for an offense not under the Controlled Dangerous Substances Act of 1969 is a drug dependent person, (2) who is charged with a drug-related felony. The medical officer shall make written recommendations in each of these instances, but if the medical officer and the government attorney disagree, the judgment of the government attorney shall prevail.

Short term civil commitment for emergency medical treatment

Section 405—permits a court to order up to 30 additional days of emergency medical care services for a drug dependent person who, even after the initial detention period authorized by section 402 is in imminent danger of sustaining substantial physical harm and is not in a position to exercise a rational judgment about accepting assistance. Such a person, when once again able to make a rational judgment about accepting assistance, shall be committed for treatment pursuant to section 405, detained for pretrial treatment pursuant to section 404, or handled as in any other criminal case.

Pretrial treatment

Section 404—permits a court, after a civil hearing, to order the pre-trial detention of a drug dependent person charged with a federal, drug related felony, other than a felony under the Controlled Dangerous Substances Act of 1969, upon a finding that 1) there is clear evidence that the person is a drug dependent person and that the offense charged is a drug related felony and 2) appropriate treatment for drug dependence is available for him. Such detention may last for 60 days and continuances may be granted only upon a showing of compelling circumstances. Assistance of counsel must be granted, appeal rights are retained, and an expedited calendar shall apply.

Civil commitment for treatment of drug dependence

Section 405—sets out the conditions under which drug dependent persons who are federal offenders may be civilly committed for treatment for drug dependence.

Under section 405(a), the following persons may be committed for treatment: drug dependent persons charged with a misdemeanor and who, prior to trial, requests treatment in lieu of criminal prosecution; drug dependent persons charged with a felony who, having pled guilty or been found guilty of the offense charged, at the time of sentence request such treatment in lieu of the sentence; or drug dependent persons serving criminal sentences who petition the court for such treatment in lieu of serving the remainder of the sentence.

Under section 405(b), commitment is provided for drug dependent persons charged with a drug related offense and acquitted on the ground of drug dependence; or drug dependent persons charged with an offense under the Controlled Dangerous Substances Act of 1969 and found, before or after trial, to fall within the provisions of section 402 (d).

For all such persons, no initial commitment shall be ordered for a period longer than the sentence that could have been imposed or was imposed. Prior to any commitment, the court must conduct a full and fair hearing and must find that the person is a drug dependent person and that appropriate treatment is available for him.

With the objective of protecting the public, the bill provides that no civilly committed person shall be released who is found by a court to represent an immediate and continuing danger to the safety of another person or of property. Such persons are retained in custody until there is no longer good reason to believe that they represent such a danger. However, every individual is entitled to intermediate care or outpatient status as soon as possible, consistent with sound clinical judgment.

The section contains procedural safeguards with respect to committed persons. Such a person must be released immediately when he is shown to be rehabilitated. He is, moreover, entitled to a court review of his status every six months. He is entitled to appointed counsel, and retains all of his civil rights and liberties.

Federal Youth Corrections Act

Section 406—provides that persons committed to or eligible for commitment to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act who are eligible for civil commitment under this title shall be handled pursuant to this title, except that such a person shall remain eligible for sentencing under the Federal Youth Corrections Act after failure to be committed pursuant to this title, or if he is returned to stand trial or to serve the remainder of his sentence.

Drug abuse services in correctional institutions and on probation and parole

Section 407—provides that services provided by this act shall be used by the Bureau of Prisons and the Board of Parole for drug abusers or drug dependent offenders placed on work release, probation, or parole status, including persons sentenced under the Federal Youth Corrections Act, and that the Secretary and the Bureau of Prisons shall cooperate in establishing and encouraging the establishment of community based drug abuse treatment services and of drug abuse treatment services in Federal correctional institutions.

Availability of criminal records

Section 408—In order to facilitate the treatment and rehabilitation of drug abusers and drug dependent persons, this section sets out a method whereby the records of arrests

and convictions under Federal laws relating to dangerous drugs may, under certain conditions, not be available at a matter of public record.

Retention of civil rights and liberties

Section 409—provides that a person treated under the provisions of this Act retains his civil rights and liberties.

Confidentiality of records

Section 410—deals with the confidentiality of records. It requires that a complete medical, social, occupational, and family history of a patient be obtained as part of the diagnosis and classification of a patient pursuant to this title, and it provides that a person treated under the bill is entitled to the confidentiality of the physician-patient relationship, and that no such records may be disclosed without a court order or may be used against him.

TITLE V—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES, MILITARY PERSONNEL AND VETERANS

Drug abuse and drug dependence among Federal Government employees

Section 501—provides that the Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the other federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal employees; and that government employees who are drug abusers or drug dependents shall retain the same employment and other benefits as other persons afflicted with serious health problems, and shall not lose pension, retirement, medical, or other rights. An exception is made for sensitive employment.

Health and disability insurance plans for Federal employees

Section 502—provides that all health and disability insurance policies and plans covering federal employees shall handle drug abuse and drug dependence in the same way as other health problems, illnesses, and diseases.

Drug abuse and drug dependence among military personnel

Section 503—deals with drug dependence among military personnel and provides that drug dependence shall be regarded as a physical disability and shall not be regarded as the result of intentional misconduct or willful neglect; that drug dependent persons shall retain the same rights and benefits as other persons afflicted with serious illnesses, and shall not lose pension, retirement, medical, or other rights because of drug dependence; that medical care provided to military personnel and dependents shall include appropriate treatment services for drug abuse and drug dependence; and that any penalties imposed upon military personnel pursuant to the Uniform Code of Military Justice for offenses which would otherwise fall within the Controlled Dangerous Substances Act of 1969 shall be no greater than or different from penalties provided under that Act.

Drug abuse and drug dependence among veterans

Section 504—deals with Drug Abuse and Drug Dependence Among veterans. It provides that appropriate treatment facilities and services for drug abuse and drug dependence shall be made available within Veterans Administration hospitals as a matter of high priority; that drug dependence be added to the Veterans Administration's list of chronic diseases; that drug dependence during military service shall be regarded as a service-connected disability, and shall not be regarded as due to willful misconduct, that a dishonorable discharge shall not be a bar to treatment for drug abuse or drug dependence if the discharge was the result of drug abuse or drug dependence, and that any government compensation, funds, or other monetary benefits available to a drug dependent veteran as a result of his drug dependence shall be used as far as practicable and without imposing hardship, for his treatment and rehabilitation.

TITLE VI—PREVENTION AND TREATMENT UNDER FEDERAL HEALTH, WELFARE, AND REHABILITATION PROGRAMS

Medicare and medicaid

Section 601—provides that a drug abuser or drug dependent person shall be regarded as a sick or disabled person eligible for treatment under medicare and medicaid, and provides that state plans for medical assistance must include provisions for prevention and treatment of drug abuse and drug dependence.

Social security

Section 602—provides that a drug abuser or drug dependent person shall be regarded as eligible for disability benefits under the Social Security Act, as amended.

Economic opportunity

Section 603—provides that drug abuse and drug dependence shall be a matter of high priority item for programs undertaken under the Economic Opportunity Act of 1964.

Vocational rehabilitation

Section 604—provides that a drug abuser or drug dependent person or facility or program or service for the prevention or treatment of drug abuse or drug dependence, shall be eligible for funds made available under Vocational Rehabilitation legislation.

Welfare

Section 605—provides that State and Federal agencies charged with administering welfare programs shall take action to reduce the incidence of financial indigency and family disintegration caused by drug abuse and drug dependence, and shall provide for treatment and rehabilitation services for those persons enrolled in welfare programs whose financial eligibility for such assistance results, in part or in whole, from drug abuse or drug dependence. It also makes certain drug abuse and drug dependence prevention and treatment programs and services for persons enrolled in welfare programs eligible for federal assistance, and provides that persons eligible for welfare assistance shall not be ineligible for such assistance because of drug abuse or drug dependence, and that any drug abuse or drug dependence treatment facility shall qualify as a "medical institution" within that title of the Federal Code which deals with the payment of welfare benefits. It also provides that any recipient of welfare assistance whose inability to work or to participate in a work training program is the result of drug abuse or drug dependence shall be excused from such participation only on condition that he accept appropriate treatment and rehabilitation services made available to him.

Highway safety

Section 606—provides that each State highway safety program approved pursuant to the Highway Safety Act of 1966 shall include provisions for the prevention and treatment of drug abuse and drug dependence among licensed drivers. Highway safety research conducted pursuant to that act shall include research with respect to the prevention and treatment of drug abuse and drug dependence among licensed drivers. It also provides that federal funds used to assist state and local governments in the prevention and treatment of drug abuse and drug dependence among licensed drivers shall be expended for the purpose of education, treatment, and rehabilitation and not for the purpose of punishment.

General

Section 607—is a general provision stating that drug abuse or drug dependence shall be regarded as a health problem, sickness, illness, disease, disability, or other similar term, for purposes of all federal legislation relating to health, welfare, and rehabilitation programs, services, funds, and other benefits. It also provides that any federal legislation providing for medical assistance, medical care or other similar terms shall be regarded as including programs and services for the prevention and treatment of drug abuse and drug dependence.

TITLE VII—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Comprehensive State plans

Section 701—requires that comprehensive state health plans submitted for funding under the Public Health Service Act include planning for the prevention and treatment of drug abuse and drug dependence.

State hospitals and medical facilities construction plans

Section 702—requires that state plans submitted to obtain funds for assistance in carrying out programs under the provisions of the Public Health Service Act for construction and modernization of hospitals and other medical facilities include a survey of facilities needed to provide adequate service for the prevention and treatment of drug abuse and drug dependence. Projects for construction and modernization of facilities for prevention and treatment of drug abuse and drug dependence under these provisions are to be a matter of high priority.

State mental health centers plans

Section 703—requires that state plans submitted for funding under the Community Mental Health Centers Act provide for services for prevention and treatment of drug abuse and drug dependence commensurate with the extent of the problem.

Grants and contracts for the prevention and treatment of drug abuse and drug dependence

Section 704—authorizes the Secretary to make grants and enter into contracts for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private organizations, agencies, institutions, or individuals to: meet costs of constructing, equipping and operating treatment and rehabilitation facilities; conduct research, demonstration, and evaluation projects; provide education and training for professional personnel, including medical, psychiatric, and social welfare personnel; recruit, educate, train, organize and employ community drug abuse and drug dependence prevention and treatment personnel including paramedical personnel; provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence; provide services for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults; provide programs and services for the instruction of interested individuals relating to the causes, effects, prevention, and treatment of drug abuse and drug dependence, provide services for outpatient counseling of drug abusers and drug dependent persons; develop or evaluate curricula on drug abuse prevention and treatment, including the preparation of new and improved curricular materials; develop or evaluate a program of dissemination of curricular material; provide training programs on drug abuse and drug dependence for teachers, counselors, and other educational personnel; provide community education programs on drug abuse to enable a state government agency to assist local education agencies in the planning, development, and implemen-

tation of drug abuse education programs; and develop educational material and programs about the prevention and treatment of, and problems arising from, drug abuse and drug dependence, for use or distribution by mass media.

Such grants shall not exceed 90% of the cost of the program or project. Grants to meet costs of compensation of personnel in treatment and rehabilitation facilities shall not exceed five years in duration, shall not exceed 90% of the cost for the first two years of the program or project, and shall be reduced during the following years.

Application for Federal assistance from units of local government and private organizations

Section 705—provides that in administering the provisions of this title the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private agencies or to state agencies over local agencies. All applications from within a State must first be submitted for review and comment to the State agency which is responsible for administering the State comprehensive plan for treatment and prevention of drug abuse, if such an agency exists. Applications are then to be forwarded to the Secretary. It also establishes a set of administrative and budgetary criteria which must be met by those seeking funds under this title.

Administration of grants and contracts

Section 706—provides that recipients of grants must make an annual report and such reports to the Secretary, as are determined by him to be reasonably necessary.

Section 707—provides that payments under this title may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

Section 708—provides that no funds shall be available under this title to any public or private agency if the amount of funds committed by such agency at the time of enactment of this Act to programs for the prevention and treatment of drug abuse and drug dependence is hereafter reduced.

Section 709—provides the method for termination of grants and contracts made under this title and sets out the remedy which adversely affected parties have in such instances.

Admission of drug abusers and drug dependent persons to private and public hospitals

Section 710—provides that drug abusers and drug dependent persons shall be admitted to and treated in private and public hospitals on the basis of medical need and shall not be discriminated against because of their drug abuse or drug dependence, and that no hospital that violates this section shall receive federal financial assistance under the provisions of this Act or any other federal law administered by the Secretary.

TITLE VIII—THE SECRETARY'S ADVISORY COMMITTEE ON DRUG ABUSE AND DRUG DEPENDENCE

Section 801—establishes an Advisory Committee on Drug Abuse and Drug Dependence, to advise and consult with the Secretary and the Administration and to assist them in carrying out the provisions of this Act.

Section 802—provides that the Committee may appoint one or more technical consultants from experts throughout the country to assist in evaluating the progress of the Administration so that it will have the best possible prevention, treatment, and rehabilitation programs for drug abuse and drug dependence.

Section 803—provides that the Committee shall employ a full-time executive director with a secretary.

TITLE IX—INTERGOVERNMENTAL COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Section 901—establishes an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence consisting of the Secretary or his representative, who shall serve as Chairman, the executive director of the Secretary's Advisory Committee on Drug Abuse and Drug Dependence, four representatives of Federal departments and agencies, and five representatives of State and local government departments or agencies. The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions.

Section 902—The Coordinating Council is authorized and directed to assist the Secretary and the Administration to coordinate all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence, assist the Administration in carrying out its function of coordinating such Federal efforts with state and local governments, engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence, implement programs for the rehabilitation of Federal employees who are drug dependent persons, and develop and maintain any other appropriate activities consistent with the purposes of this Act.

TITLE X—GENERAL

Section 1001—provides that the Secretary may promulgate regulations pursuant to the requirements of the Administrative Procedure Act to implement this Act.

Section 1002—contains a separability provision.

Section 1003—is a repealer clause. The following two obsolete federal statutory provisions, both of which are replaced by broader and more modern provisions in this Act, are repealed: The Narcotic Addict Rehabilitation Act of 1966, and Part E of Chapter 6A of title 42 of the United States Code.

Section 1004—is an appropriation clause, providing that sufficient funds shall be appropriated for each fiscal year to provide for the implementation of this act.

Section 1005—provides that this Act shall take effect 180 days after its enactment.

The bill (S. 3562) to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence, introduced by Mr. HUGHES (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, Committee on the Judiciary, and the Committee on Finance, as follows:

EXHIBIT 2

S. 3562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act my be cited as the "Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1970".

TITLE I—FINDINGS AND DECLARATION OF PURPOSES

SEC. 101. The Congress finds that—

(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease that requires treatment through health and rehabilitation services.

(b) Existing laws have not been effective to prevent drug abuse and drug dependence or to provide adequate education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

(c) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

(d) Present Federal programs for drug abuse and drug dependence are relegated to a low level of priority and remain uncoordinated within the Government. Federal officials have failed to handle effectively drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, and veterans. Existing Federal research, health, and rehabilitation laws have not properly been used to attack the problems of drug abuse and drug dependence. Lack of Federal leadership and funding has also contributed to the failure of State and local governmental agencies and public and private nonprofit agencies, institutions and organizations to recognize their responsibilities for meeting these problems.

SEC. 102. The Congress declares that—

(a) There shall be established and maintained a Drug Abuse Prevention, Treatment, and Rehabilitation Administration within the Department of Health, Education, and Welfare, to coordinate all Federal health and rehabilitation programs related to the prevention and treatment of drug abuse and drug dependence.

(b) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, reporting, and classification with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

(c) In addition to the provisions of this Act, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug related crime.

TITLE II—DEFINITIONS

SEC. 201. The definitions in the Controlled Dangerous Substances Act of 1969 shall also apply for purposes of this Act.

SEC. 202. As used in this Act:

(a) "Administration" means the Drug Abuse Prevention, Treatment, and Rehabilitation Administration established within the Department of Health, Education, and Welfare by this Act.

(b) "Commissioner" means the Commissioner of the Drug Abuse Prevention, Treatment, and Rehabilitation Administration appointed pursuant to this Act.

(c) "Courts" includes all Federal courts, including any United States magistrate.

(d) "Department" means the Department of Health, Education, and Welfare.

(e) "Drug abuser" means any person who uses any controlled dangerous substance under circumstances that constitute a violation of law.

(f) "Drug dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous

substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(g) "Drug related offense" means any Federal criminal offense committed by a drug dependent person (1) to satisfy his drug dependence or to obtain funds to satisfy his drug dependence or (2) while under and as a result of the influence of a controlled dangerous substance.

(h) "Emergency medical services" includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, (3) are affiliated with, and constitute an integral (but not necessarily physical) part of, the general medical services of a general hospital, and (4) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and classification with respect to possible drug dependence, and referral for other treatment and rehabilitation.

(i) "Government attorney" means an attorney authorized to represent the United States with respect to this Act.

(j) "Inpatient services" includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

(k) "Intermediate care services" includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment institution (including but not limited to a halfway house, hostel, or foster home) which is community based and located so as to be quickly and easily accessible to patients.

(l) "Outpatient services" includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment institution, which are community based and located so as to be quickly and easily accessible to patients.

(m) "Prevention and treatment" includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evalution, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency medical care, inpatient, intermediate care, and outpatient), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

(n) "Secretary" means the Secretary of Health, Education, and Welfare.

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

TITLE III—DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION ADMINISTRATION

ESTABLISHMENT OF THE ADMINISTRATION

SEC. 301. (a) There is hereby established within the Public Health Service of the Department of Health, Education, and Welfare a Drug Abuse Prevention, Treatment, and Rehabilitation Administration. The Administration shall develop and conduct a comprehensive health, education, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

(b) (1) The Administration shall be under the direction of a Commissioner, who shall be appointed by the Secretary.

(2) Section 5316 of title 5, United States Code, relating to positions at level V of the Executive Schedule, is amended by adding at the end thereof the following new item:

"(130) Commissioner, Drug Abuse Prevention, Treatment, and Rehabilitation Administration, Department of Health, Education, and Welfare."

(c) The Administration and its programs and services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior criminal arrests or convictions shall not be a bar to such employment.

ADMINISTRATIVE FUNCTION OF THE ADMINISTRATION

SEC. 302. It shall be the duty of the Administration with respect to its administrative functions to—

(a) administer any service or program relating to the prevention and treatment of drug abuse and drug dependence pursuant to a request in accordance with section 304 (a) of this Act;

(b) administer the program for treatment and rehabilitation of Federal offenders established under title IV of this Act;

(c) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 35(a)(15) of title 29 and sections 246(a)(2)(L), 291(c)(a)(4), 1396(a)(31), and 2684(11) of title 42 of the United States Code;

(d) administer the grants and contracts authorized under title VII of this Act; and

(c) administer any other service or program, or take any other action, consistent with the intent and objectives of this Act.

PLANNING FUNCTIONS OF THE ADMINISTRATION

SEC. 303. It shall be the duty of the Administration with respect to its planning functions to—

(a) develop a detailed and comprehensive Federal drug abuse and drug dependence control plan to implement the objectives and policies of this Act. The plan shall be submitted to Congress as soon as practicable, but not later than one year after the enactment date of this Act. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Administration's annual report. The Commissioner shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate Federal, State, and public and private nonprofit agencies, institutions, and organizations. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

(b) develop model drug abuse and drug dependence control plans for State and local governments, utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized; and

(c) provide assistance and consultation to State and local governments, public and private nonprofit agencies, institutions, and organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence.

COORDINATION FUNCTIONS OF THE ADMINISTRATION

SEC. 304. It shall be the duty of the Administration with respect to its coordinating functions to—

(a) assist the Civil Service Commission, the Department of Defense, the Veterans' Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence pursuant title V of this Act. Upon request, the Administration shall undertake the direct administration of any such program or service;

(b) serve in a consulting capacity to all Federal courts, departments, and agencies, including those responsible for programs affected by title VI of this Act, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, counseling, and treatment with respect to the drug abuse and drug dependence problems they encounter;

(c) coordinate all Federal health and rehabilitation efforts to deal with the problem of drug abuse and drug dependence, including but not limited to those relating to vocational rehabilitation, manpower development and training, older Americans, law enforcement assistance, health research facilities, mental retardation facilities and community mental health centers, juvenile delinquency, health professions educational assistance, hopsital and medical facilities, social security, community health services, education professions development, higher education, Federal employees health benefits, economic opportunity, comprehensive health planning, elementary and secondary education, highway safety, the civil service laws, and laws providing for the treatment and discharge of the members of the Armed Forces and the support and treatment of veterans of the Armed Forces;

(d) encourage and assist State and local government programs and services, and programs and services of public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

(f) cooperate with the Federal Intergovernment Coordinating Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this Act with regard to Federal employees who are drug abusers and drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

(h) cooperate with organized medicine to disseminate medical guidelines for the use of controlled dangerous substances in medical practice. A practitioner may prescribe, administer, or dispense a controlled dangerous substance in the course of his professional practice (1) in good faith within the scope of the patient relationship, and (2) in accordance with principles of medical care and treatment accepted by a responsible segment of the medical profession.

STATISTICAL FUNCTIONS OF THE ADMINISTRATION

SEC. 305. It shall be the duty of the Administration with respect to its statistical functions to—

(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

(b) promulgate regulations, with the approval of the Secretary, specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

RESEARCH FUNCTIONS OF THE ADMINISTRATION

SEC. 306. It shall be the duty of the Administration with respect to its research functions to—

(a) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

(b) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled dangerous substances. Investigation of the use of any controlled dangerous substance for therapeutic, research, experimental, or other investigational purposes pursuant to this section shall be by a practitioner or other qualified investigator, and in compliance with the requirements of sections 355 (i) and 360b (j) of title 21 of the United States Code and any applicable registration provisions of Federal law. Any such investigation may be prohibited, delayed or terminated only on the grounds that the investigator has materially falsified any application required to be filed prior to the investigation, or has been convicted of a felony under any law relating to controlled dangerous substances, or has had his Federal registration suspended or revoked and is no longer authorized by Federal law to engage in the dispensing or administration of controlled dangerous substances, or fails to establish adequate procedures to account for dangerous controlled substances or to safeguard adequately his supply of such drugs against diversion from legitimate investigational use;

(c) Coordinate research conducted by the Administration with research conducted by other Federal and State agencies, public and private nonprofit agencies, institutions, and organizations, and individuals. To facilitate this activity, the Administration shall establish and maintain a complete and current register of all practitioners and other qualified investigators engaged in any form of or research on controlled dangerous substances.

Placement on such register shall be pursuant to an application to the Secretary which shall state (1) the name, address, and qualifications of the applicant, (2) the procedures used to account for dangerous controlled substances and to safeguard such substances adequately against diversion from legitimate investigational use, and (3) an outline of the investigation. An application field pursuant to sections 355(i) or 360b(j) of title 21 of the United States Code shall also constitute an application for purposes of this subsection. Placement on such register may be denied only on a ground specified in subsection 306(b) of this Act, and shall constitute registration for purposes of the Controlled Dangerous Substances Act of 1969, but shall not authorize the dispensing or administration of controlled dangerous substances to human beings except by persons licensed or otherwise permitted to dispense or administer such substances under applicable state laws;

(d) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this Act. Such resources shall include the maintenance of an adequate supply of controlled dangerous substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled dangerous substances for his legitimate investigational and research needs;

(e) make grants to, and contracts with, universities, hospitals, laboratories, and public and private nonprofit agencies, institutions, and organizations, and individuals for such research;

(f) establish an information center on such research, which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Administration any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, effects on the health of drug abusers, and danger to the public health of controlled dangerous substances, and the Administration shall make such data and information widely available;

(g) establish and maintain research fellowships in the Administration and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

(h) investigate methods for the more precise detection and determination of narcotic drugs in urine and blood samples, and by other means, and publish on a current basis uniform methodology for such detections and determinations; and

(i) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence.

(j) Any information obtained through investigation or research conducted pursuant to this section shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

TRAINING FUNCTIONS OF THE ADMINISTRATION

SEC. 307. It shall be the duty of the Administration with respect to its training functions to—

(a) establish training programs for professional and nonprofessional personnel with respect to drug abuse and drug dependence;

(b) encourage the establishment of training courses for professional and nonprofessional personnel by State and local governments with respect to drug abuse and drug dependence; and

(c) establish and maintain training fellowships in the Administration and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

EDUCATIONAL FUNCTIONS OF THE ADMINISTRATION

SEC. 308. It shall be the duty of the Administration with respect to its educational functions to—

(a) develop a model curriculum, including the provision of relevant data and other information, for utilization by elementary and secondary schools for instructing children about drug abuse and drug dependence;

(b) develop a model curriculum, including the provision of relevant data and other information, for utilization by parent-teachers associations, adult education centers, private citizen groups, or other State or local sources, for instructing parents and other adults about drug abuse and drug dependence;

(c) prepare a broad variety of educational material for use in all media and to reach all segments of the population, that can be utilized by public and private agencies, institutions, and organizations in educational programs with respect to drug abuse and drug dependence;

(d) establish educational courses, including the provision of relevant data and other information, on the causes and effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems:

(e) develop educational courses, including the provision of relevant data and other information, on the causes and effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders;

(f) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and drug dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

(g) recruit, train, organize, and employ professional and other persons, including former drug abusers and drug dependent persons, to organize and participate in programs of public education in relation to drug abuse;

(h) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal Government with respect to health education aspects of drug abuse; and

(i) undertake such other activities as the Secretary may consider important to a national program of education relating to drug abuse and drug dependence.

CLASSIFICATION FUNCTIONS OF THE ADMINISTRATION

SEC. 309. It shall be the duty of the Administration with respect to its classification functions to classify, by regulations promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code, for purposes of its administrative, planning, coordination, statistical, research, training, education, reporting, treatment, and other functions, every controlled dangerous substance within one of the following three classes:

(a) CLASS A CONTROLLED DANGEROUS SUBSTANCES.—This class shall include those controlled dangerous substances that have the most harmful effects on the health of drug abusers or that most significantly contribute to crimes of violence against persons or to other grave felonious conduct.

(b) CLASS B CONTROLLED DANGEROUS SUBSTANCES.—This class shall include those controlled dangerous substances that have intermediate harmful effects on the health of drug abusers or that make an intermediate contribution to crimes of violence against persons or to other grace felonious conduct.

(c) CLASS C CONTROLLED DANGEROUS SUBSTANCES.—This class shall include those controlled dangerous substances that have the least harmful effects on the health of drug abusers, or that least significantly contribute to crimes of violence against persons or to other grave felonious conduct. The Administration shall consult with the Department of Justice in proposing these regulations or any changes thereto.

REPORTING FUNCTIONS OF THE ADMINISTRATION

SEC. 310. It shall be the duty of the Administration with respect to its reporting functions to—

(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this Act and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence control plan;

(b) submit such additional reports as may be requested by the Secretary or by Congress; and

(c) submit to the Secretary and to Congress such recommendations as will further the prevention, treatment, and control of drug abuse and drug dependence.

TITLE IV—TREATMENT AND REHABILITATION OF FEDERAL OFFENDERS

TREATMENT AND REHABILITATION SERVICES

SEC. 401. (a) The Secretary shall provide at least the following treatment and rehabilitation services for male and female juveniles and adults who are charged with, convicted of, or serving a criminal sentence for, any criminal offense under Federal law and are eligible for treatment under this Act:

(1) Emergency medical services.

(2) Inpatient services, which shall not be a part of or at the same location as a correctional institution.

(3) Intermediate care and outpatient services. (A) The Secretary shall give priority to developing these community based treatment services. (B) Reasonable surveillance techniques such as urine analysis may be used for treatment purposes but the results thereof shall remain confidential and may not be used against any patient in any criminal proceeding. Because of the nature and seriousness of the disease a drug dependent person can be expected to relapse into drug abuse one or more times after the onset of therapy. The decision whether to continue or to modify or to discontinue intermediate care or outpatient treatment after one or more such relapses shall be made on the basis of sound clinical judgment. All reasonable methods of treatment shall be used to prevent their recurrence. (C) Supportive medical care, services, and residential facilities shall be provided for drug dependent persons for whom treatment has repeatedly failed and recovery is unlikely so that they may live in a decent and productive manner.

(b) The treatment and rehabilitation services authorized by this Act may be provided at any available facility, including but not limited to Public Health Service hospitals, Veterans' Administration hospitals, public and private general hospitals, community mental health centers, and public and private drug dependence and drug abuse treatment and rehabilitation centers. Care and treatment for veterans shall be provided where possible in Veterans' Administration hospitals. The Secretary may contract with any appropriate public or private agency, organization, or institution that has proper and adequate facilities and personnel in order to carry out the purposes of this Act.

(c) There shall be in each city or region a central office open twenty-four hours a day to coordinate and provide information concerning the availability of all such services. The Secretary may determine, in his discretion, the area to be served by any such office.

(d) Any person assisted under this Act may be required to contribute toward the cost of his subsistence, care, or treatment, to the extent that he is financially able to do so, under regulations promulgated by the Secretary. Such regulations shall specify how funds available to any person as a result of his drug abuse or drug dependence under Federal or State government programs such as social security, welfare, medicare, medicaid, veterans benefits, and employee health insurance plans and policies, shall be used to contribute to the cost of such treatment so far as practicable without imposing undue hardship on him or his family. No person may be discriminated against on the basis of indigence.

EMERGENCY MEDICAL SERVICES

SEC. 402. (a) (1) Any person charged with a misdemeanor under Federal law and who appears to be a drug abuser, or who is taken into custody for what appears to be a drug related misdemeanor under Federal law, shall, after preliminary police processing and an opportunity to consult with counsel, promptly be taken for emergency medical services, where he shall either be admitted as a patient or transported to another appropriate health facility for treatment and diagnosis. Upon admission as a patient, such person shall immediately be examined to determine whether (A) it is probable that he is not a drug abuser and has not committed a drug related misdemeanor, or (B) it is probable that he is not in need of emergency medical services although he may be a drug abuser, or (C) it is probable that he is a drug abuser or a drug dependent person who is in need of emergency medical services. Such screening shall be completed within twenty-four hours of such person's admission to emergency medical services. Any person determined to fall within subparagraph 402 (a) (1) (C) shall be detained there as long as is necessary to complete emergency medical treatment, to conduct a diagnosis for possible drug dependence, and to institute any civil commitment proceeding pursuant to section 403 or 405, but in no event longer than five days after his admission.

(2) Any person determined to fall within subparagraph 402(a) (1) (A) or 402(a) (1) (B) shall be released from emergency medical services immediately upon completion of the initial screening process, and in no event shall he be detained there longer than twenty-four hours. Upon his release from emergency medical services, he shall be handled as in any other criminal case.

(3) If a person determined to fall within subparagraph 402(a) (1) (C) is diagnosed as not a drug dependent person and prior to trial on the offense he requests voluntary treatment in lieu of criminal prosecution, the medical officer shall, after a review of the patient's record, advise the Government attorney in writing whether for the treatment and rehabilitation of the person it would be preferable for the criminal charges to be held in abeyance or withdrawn in order to institute voluntary treatment for his drug abuse, or for the criminal charges to be prosecuted. The Government attorney shall exercise his discretion whether to accept the medical officer's advice, but in the event that he does not accept the medical officer's advice he shall state in writing the reasons for his decision.

(4) If a person determined to fall within subparagraph 402(a) (1) (C) is diagnosed as a drug dependent person and prior to trial on the offense he requests voluntary treatment or civil commitment for treatment in lieu of criminal prosecution, the medical officer shall, after a review of his record, advise the Government attorney and the court in writing whether for the treatment and rehabilitation of the person it would be preferable for the criminal charges to be held in abeyance or withdrawn in order to institute either voluntary treatment for his drug dependence or treatment for his drug dependence under civil commitment, or for the criminal charges to be prosecuted. The Government attorney shall exercise his discretion whether to accept the medical officer's advice, but in the event that he does not accept the medical officer's advice he shall state in writing the reasons for his decision.

(5) If the criminal charges are prosecuted and such person is convicted, and at the time of conviction he requests probation with treatment or civil commitment for treatment in lieu of criminal punishment, the medical officer shall advise the court in writing whether for the treatment and rehabilitation of the person it would be preferable for him to receive a suspended sentence and probation on the condition that he undergo education and treatment for drug abuse and drug dependence, or to be civilly committed pursuant to section 405 for treatment in lieu of criminal punishment, or to receive criminal incarceration. The court shall exercise its discretion whether to accept the medical officer's advice.

(6) Any person determined to fall within subparagraph 402(a) (1) (c) shall immediately be informed of his right to request any of the procedures for treatment in lieu of criminal prosecution or punishment which are available to him under subsection 402(a) (3), 402(a) (4), or 402(a) (5) as a result of his diagnosis. If such person is, as a result of his drug abuse or drug dependence, unable at the time of diagnosis either to understand or to make a rational decision concerning his right to request treatment under such subsections, he shall again be informed of such right as soon as he is able to understand the choices available to him and to make a rational decision concerning them.

(7) A criminal charge may be held in abeyance pursuant to subsection (a) (3) or (4) for no longer than one year, after which it is automatically dismissed. A person civilly committed pursuant to section 405 may be returned to stand trial pursant to section 405(e) (3) within that year.

(b) (1) Any person charged with a felony under Federal law and who appears to be a drug abuser, or who is taken into custody for what appears to be a drug related felony under Federal law, shall, after preliminary police processing and an opportunity to consult with counsel, promptly be taken for emergency medical care services, where he shall either be admitted as a patient or transported to another appropriate health facility for treatment and diagnosis. Upon admission as a patient, such person shall immediately be examined to determine whether (A) it is probable that he is not a drug abuser and has not committed a drug related felony, or (B) it is probable that he is not in need of emergency medical services although he may be a drug abuser, or (C) it is probable that he is a drug abuser or a drug dependent person who is in need of emergency medical services. Such screening shall be completed within twenty-four hours of such person's admission to emergency medical services. Any person determined to fall within subparagraph 402(b) (1) (C) shall be detained there as long as is necessary to complete emergency medical treatment, to conduct a diagnosis for possible drug dependence, and to institute any civil commitment proceeding pursuant to section 403, 404, or 405, but in no event longer than ten days after his admission.

(2) Any person determined to fall within subparagraph 402(b) (1) (A) or 402(b) (1) (B) shall be released from emergency medical

services immediately upon completion of the initial screening process, and in no event shall he be detained there longer than twenty-four hours. Upon his release from emergency medical services, he shall be handled as in any other criminal case.

(3) If a person determined to fall within subparagraph 402(b)(1)(C) is diagnosed as not a drug dependent person, he shall be handled as in any other criminal case.

(4) If a person determined to fall within subparagraph 402(b)(1)(C) is diagnosed as a drug dependent person and he pleads nolo contendere or guilty, or he is found guilty after trial, and at that time he requests probation with treatment or civil commitment for treatment in lieu of criminal punishment, the medical officer shall advise the court in writing whether it would be preferable for the treatment and rehabilitation of the person for him to receive a suspended sentence and probation on the condition that he undergo education and treatment for drug abuse and drug dependence, or to be civilly committed pursuant to section 405 for treatment in lieu of criminal punishment, or to receive criminal incarceration. The court shall exercise its discretion whether to accept the medical officer's advice.

(5) Any person diagnosed as a drug dependent person pursuant to subsection 402(b)(4) shall immediately be informed of his right to request probation with treatment or civil commitment for treatment in lieu of criminal punishment. If such person is, as a result of his drug dependence, unable at the time of diagnosis either to understand or to make a rational decision concerning his right to make such a request, he shall again be informed of such right as soon as he is able to understand the choices available to him and to make a rational decision concerning them.

(c) Whenever the medical officer in charge believes that any patient requires additional short term involuntary emergency medical treatment and care, and that the findings required by section 403(a) can be substantiated, he shall recommend in writing to the Government attorney that a civil commitment proceeding be instituted pursuant to section 403. The Government attorney shall institute such a proceeding unless he believes that the findings required by section 403(a) cannot be substantiated or that there is other good cause for denying the recommendation.

(d) Whenever the medical officer in charge believes that any patient taken into custody for or charged with any violation of the Controlled Dangerous Substances Act of 1969 is a drug dependent person who is charged with a drug related offense, he shall recommend in writing that a civil commitment proceeding be instituted pursuant to section 405.

(1) The Government attorney shall institute such a proceeding unless he believes that the violation was not a drug related offense or that the findings required by section 405 cannot be substantiated. If the medical officer and the Government attorney disagree on the applicability of this subsection, the Government attorney may proceed with a criminal prosecution and shall state in writing the reasons for his decision. If the criminal charges are prosecuted under these circumstances against the recommendation of the medical officer, the medical officer shall make a report in writing to the court setting out his conclusions and recommendations, and the court shall take any appropriate action.

(2) If criminal charges are prosecuted and the court finds that the person is a drug dependent person and that the violation was a drug related offense, he shall be handled only pursuant to sections 402, 403, and 405 of this Act. In any trial, the burden of showing the applicability of this subsection shall be on the defendant.

(3) This subsection shall be inapplicable to any drug dependent person who is charged with distribution of a large quantity of a controlled dangerous substance or distribution of any controlled dangerous substance or distribution of any controlled dangerous substance as part of a continuing criminal enterprise. The Secretary may issue regulations defining, for any controlled dangerous substance, the quantity that constitutes a large quantity of that substance for purposes of this provision.

(e) Whenever the medical officer in charge believes that any patient taken into custody for or charged with a felony under Federal law other than a violation of the Controlled Dangerous Substances Act of 1969 is a drug dependent person who is charged with a drug related felony, he shall recommend in writing to the Government attorney that a civil commitment proceeding be instituted pursuant to section 404 of this Act. The Government attorney shall institute such a proceeding unless he believes that the findings required by section 404 cannot be substantiated or that there is other good cause for denying the recommendation, but in the event that he does not accept the medical officers advice he shall state in writing the reasons for his decision.

(f) Any Federal officer, Government attorney, court, or Federal probation or parole officer shall refer any person to the Secretary for handling pursuant to subsection (a) or (b) whenever it appears that such person is a drug abuser or that an offense with which he is charged may be drug related.

(g) The medical officer shall be given all pertinent records and information with respect to any person handled pursuant to subsection (a) or (b) by any Federal department, agency, officer, Government attorney, court, or Federal probation or parole officer who has such records or information.

SHORT TERM CIVIL COMMITMENT FOR EMERGENCY MEDICAL TREATMENT

SEC. 403. (a) A court may, on a petition of a Government attorney filed before the period of detention for emergency medical treatment and diagnosis expires and after a hearing without a jury, order any person receiving emergency medical services pursuant to section 402 to be temporarily committed to the Secretary for emergency medical treatment and care for a period not to exceed thirty days from the date of commitment if he determines that the person is a drug dependent person, and as a result of his drug dependence (1) is in imminent danger of sustaining substantial physical harm unless he receives medical treatment for a period longer than permitted by section 402, and (2) is unable to make a rational decision about accepting assistance. The court shall make any determination pursuant to this subsection, and shall impose any order of commitment, within five days after the filing of the petition, and the person who is the subject of the petition may be detained during that five-day period regardless of any time limit for detention imposed by section 402(a)(1) or 402(b)(1).

(b) The hearing shall be conducted according to the provisions of subsections 404(c) through (f) of this Act.

(c) As soon as a patient so committed is once again able to make a rational decision about accepting assistance, he shall be civilly committed for treatment pursuant to section 405, or detained for pretrial treatment pursuant to section 404, or be handled as in any other criminal case.

PRETRIAL DETENTION FOR TREATMENT

SEC. 404. (a) A court shall hold a civil hearing without a jury to consider the commitment of a person for treatment prior to trial upon a petition filed by a Government attorney alleging that the person—

(1) has been diagnosed as a drug dependent person, and

(2) is charged with a felony under Federal law that is (A) a drug related felony, and (B) not an offense under the Controlled Dangerous Substance Act of 1969.

(b) The court may order commitment of the person to the Secretary for treatment and care for drug dependence for a period not to exceed sixty days if it determines that—

(1) there is clear and convincing evidence that the person is a drug dependent person and that the offense charged is a drug related felony, and

(2) appropriate treatment for drug dependence is available for him.

(c) Such hearing shall be held within four days after the filing of the petition, unless the person or his attorney requests a delay of the hearing. The court shall notify the person and his attorney of the time and place of the hearing. If the person is without funds to provide for the assistance of counsel for the hearing, the court shall appoint counsel to represent the person at the expense of the Government.

(d) In conducting a hearing under this section, the court shall receive and consider all relevant evidence and testimony which may be offered. The person shall have the right to present evidence, and to present and cross-examine witnesses. The testimony of the person at this hearing may not be used against him in any other judicial proceeding, nor shall the person waive his privilege against self-incrimination in any future judicial proceeding by testifying at this hearing. The court shall make any determination pursuant to this subsection, and shall impose any order of commitment, within forty-eight hours after the conclusion of the hearing.

(e) Any person committed shall have the right to appeal: *Provided,* That any appeal arising pursuant to this subsection shall be disposed of within ten days of the entry of the order appealed from.

(f) Any court which conducts the hearing provided for in this section, or which reviews the outcome of said hearing, shall not sit in any trial of the person for an offense which was the basis for or pending at the time of said hearing, or any related appeal.

(g) Any person committed shall have his case placed on an expedited trial calendar, and the handling of motions and other preliminary matters pertaining to the case shall also be expedited. Continuances shall be granted only upon a showing of compelling circumstances. A continuance granted upon motion of the defense shall extend commitment to custody ordered pursuant to this section for the additional period of such continuance. If the trial of the person has begun but not been completed before the expiration, after the order of commitment to custody, of sixty days plus the period of any such continuance, the person shall remain subject to the commitment order until the conclusion of the trial.

(h) Any hearing under the provisions of this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. A transcript of the record of such hearing shall be made available, at the expense of the Government, to a person who was the subject of the hearing and who makes affidavit that he is unable to pay or give security therefor.

(i) No person committed shall be denied the right to communicate with counsel or any other person at any reasonable time. Upon the application of counsel on behalf of any such person in custody, a court shall order for a strictly limited and necessary period of time, the release of such person in the custody of and at all times to be accompanied by a designated Federal officer, if the court determines that, notwithstanding the rights secured by this section, the person cannot otherwise prepare his defense.

(j) Any person committed pursuant to this section shall initially be placed in inpatient treatment unless the court orders otherwise.

The Secretary may transfer a committed person between inpatient, intermediate care, and outpatient services without court permission on the basis of sound clinical judgment, except that a court order must be obtained for the transfer from inpatient status. A committed person has a right to intermediate care and outpatient status as quickly as is consistent with sound clinical judgment and with the safety of other persons and of property.

CIVIL COMMITMENT FOR TREATMENT OF DRUG DEPENDENCE

SEC. 405. (a) (1) The courts may commit to the Secretary for treatment and care for drug dependence in lieu of criminal prosecution or punishment for up to a specified period of time a drug dependent person who—

(A) is charged with a misdemeanor and who, prior to trial on the offense, requests such treatment in lieu of criminal prosecution; or

(B) is charged with a misdemeanor or felony and who, after having pled nolo contendere or guilty to, or having been found guilty of, the offense charged, at the time sentence is imposed requests such treatment in lieu of serving the sentence imposed; or

(C) is serving a criminal sentence and petitions the court for such treatment in lieu of serving the remainder of his sentence.

(2) No term of commitment shall be ordered for a period longer than the maximum sentence that could have been imposed for the offense with which the person was charged with respect to subsection (a)(1)(A), or for a period longer than the sentence actually imposed with respect to subsections (a)(1)(B) and (a)(1)(C), unless he is found at the end of that time to constitute an immediate and continuing danger to the safety of another person or of property pursuant to subsection (c)(2). A patient may voluntarily remain in treatment for as long as the medical officer believes warranted.

(b)(1) The courts may commit to the Secretary for treatment and care for drug dependence for up to a specified period of time a drug dependent person who—

(A) is charged with a drug related offense and is acquitted on the ground of drug dependence; or

(B) is charged with an offense under the Controlled Dangerous Substances Act of 1969 and is found, before or after trial, to fall within the provisions of section 402(d).

(2) No term of commitment shall be ordered for a period longer than the maximum sentence that could have been imposed for the offense of which he was acquitted with respect to subsection (b)(1)(A), or for a period longer than the maximum sentence that could have been imposed for the offense for which he was taken into custody or charged with respect to subsection (b)(1)(B), unless he is found at the end of that time to constitute an immediate and continuing danger to the safety of another person or of property pursuant to subsection (c)(2). A patient may voluntarily remain in treatment for as long as the medical officer believes warranted.

(c)(1) Prior to the commitment of any person pursuant to subsection (a) or (b) the court shall hold a civil hearing without a jury and must find that (A) he is a drug dependent person; and (B) appropriate treatment is available for him.

(2) To support a finding that a person constitutes an immediate and continuing danger to the safety of another person or of property, a court must conclude from clear and convincing factual evidence, based upon recent behavior during intermediate care or outpatient treatment, that as a result of his drug dependence he will engage in illegal distribution of any controlled drug or will commit grave felonious conduct that is drug related.

(d) Pending the court's decision on civil commitment, the person shall be detained for appropriate care and treatment pursuant to sections 402 and 403: *Provided,* That such commitment cases shall be expedited and that such interim detention shall not exceed ten days from the date the proceeding is instituted. The order of the court shall prevail unless and until overturned on appeal: *Provided,* That any appeal shall also be expedited.

(e) The Secretary shall immediately inform the court whenever in his opinion any one of the findings made pursuant to subsection (c) is no longer applicable, or for any reason the person should be unconditionally released.

(1) The Secretary shall, after a review of the patient's record, recommend to the court whether the commitment order should be continued, or whether the patient should be unconditionally released, or whether the patient should be returned to stand trial if he was committed under subsection (a)(1)(A) or to serve the remainder of his sentence if he was committed under subsection (a)(1)(B) or (a)(1)(C) or whether some other appropriate action should be taken. The court shall hold a civil hearing and shall enter an appropriate order.

(2) Time spent under civil commitment shall be counted toward any sentence for a person returned to stand trial or to serve the remainder of his sentence.

(3) A person committed under this section may be returned to stand trial or to serve the remainder of his sentence if he does not cooperate with an appropriate treatment or care program, or if appropriate treatment or care is ineffective: *Provided,* That the decision whether to return the person to stand trial or to serve the remainder of his sentence after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with the rehabilitation of the individual and the safety of the community.

(4) Except as provided in subsection 405(h), no person shall remain committed for treatment or care pursuant to this section after a court determines that any one of the findings made under subsection 405(c) is no longer applicable.

(f) A committed person may, upon the expiration of six months following the commitment order, and not more frequently than every six months thereafter, request the Secretary in writing to conduct a review of the current applicability of the required findings, and if the request is timely it shall be granted. The patient may, at his own expense, have one or more qualified physicians participate in the review or conduct an independent review. The Secretary shall, upon the written request of an indigent patient, assist him in obtaining a qualified physician to participate in the review, and such a physician shall be compensated for his services by the Secretary in an amount determined by the Secretary to be fair and reasonable. The Secretary shall report the result of the review to the patient. If the patient is not released as a result of this review he may petition the court for an order directing his release. The court may hold a hearing and shall consider all pertinent evidence and enter an appropriate order. The burdent of proof in such a proceeding shall remain on the Secretary.

(g) In addition to the right of review upon a patient's written request, the Secretary shall as often as practicable, but not less often than every six months, review a patient's status under the required findings. Any right available to him for obtaining release from confinement, including the right to petition for a writ of habeas corpus, shall also be retained, and the burden of proof in such a proceeding of the continuing existence of the findings upon which the commitment is based shall remain on the Secretary.

(h) If the Secretary continues to make a good faith attempt to provide appropriate treatment pursuant to subsection (c)(1), a drug dependent person who has been adjudged an immediate and continuing danger to the safety of other persons or of property pursuant to subsection (c)(2) shall not fail to be committed pursuant to subsection (a) or (b), or be released from commitment under subsection (e), (f), or (g), until the finding under subsection (c)(2 is no longer applicable.

(i) A committed person or a person detained for treatment may initially be placed in inpatient, intermediate care, or outpatient treatment, on the basis of sound clinical judgment, except that a person charged with or subject to a prison sentence for a felony shall initially be placed in inpatient treatment unless the court orders otherwise. The Secretary may transfer a committed person or a person detailed for treatment between inpatient, intermediate care, and outpatient services without court permission on the basis of sound clinical judgment, except that a court order must be obtained for the transfer from inpatient status of any person charged with or subject to a prison sentence for a felony. No committed person may be unconditionally released without a court order. A committed or detained person has a right to intermediate care and outpatient status, and to unconditional release, as quickly as is consistent with sound clinical judgment and with the safety of other persons and of property.

(j) If the respondent in any proceeding under this Act does not have an attorney and cannot afford one, the court shall appoint one to represent him. Counsel so appointed shall be compensated for his services by the Secretary in an amount determined by the court to be fair and reasonable.

(k) Neither mail nor other communications to or from a person committed pursuant to this section may be read by others or censored except when ordered by a physician for treatment reasons: *Provided,* That reasonable regulations regarding visiting hours and the use of telephone and telegraph facilities may be adopted, and reasonable precautions may be used to prevent persons from illegally obtaining controlled dangerous substances.

(l) Upon the institution of proceedings for the commitment of a person pursuant to section 403, 404, or 405, the Secretary shall give such person and his nearest known adult relative a written statement and explanation outlining in simple nontechnical language the procedures and rights set out in this section. If such person is committed, the Secretary shall give him and his nearest known adult relative a further written statement and explanation outlining all release procedures and other rights provided by this section, as well as by other statutes and general legal principles.

(m) A specific treatment plan, adapted to each individual, shall be prepared and maintained by the Secretary on a current basis for every patient committed pursuant to section 404 or 405. It shall show the treatment planned, and the treatment provided, in sufficient detail to permit an evaluation of the adequacy of the program for that individual. The plan shall be reviewed by the court in considering the findings required by subsections 404(b)(2) and 405(c)(1) and (c)(2).

(n) Each individual treatment plan prepared pursuant to subsection 405(m) may utilize inpatient, intermediate care, and outpatient services, in accordance with principles of medical care and treatment accepted by a responsible segment of the medical profession. All public and private community ef-

forts, including but not limited to welfare services, vocational rehabilitation, and job replacement, shall be utilized as part of outpatient treatment programs to integrate drug dependent persons back into society as productive citizens.

(o) Any hearing held pursuant to subsections 405(c), (e), or (f) shall be conducted according to the provisions of subsections 404(c) through (f) and (h) of this Act.

FEDERAL YOUTH CORRECTIONS ACT

SEC. 406. Any person committed to or eligible for commitment to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code) who is eligible for civil commitment under this title shall be handled pursuant to this title: *Provided*, That any person who was a youthful offender within the meaning of section 5006 of title 18 of the United States Code or who was eligible for sentencing under the Federal Youth Corrections Act pursuant to section 4209 of title 18 of the United States Code at the time of his commitment hearing under this title shall remain eligible for sentencing under the Federal Youth Corrections Act (1) if he should fail to be committed for treatment under this title or (2) if, having been committed, he is at any time returned to stand trial or to serve the remainder of his sentence under section 405(e)(3).

DRUG ABUSE SERVICES IN CORRECTIONAL INSTITUTIONS AND ON PROBATION AND PAROLE

SEC. 407. (a) The services established by this Act shall be used by the Bureau of Prisons and the Board of Parole for drug abuser or drug dependent offenders (including persons sentenced under the Federal Youth Corrections Act, chapter 402 of title 18 of the United States Code) placed on work release, probation, parole, or other conditional release. The Secretary and the Bureau of Prisons shall cooperate in establishing and encouraging the establishment of community based drug abuse treatment services and of drug abuse treatment services in Federal correction institutions.

(b) The conditional release of any drug abuser or drug dependent person convicted of any Federal offense may be conditioned on the person's agreement to periodic urine analyses or other means of detecting narcotic drugs within the body.

(c) The Bureau of Prisons and the Board of Parole may transfer an offender placed on conditional release from one treatment service to another depending upon his response to treatment. The decision whether to retain or to restrict or to revoke probation or parole or other conditional release after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with both the rehabilitation of the individual and the safety of the community. All reasonable methods of treatment shall be used to prevent relapses and to promote rehabilitation. The Secretary shall provide periodic reports and recommendations to the Bureau of Prisons and the Board of Parole on persons being treated pursuant to this section.

AVAILABILITY OF CRIMINAL RECORDS

SEC. 408. (a) In order to facilitate the treatment and rehabilitation of drug abusers and drug dependent persons, any arrest for a criminal offense under the Controlled Dangerous Substances Act of 1969 or under the provisions of Federal law previously governing narcotics and dangerous drugs shall no longer be available as part of the person's public arrest and other public criminal records when the charges are withdrawn or dismissed or the person is acquitted of the charges.

(b) Any arrest or trial or conviction for a criminal offense under the Controlled Dangerous Substances Act of 1969 or under the provisions of Federal law previously governing narcotics and dangerous drugs may be made unavailable as part of a person's public criminal records by a court upon the filing of a petition supported by substantial evidence of good conduct since the petitioner's conviction. Copies of the petition shall be served on the United States attorney, who shall be responsible for consulting other appropriate public agencies and departments. If a Government attorney files a motion to dismiss the petition within sixty days, the court, without a jury, shall hold a hearing before ruling on the issue. The petitioner shall have the right to cross-examine any adverse witness or rebut any adverse evidence. The proceeding shall be closed to the public. The petition shall be granted if supported by substantial evidence of good conduct since the petitioner's conviction unless the court finds, on the basis of evidence of record, good cause not to accept the petitioner's allegations of good conduct. The petition may be filed and heard only after the following time lapses:

(1) For a Federal conviction involving any class A controlled drug, or any Federal offense under prior law involving any class A controlled drug, after five years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(2) For a Federal conviction involving any class B controlled drug, or any Federal offense under prior law involving any class B controlled drug, after three years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(3) For a Federal conviction involving any class C controlled drug, or any offense under prior law involving any class C controlled drug, after two years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(4) For a conviction for any Federal offense under prior law governing narcotics and dangerous drugs that would not now come within any of these provisions, after three years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(c) An arrest or trial or conviction that has been made unavailable to the public pursuant to this section shall not thereafter be regarded as an arrest or trial or conviction for the purpose of any statute or regulation or license or questionnaire or any other public or private purpose: *Provided*, That such a conviction shall continue to constitute an offense for purposes of any criminal statute under which the existence of a prior conviction is relevant to the penalty to be imposed. No Government employee shall divulge, nor shall any Government record available to the public reflect such arrest or trial or conviction, or a proceeding conducted pursuant to this section: *Provided*, That the judiciary, court personnel, and Government attorneys may be informed of such arrest or trial or conviction, and of such proceeding, where it becomes relevant to a penalty to be imposed in a subsequent case. Any Government employee who divulges such information in violation of this subsection shall be punished by a prison sentence of not more than ninety days, or a fine of not more than $1,000, or both.

RETENTION OF CIVIL RIGHTS AND LIBERTIES

SEC. 409. A person receiving care or treatment under the provisions of this Act shall retain his civil rights and liberties except as herein otherwise explicitly provided.

CONFIDENTIALITY OF RECORDS

SEC. 410. (a) A complete medical, social, occupational, and family history shall be obtained as part of the diagnosis, classification, and treatment of a patient pursuant to this title. Copies of all pertinent records from other agencies, practitioners, institutions, and medical facilities shall be obtained in order to develop a complete and permanent confidential personal history for purposes of the patient's treatment.

(b) All patient records (including all records relating to any commitment proceeding) prepared or obtained pursuant to this Act, and all information contained therein, shall remain confidential, and may be disclosed with the patient's consent only to medical personnel and only for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug abuse or drug dependence. Disclosure may be made for purposes unrelated to such treatment or benefits upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate or substantiate charges against a patient under any circumstances.

(c) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug abuse or drug dependence.

TITLE V—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES, MILITARY PERSONNEL, AND VETERANS

DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

SEC. 501. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Administration and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal employees, consistent with the purposes and intent of this Act. Government employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate nonsensitive work within the Government during the employee's rehabilitative treatment, rather than placing him on sick leave: *Provided*, That acceptance of appropriate treatment shall be required as a condition of continued work.

(b) The Administration shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to extremely sensitive positions specified in regulations promulgated by the Secretary.

HEALTH AND DISABILITY INSURANCE PLANS FOR FEDERAL EMPLOYEES

SEC. 502. All health and disability insurance policies and plans for Federal employees shall cover drug abuse and drug dependence in the same way as other health problems, illnesses, and diseases that are not self-inflicted.

DRUG ABUSE AND DRUG DEPENDENCE AMONG MILITARY PERSONNEL

SEC. 503. (a) For purposes of chapter 61 of title 10 of the United States Code, drug dependence shall be regarded as a physical disability and shall not be regarded as the result of intentional misconduct or willful neglect. A drug dependent person shall retain the same rights and benefits as any other person afflicted with serious illnesses, and shall not lose pension, retirement, medical, or other rights because of drug dependence. This subsection shall be retroactive.

(b) The medical care provided to military personnel and their dependents pursuant to chapter 55 of title 10 of the United States Code shall include appropriate treatment services for drug abuse and drug dependence.

(c) Any penalty or penalties imposed upon military personnel pursuant to the Uniform Code of Military Justice, for an offense that would otherwise fall within the Controlled Dangerous Substances Act of 1969, shall be no greater than or different from the penalty or penalties provided under the Federal Controlled Dangerous Substances Act of 1969.

DRUG ABUSE AND DRUG DEPENDENCE AMONG VETERANS

SEC. 504. (a) Appropriate treatment facilities and services for drug abuse and drug dependence shall be made available within Veterans' Administration hospitals as a matter of high priority.

(b) For purposes of chapters 11 and 17 of title 38 of the United States Code, drug dependence during military service shall be regarded as a service-connected disability, and shall not be regarded as due to willful misconduct.

(c) Section 602 of title 38 of the United States Code is amended to add "or drug dependence" in the title and in the body of the section after the word "psychosis."

(d) A dishonorable discharge prior to the effective date of this Act shall not be a bar to treatment for drug abuse or drug dependence if the discharge was the result of drug abuse or drug dependence.

TITLE VI—PREVENTION AND TREATMENT UNDER FEDERAL HEALTH, WELFARE, AND REHABILITATION PROGRAMS

MEDICARE AND MEDICAID

SEC. 601. (a) A drug abuser or drug dependent person shall be regarded as a sick or disabled person eligible for treatment under medicare and medicaid (the Social Security Amendments of 1965, as amended).

(b) Section 1396a of title 42 of the United States Code is amended to add: "(a)(31) include provision for prevention and treatment of drug abuse and drug dependence."

SOCIAL SECURITY

SEC. 602. A drug abuser or drug dependent person shall be regarded as eligible for disability benefits under the Social Security Act, as amended, and benefits shall not be barred on the ground that drug abuse or drug dependence is a self-inflicted disability.

ECONOMIC OPPORTUNITY

SEC. 603. Drug abuse and drug dependence shall be a matter of high priority for programs undertaken under the Economic Opportunity Act of 1964, as amended.

VOCATIONAL REHABILITATION

SEC. 604. (a) A drug abuser or drug dependent person, or a facility or program or service for the prevention or treatment of drug abuse or drug dependence, shall be eligible for funds made available pursuant to chapter 4 of title 20 of the United States Code.

(b) Section 35(a) of title 29 of the United States Code is amended to add:

"(15) provide for the use of vocational rehabilitation in the prevention and treatment of drug abuse and drug dependence."

WELFARE

SEC. 605. Drug abuse and drug dependence shall, for the purposes of all Federal welfare programs and all State welfare programs that receive Federal participation, be regarded as a major health and economic problem.

(a) State and Federal agencies charged with administering such welfare programs shall take action to reduce the incidence of financial indigency and family disintegration caused by drug abuse and drug dependence, and shall provide for treatment and rehabilitation services for those persons enrolled in welfare programs whose financial eligibility for such assistance results, in part or in whole, from drug abuse or drug dependence.

(b) Drug abuse and drug dependence prevention and treatment programs and services for persons enrolled in such welfare programs whose financial eligibility for such assistance results, in whole or in part, from drug abuse or drug dependence, shall, if approved by the Secretary under the same procedure and criteria used for approving programs under title VII of this Act, be eligible for 75 per centum Federal funding participation. Application for funds under this subsection shall be made by the State agency charged with administering the aid program, which may conduct the program or may contract with any other appropriate State agency or private organization for the provision of any of the designated services.

(c) Persons otherwise eligible for such welfare assistance shall not be ineligible for such assistance because of drug abuse or drug dependence. Any person whose financial eligibility for such assistance results, in whole or in part, from drug abuse or drug dependence shall be provided the services of appropriate treatment and rehabilitation services upon a certification by a responsible medical officer that (1) the services will more likely than not be appropriate for the recipient, and (2) the services can accommodate the recipient. After such certification, participation by the recipient in the program shall be a requirement for continuing eligibility for such assistance, in the absence of good cause for nonparticipation. A certification by the director of the facility that the recipient is no longer amenable to treatment shall constitute such good cause.

(d) Any drug abuse or drug dependence treatment facility shall qualify as a medical institution within the meaning of section 306(a) of title 42 of the United States Code. The Secretary shall promulgate regulations specifying how such welfare benefits shall be used to contribute to the costs of treatment and rehabilitation of a drug abuser or drug dependent person receiving welfare assistance so far as practicable without imposing undue hardship on him or his family.

(e) Any recipient of welfare assistance whose inability to work or to participate in a work training program is the result of drug abuse or drug dependence shall be excused from such participation only on condition that he accept appropriate treatment and rehabilitation services made available to him.

(f) The Secretary shall promulgate appropriate regulations and offer technical assistance to States in providing, as part of the services rendered under section 705 of title 42 of the United States Code, programs of education about drug abuse and drug dependence for children of school age and adults responsible for them, and appropriate treatment for children physically or mentally damaged or otherwise affected as a result of drug abuse or drug dependence on the part of such children and other children or adults with whom they have significant contact.

SEC. 606. (a) Each State highway safety program approved pursuant to the Highway Safety Act of 1966 shall include provisions for the prevention and treatment of drug abuse and drug dependence among licensed drivers. Highway safety research conducted pursuant to that Act shall include research with respect to the prevention and treatment of drug abuse and drug dependence among licensed drivers.

(b) Any Federal funds used to assist State and local governments in the prevention and treatment of drug abuse and drug dependence among licensed drivers shall be expended for the purpose of education, treatment, and rehabilitation and not the purpose of punishment. Such funds shall be expended for programs and services that are coordinated with and integrated into comprehensive community health and rehabilitation programs and services.

GENERAL

SEC. 607. Drug abuse or drug dependence shall be regarded as a health problem, sickness, illness, disease, disability, or similar term, for purposes of all Federal legislation relating to health, welfare, and rehabilitation programs, services, funds and other benefits. Any Federal legislation providing for medical assistance, medical care, treatment, rehabilitation, or other similar services, shall be regarded as including programs and services for the prevention and treatment of drug abuse and drug dependence.

TITLE VII—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

COMPREHENSIVE STATE PLANS

SEC. 701. Section 246(a)(2) of title 42 of the United States Code is amended to add:

"(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes."

STATE HOSPITAL AND MEDICAL FACILITIES CONSTRUCTION PLANS

SEC. 702. (a) Section 291c(a) of title 42 of the United States Code is amended to add:

"(4) to projects for construction and modernization of facilities for prevention and treatment of drug abuse and drug dependence;".

(b) Section 291d(a)(4) of title 42 of the United States Code is amended to add:

"(F) the facilities needed to provide adequate services for the prevention and treatment of drug abuse and drug dependence;".

STATE MENTAL HEALTH CENTERS PLANS

SEC. 703. (a) Section 2684 of title 42 of the United States Code is amended to add:

"(11) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem."

(b) Section 2691(c) of title 42 of the United States Code is amended by inserting after "mental illness;" the following: "drug abuse or drug dependence," and by inserting after "mentally ill patients," the following: "drug abusers or drug dependent persons,".

GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

SEC. 704. (a) The Secretary is authorized to make grants and enter into contracts for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private non-

profit agencies, institutions, and organizations to—

(1) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities including but not limited to emergency medical, inpatient, intermediate care, and outpatient facilities for drug abusers and drug dependent persons, and to assist them to meet, for the temporary periods specified in subsection (b) of this section, a portion of the costs of compensation of personnel for the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

(2) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

(3) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses, about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

(4) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or convictions shall not be a bar to such employment;

(5) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

(6) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

(7) provide programs and services, in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions, and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts;

(8) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation and coordination with welfare and rehabilitation personnel;

(9) develop or evaluate curriculums on drug abuse prevention and treatment, including the preparation of new and improved curricular materials for use in elementary, secondary, college, and adult education programs;

(10) develop or evaluate a program of dissemination of curricular material;

(11) provide training programs on drug abuse and drug dependence (including courses of study, institutes, seminars, films, workshops, and conferences) for teachers, counselors, and other educational personnel;

(12) provide community education programs on drug abuse (including courses of study, institutes, seminars, films, workshops, and conferences, especially for parents and other adults in the community;

(13) enable a State government agency to assist local education agencies in the planning, development, and implementation of drug abuse education programs; and

(14) develop educational material and programs about the prevention and treatment of, and problems arising from, drug abuse and drug dependence, for use or distribution by any form of mass media.

(b) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) of subsection (a) of this section to meet costs of compensation of personnel may be made only for the period beginning with the first day for which such a grant is made and ending with the close of five years after such first day. Such grants may not exceed 90 per centum of such costs for the period ending with the close of the twenty-fourth month following such first day, 80 per centum of such costs for the first year thereafter, 70 per centum of such costs for the second year thereafter, and 60 per centum of such costs for the third year thereafter.

APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

SEC. 705. (a) In administering the provisions of this title, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

(b) All applications from within a State shall first be submitted by the applicant for review by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse, if such an agency exists. This agency shall be responsible for encouraging, coordinating, and initially reviewing appropriate applications for all localities within the State. All applications initially approved by such State agency shall promptly be forwarded to the Secretary.

(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(1) provide that the activities and services for which assistance under this title is sought will be substantially administered by or under the supervision of the applicant;

(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(3) set forth policies and procedures which adequately provide that Federal funds made available for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant; and

(4) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant.

(d) If a State drug abuse prevention and treatment agency finds an application to lack sufficient merit to warrant forwarding to the Secretary, it shall inform the applicant and shall give the applicant the reasons for disapproval in writing within thirty days after receiving the application. At such time the agency shall also inform the applicant in writing that if the applicant disagrees with this preliminary finding the application shall be forwarded to the Secretary with the State agency's recommendation of disapproval and the applicant's statement of disagreement.

(e) Upon notification by a State drug abuse prevention and treatment agency that an application has not been approved for forwarding to the Secretary, or upon notification by the Secretary that the application has been disapproved, the applicant may amend his application and resubmit it to the State drug abuse prevention and treatment agency, or to the Secretary if no such agency exists, for reconsideration. Amendments of applications shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

ADMINISTRATION OF GRANTS AND CONTRACTS

SEC. 706. The recipient of any grant or contract under this title shall make an annual report and such other reports to the Secretary in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this title, and will keep such records and afford such access thereto as the Secretary may find necessary to permit the verification and assure the correctness of such reports.

SEC. 707. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

SEC. 708. No funds shall be available under this title to any public or private nonprofit agency, institution, or organization, if the amount of funds committed by such agency, institution, or organization at the time of the effective date of this Act to programs for the prevention and treatment of drug abuse and drug dependence is thereafter reduced.

SEC. 709. (a) Whenever the Secretary finds a failure to comply with the terms of a grant or contract made or entered into under this title, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United States court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254

of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

SEC. 710. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public hospitals on the basis of medical need and shall not be discriminated against because of their drug abuse and drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by section 709(b) of this title.

TITLE VIII—THE SECRETARY'S ADVISORY COMMITTEE ON DRUG ABUSE AND DRUG DEPENDENCE

SEC. 801 (a) The Secretary shall appoint an Advisory Committee on Drug Abuse and Drug Dependence, to consist of nine qualified persons who have knowledge of and an interest in the subject, who represent different geographical regions and occupations, and some of whom must formerly have been drug abusers or drug dependent persons, to advise and consult with the Secretary and the Administration and to assist them in carrying out the provisions of this Act.

(b) The members of the Committee shall elect a Chairman, who shall serve a one-year term but may be reelected. The members of the Committee shall serve without compensation, except for expenses, for terms of three years, staggered so that three vacancies occur every year. A member may be reappointed immediately after serving less than a full term, and may be reappointed after a three-year hiatus after serving a full term.

(c) The Committee shall meet at least once every two months, and may meet more often. It shall consult at regular intervals with representatives of the Administration, the judiciary, corrections, probation, vocational rehabilitation, public welfare, parole, and such other agencies as may become involved in a total treatment and rehabilitation effort to control drug abuse and drug dependence.

SEC. 802. The Committee may appoint one or more technical consultants from experts throughout the country to assist in evaluating the progress of the Administration so that it will have the best possible prevention, treatment, and rehabilitation programs for drug abuse and drug dependence.

SEC. 803. The Committee shall employ a full-time executive director with a secretary, who shall not be employees of the Administration, to assist the Committee and coordinate its activities.

TITLE IX—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

SEC. 901. (a) For the purpose of coordinating all Federal Government prevention, treatment, and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Commissioner who shall serve as Chairman, the executive director of the Secretary's Advisory Committee on Drug Abuse and Drug Dependence, four representatives of Federal departments or agencies, and five representatives of State and local government departments or agencies.

(b) The President shall designate four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the five representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of five years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a five-year hiatus after serving a full term.

(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions.

SEC. 902. The Coordinating Council is authorized and directed to—

(a) assist the Secretary and the Administration in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

(b) assist the Administration in carrying out its function of coordinating such Federal efforts with State and local governments;

(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

(e) develop and maintain any other appropriate activities consistent with the purposes of this Act.

TITLE X—GENERAL

SEC. 1001. The Secretary may promulgate regulations pursuant to subchapter II of chapter 5 of title 5, United States Code to implement this Act.

SEC. 1002. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

SEC. 1003. (a)(1) Chapter 175 of title 28, United States Code, Chapter 314 of title 18, United States Code, and title III of the Narcotic Addict Rehabilitation Act of 1966 (80 Stat. 1438), are repealed.

(2) In any case involving an individual committed pursuant to such Chapter 175, Chapter 314, or title III, on or before the date immediately preceding the effective date of the repeal of such chapters and title, such individual shall continue to be subject to the provisions thereof in the same manner and to the same extent as if they had not been repealed.

(b) Sections 341, 342, 343, 344 and 345 of the Public Health Service Act, and the provisions of the Act entitled "An Act to amend title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addition, and for other purposes", approved November 8, 1966 (80 Stat. 1438), other than title V thereof, are repealed.

SEC. 1004. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Any appropriated funds shall remain available until expended.

SEC. 1005. This Act shall take effect upon the expiration of one hundred and eighty days following the date of its enactment.

Mr. CRANSTON. Mr. President, I rise to speak on S. 3562, which Senator HUGHES has introduced today and which I am privileged to cosponsor. Senator HUGHES has performed an invaluable service to the Nation through his great efforts in drawing together this extraordinary comprehensive approach to the enormous problem of drug abuse and drug dependence.

On this vital issue, that is causing so much concern and anguish in so many American lives and homes, Senator HUGHES is providing truly great leadership—leadership characteristic of the capacity, courage, creativity, and compassion he is bringing to bear on a great many other vital issues confronting the people of America.

I am proud to work with Senator HUGHES on these issues.

I join in cosponsoring his drug bill because I wish to give maximum impetus to Senator HUGHES' effort to develop national solutions to the pervasive drug problem. The relationship of this problem to the increasing crime rate makes it especially grave.

I am very much in accord in general with much of the bill's approach.

I do want to say that it is a tremendously broad and intricate measure, and I have not yet had adequate opportunity to study all of its provisions or consult with advisers in the drug field whose counsel I value. Thus, I wish to make clear that I am reserving my option to propose or support changes and additions to aspects of the bill which, after hearings and time for adequate research, study and reflection, appear in need of change.

More specifically, I wish to offer caveats on the following provisions of the bill, many of which deal with veterans matters, on which the Veterans' Affairs Subcommittee, of which I am chairman, has held hearings and is studying.

As to provisions specifically affecting veterans, I have not yet had the opportunity to discuss them with appropriate officials in the Veterans' Administration or of the veterans service organizations. I thus plan to explore with these representatives the following provisions before coming to a judgment on them:

Sections 304, 306, and 308 as they relate to coordination between the Drug Abuse Prevention, Treatment, and Rehabilitation Administration, which section 102 of the bill would establish within HEW, and Veterans' Administration drug abuse and drug dependence programs, research, personnel training, and health education.

Section 401(b) as it relates to treatment and rehabilitation in Veterans' Administration facilities.

Section 901(b) as it relates to presidental designation of representatives of Federal departments and agencies to serve on the Intragovernmental Coordinating Council on Drug Abuse and Drug Dependence, which section 901(a) of the bill would establish, insofar as the Veterans' Administration might be one of the departments or agencies represented.

Section 504 of the bill, which deals specifically with drug abuse and dependence among veterans. I am unable to endorse any of these subsections, except

subsection (c), until I have had opportunity to explore them in detail with all interested parties, including as to subsections (b). Senator HERMAN TALMADGE of Georgia, chairman of the Finance Committee's Subcommittee on Veterans Legislation, which has jurisdiction over chapter 11 of title 38 referred to in that subsection.

As to subsection (c), on January 9 and 27 at subcommittee hearings and on March 4 in a speech to the Joint National Legislative and Rehabilitation Commissions of the American Legion, I announced my intention to amend section 602 of title 38, regarding presumption of service connection for active psychosis, in a more comprehensive way than does subsection (d) of the bill; my bill will also cover the purpose of subsection (d).

Regarding subsection (d) I feel that there should be a thorough reevaluation, in coordination with the Veterans' Administration and the veterans service groups, of the exclusions from VA hospital and medical care of disabled veterans with less than honorable or general discharges. Such a study would, of course, be broader than the drug abuse focus of subsection (d), and I intend to work closely with Senator HUGHES, with whom I have already discussed this general problem several times, to carry out a thorough study and produce hopefully, a successful and acceptable resolution of the problem.

There are also some general provisions of the bill as to which I have reservations.

Section 309, relating to classification of controlled dangerous substances, insofar as its relationship is unclear to the classification for criminal enforcement purposes that may be carried out under any Controlled Dangerous Substances Act that may be finally enacted.

Sections 402 (a) and (b), insofar as they authorize, first, medical, rather than judicial, judgments with respect to the commission of misdemeanors or felonies and second, compulsory detention for emergency medical treatment and diagnosis of up to 5 or 10 days for so-called drug abusers or dependent persons who have been arrested but not presented for preliminary hearings.

Section 409 as it implies that civil rights and liberties would be withdrawn from certain classes of persons under the bill; I will want to insure that due process of law is accorded to any person so deprived.

Section 502 insofar as it might be construed to impose compulsory expansion of health coverage upon existing health insurance plans available to Federal employees, rather than merely directing the Civil Service Commission to negotiate such expansion through amendment or new contracts.

Finally, I know, from conversations with him, that Senator HUGHES recognizes that in consideration of this bill, the jurisdiction and views of the other concerned committees of the Senate—Judiciary, Armed Services, Finance, Post Office, and Civil Service—must be fully respected.

I hope and I believe that the monumental work which Senator HUGHES has done in introducing this bill will be but a prelude to a congressional and then a national coordinated and comprehensive effort to establish the programs needed to remove the drug scourge from our society.

Mr. JAVITS subsequently said: Mr. President, I have the great honor and pleasure of joining in the legislation introduced today by the Senator from Iowa with respect to Federal programs on alcoholism and narcotics addiction. I also have the honor of being the ranking member of the special subcommittee of the Committee on Labor and Public Welfare dealing with this problem which is chaired by the Senator from Iowa.

Mr. President, I live in the city and represent the State which contains that city, the largest in the country, which has the greatest problem; and I rise to affirm that if we are to make measurable progress, it will come on two fronts: First, law enforcement, which includes limitation of the incursion of drugs into the United States, especially heroin; and, second, the procedures of education, treatment, and research, which are called for in this very important, comprehensive bill.

There is no single problem connected with law enforcement and safety in the States and in the homes of our country which is more intimately related than this problem of drug addiction and alcoholism, Mr. President. I deeply feel that we could have a measurable reduction in crime in the big cities, of not less than 25 percent, if we got on top of this problem; and I believe that we are presented here with a comprehensive and intelligent approach which is going to cost a minimal amount of money and get a maximum amount of results.

Mr. President, many of our people complain that people in public office do a lot talking about this, but there is no appreciable action. I have answered by saying that if there seems to be no appreciable action, though much is being done both publicly and privately, with a tremendous emphasis on the vast extent of the private efforts as well as the public efforts, it is because we simply do not have the enabling legislation and the implementing appropriations to do what needs to be done.

The criminal depradations, aside from their social cost and their cost in lives—not only the lives of innocent victims of crime, but the lives of small children who are the victims of narcotics addiction, going down to the age of 10, Mr. President, as we know in my city and other large cities—have an economic cost which runs into the multibillions; and when you compare that with the price tags of the legislation as introduced, with the support of the majority leader, myself, and many others in this body, it becomes really a grave question as to our sense of responsibility, that we have not yet acted, notwithstanding the manifold opportunities in the way of legislation introduced as far back as when Robert Kennedy first came to the Senate, pressed by the Senator from Arkansas (Mr. MCCLELLAN) and many other Senators.

Mr. President, we must look to ourselves. "No division" should be the legend in this situation. As the ranking member of both the committee and the subcommittee, I shall do my utmost to bring this measure to most immediate hearings and report to the floor. The rest will rest with the conscience of every individual Senator and every individual Member of the House of Representatives.

There is only one answer to the people who say we talk a lot and do not do anything, and that is to act. We have a blueprint for action, in my judgment, of just the right magnitude and just the right nature before us now, in the bill presented by the Senator from Iowa.

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

Mr. JAVITS. I yield.

Mr. PERCY. Mr. President, I commend both the distinguished Senator from New York and the distinguished Senator from Iowa for their contribution in this very complex field.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. I ask for 2 additional minutes.

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

Mr. PERCY. I think a very candid and frank admission was publicly made by the assistant to the President, Mr. John Ehrlichman, the other day when he indicated that there were many—and perhaps he might have included himself among them—who felt that stricter enforcement of the law might be an answer to these very complex problems. But the deeper we look into them, the more we realize the very complex nature of them. They are not just law enforcement questions. They are questions of medical, psychological, and social reactions. They get down to the causes of poverty. They get down to what makes man what he is.

Certainly, the approach taken by the distinguished Senator from New York and the distinguished Senator from Iowa in this regard is to be highly commended; and I for one, will do the best I can to try to understand the nature of these problems and discern what we can do, as lawmakers, in the whole complex picture, to get to the root of one of the most serious problems to face this Nation.

Mr. JAVITS. Mr. President, may I say to the Senator from Illinois that he shows what we would expect of him, considering his ability and his conscience, in respect of the grave problems in his own State, which contains one of the largest cities in the United States.

I say, too, that nothing that is advocated by the Senator from Iowa or by me or by the majority leader or by the Senator from Illinois obviates the strictest kind of law enforcement, the heaviest hand of the law.

The problem is that we do not have enough policemen, enough detectives, and enough customs guards to keep up with an overwhelming flood that is constantly fed by the insane craving of so many thousands of people.

Only by finding out what causes it and by curing it, even if we just have to dam the flow, as we do with methadone, by

establishing half-way houses and other methods of treatment, and by corralling for civil commitment many of these terrible unfortunates, will we get on top of the problem.

I hope the public will not assume that because we advocate the medical approach, the preventive approach, the research approach, it means that we are oblivious to and will not support and will not be in the forefront of urging the strictest enforcement of the law and the heaviest penalties for the pushers and sellers, who are the worst enemies of the youth of America.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from New York for his comments about the measure I presented earlier today.

The distinguished Senator from New York has for many years been introducing measures—he had bills already in the subcommittee of which I am chairman, of which he is the ranking minority member—and we have incorporated certain segments of legislation already proposed by the distinguished Senator from New York and the distinguished Senator from Texas (Mr. YARBOROUGH), who is not present today. They are incorporated in the proposed legislation.

I wish to associate myself with the remarks of the distinguished Senator from New York in relation to the seriousness of the problem, the conscience of the individual Members of this body, and the necessity that we give this matter immediate action, both in hearings on the bill and in bringing this matter before the Senate as a whole, so that perhaps in this session of Congress we still can get action on this major piece of legislation. I know we all feel that this matter has reached epidemic proportions in the United States.

I also want to thank the distinguished majority leader for the encouragement he has given me over the last 14 months, in the comments he has made in encouraging and financing the subcommittee of which I am chairman, and in encouraging the work we have undertaken. With the encouragement of the majority leader and the distinguished Senator from New York, undoubtedly the junior Senator from Iowa, who is a new Member of the Senate, would have run into a great deal more difficulty in proceeding as far as we have today.

Mr. JAVITS. May I say to the Senator that that is the custom in the Senate. It is one of the finest traditions of the Senate that pride of authorship yields to getting things done; and, somehow or other, one's reputation never suffers in the process. I joined with others, after working for 16 years, to pass a bill for the U.S. Arts Foundation, and it finally got done. Similarly here, the majority leader has much ripe experience in the same way. Somehow or other, the people discern when a collaborative effort produces results, and no one need worry about the fact that he is being denied recognition on the credit. The thing to do is to get it done. So I joined with a full heart and with no reservation in the pledge to cooperate with the Senator from Iowa.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Federal Drug Abuse and Drug Dependence, Prevention, Treatment, and Rehabilitation Act of 1970. Passage of this bill would be a great step forward in developing the coordinated, comprehensive approach which is necessary to meet the serious drug abuse problems which our Nation faces today.

There was a time when drug abuse was something that happened in the shadows of the ghetto, or in the unknown worlds across our borders to the south, or in strange foreign countries with unpronounceable names.

But now we know better. Drug abuse is a modern American blight, tragically fixed to the inner city, the affluent suburb, and the rural back county. Drugs are being used by individuals from all walks of life—the poor, the middle class, the rich, the educated, the college student, white collar workers and especially the young. The problem of drug abuse is here, it is now, and it is an unwanted fact of life for millions of Americans.

I am acutely aware of the drug problems because of the situation in my own State of Massachusetts. In 1967–68, there were 1,323 heroin arrests statewide. In 1968–69 the figures jumped to 5,295 cases, and the projected figures for 1969–70 will bring the cases up to almost 7,000.

In Boston, the average age of a drug user has dropped from age 27, 5 years ago, to age 21 today. The rate of known drug use in Boston is rising at a higher rate than in any other city in America. Heroin use in Boston has increased 10 times since 1965. There are an estimated 4,000 heroin addicts in the city today.

Nationwide, the use—and abuse—of drugs has also skyrocketed. In the annual crime report of the FBI issued in August 1969, the Bureau of Narcotics and Dangerous Drugs revealed that the number of arrests for drug violations had increased by 329 percent since 1960.

For those persons over 18 years of age drug arrests were up 235 percent. The FBI further stated that drug arrests for persons under 18 years of age had risen by 1,860 percent during that period of time.

The question of marihuana is also important. An estimated 12 million Americans today have used marihuana at least once. From 30 to 40 percent of today's college undergraduates have smoked marihuana more than once, according to the best estimates of university health officials. An estimated 20 percent of high school seniors in urban areas have tried marihuana. In some areas, the use among high school students is over 50 percent.

These statistics indicate the need to rethink the whole question of marihuana—to learn more about its effects and to reexamine our laws and our approach toward its use.

On January 28, the Senate passed S. 3246, the Controlled Dangerous Substances Act of 1969. The bill dealt primarily with the regulation and control of drugs, and was directed to the question of penalties and ways to reduce illegal drug traffic.

But S. 3246 covered only one part of a many-faceted problem. As I said on the Senate floor at that time about S. 3246:

> The bill is an incomplete solution to the total drug abuse problem. Control of substances and methods of enforcement make up one dimension of the drug abuse phenomenon. But the bill does not address itself to the education of a drug-oriented society: It does not address itself to the rehabilitation and restoration of broken bodies and minds; it does not address itself to the training of professionals to deal effectively with the drug abuse crisis at the community level.

The overwhelming sentiment in the Senate was that S. 3246 was not intended to be the final answer, and that new legislation on education, prevention, rehabilitation, and research was also essential.

As a member of both the Judiciary Committee and the Labor and Public Welfare Committee, and of their respective subcommittees on drugs, I have seen the need for a comprehensive effort on the drug abuse problem. I feel that the bill introduced today by the distinguished Senator from Iowa (Mr. HUGHES) provides the framework and the authority for such an approach. It incorporates the vast background and knowledge which Senator HUGHES has developed as chairman of the Subcommittee on Alcoholism and Narcotics. Legislation along these lines is essential if we are to face up to this major domestic problem.

Finally, Mr. President, Time magazine this week carries a cover article entitled "Kids and Heroin: The Adolescent Epidemic." The personal stories and facts and background in that article confirm once again the seriousness and the immediacy of the whole drug question. I ask unanimous consent that the article be printed in the RECORD at this point.

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

KIDS AND HEROIN: THE ADOLESCENT EPIDEMIC

Doctor. Do you think you'd like to die, Ralphie?

Ralph: No.

Doctor: Then why do you want to go home?

Ralph: 'Cause I want to.

Doctor: Are you going to shoot more heroin?

Ralph: I dunno.

An ex-addict, 16: You gonna shoot dope, Ralphie. You gonna be in jail or you gonna be dead. The Pushers ain't gonna disappear just 'cause you comin' home, Ralphie.

Ralph de Jesus is twelve years old, a 60-lb, wisp of a boy barely four feet tall, with gentle eyes and pale arms so thin that it is almost impossible to believe that they could take a needle. But Ralphie is a junkie. He has not only used heroin, but he has also taken part in muggings and sold drugs to his friends in order to support his habit. Last week Ralphie was in Manhattan's Odyssey House, in a group therapy session with a psychiatrist and a dozen ex-addicts aged 14 to

18. Ralphie wanted to go back home to The Bronx. The doctor, Judianne Densen-Gerber, founder of Odyssey House, and Ralphie's young friends there were trying to make him recognize that if he left them, he would have no choice to break out of the vicious circle of heroin addiction. Ralphie stayed for two more days. Then he went home.

The Odyssey House branch on Manhattan's East 87th Street, one of the few public or private facilities for treating young addicts, is a grubby tenement from the outside. Inside, it is crowded but neatly kept, the kids have replastered falling ceilings, and they do all the work of cleaning, cooking and asking for food from neighborhood merchants. Though discipline is strict, they are cheerful and friendly. The members huddle in frequent bull sessions and gather regularly for group therapy with a trained psychologist. In those agonizing meetings—the one with Ralphie is typical—the kids are by turns affectionate and caustic with one another. Whatever the mood at any one moment, they show a passionate seriousness and a deep mutual concern that is overwhelming to an outsider.

FROM GHETTO TO SUBURB

Ralphie got to Odyssey House from a hospital, where he had been seriously ill with hepatitus, contracted from a dirty needle he used to mainline heroin by injecting it into a vein in his arm. He is probably the youngest addict to surface for treatment in a terrifying wave of heroin use among youth, which has caught up teen-agers and even pre-adolescent children from city ghettos to fashionable suburbs, from New York—where the problem is still most severe—to the West Coast. One 17-year-old at Odyssey House knew Walter Vandermeer, 12, who died in Harlem of a heroin overdose last December (TIME, Dec. 26). He ask Ralphie what he think's of Walter's death. "That's his business," Ralphie mutters, staring grimly at the floor. It is plain that the ideas of death or imprisonment are beyond the twelve-year-old's grasp.

Less than a week before, Dr. Densen-Gerber—an outspoken, sometimes abrasive woman of 35, "Doctor Judy" to all who know her—took Ralphie to testify before a New York State legislative committee investigating addiction among the young. Now she asks him: "Why did I take you there?" "I guess you wanted to put me on TV," Ralphie answers. "No," she tells him. "The only reason I took you there is that only if they saw you would they understand that tiny little people like you are doing things they shouldn't do. You are an example of hundreds of other children, Ralphie. Ralphie is not special."

The gathering tragedy is that Ralphie is not special. Heroin, long considered the affliction of the criminal, the derelict, the debauched, is increasingly attacking America's children. Part of the dread and the danger of the problem is that it spread all too invisibly. No one knows how many heroin addicts of any age there are in the U.S. But in New York City alone, where most experts think roughly half the heroin users in the U.S. live, 224 teen-agers died from overdoses or heroin-related infections last year, about a quarter of the city's 900 deaths from heroin use. So far this year, over 40 teenagers have died because of heroin. There may be as many as 25,000 young addicts in New York City, and one expert fears the number may mushroom fantastically to 100,000 this summer. Cautious federal officials believe that heroin addiction below age 25 jumped 40% from 1968 to 1969. However imprecise the figures, there is no doubting the magnitude of the change, or the certitude that something frightening is sweeping into the corridors of U.S. schools and onto the pavements of America's playgrounds. It has not yet cropped up everywhere, but many experts believe that disaster looms large.

"A heroin epidemic has hit us. We must face that fact," says Dr. Donald Louria, president of the New York State Council on Drug Addiction and author of *Drug Scene*. Dr. Elliot Luby, associate director of Detroit's addict-treating Lafayette Clinic, concurs: "Addiction is really reaching epidemic proportions. You have to look at it as an infectious disease." Epidemic, of course, is a relative term, but as a Chicago psychiatrist, Dr. Marvin Schwarz, says: "Now we're seeing it clinically, whereas before we weren't. The kids on heroin all have long histories of drug use." At the California-based Synanon self-help centers for addicts, the teen-age population has risen from zero five years ago to 400 today. In San Francisco, Dr. Barry Ramer, director of the Study for Special Problems, calls hereoin now "the most readily available drug on the streets." He adds: "In my wildest nightmares, I never dreamed of what we are seeing today."

FROM RUSH TO SCRAMBLE

Heroin itself is a nightmare almost beyond description. By any of the names its users call it—scag, smack, the big H, horse, dope, junk, stuff—it is infamous as the hardest of drugs, the notorious nephenthe of the most hopeless narcotics addict, the toughest of monkeys for anyone to get off his back. On heroin, the user usually progresses from snorting (inhaling the bitter powder like some deadly snuff) to skin popping (injecting the liquefied drug just beneath the skin) to mainlining (sticking the stuff directly into the bloodstream).

First there is a "rush," a euphoric spasm of 60 seconds or so, which many addicts compare to sexual climax. Then comes a "high," which may last for several hours, a lethargic, withdrawn state in which the addicts nods drowsily, without appetite for food, companionship, sex—or life. Heroin, says one addict bitterly, "has all the advantages of death, without its permanence." After the high ends, there is the frantic scramble for a new supply in order to shoot up once again, to escape one more time into compulsive oblivion. As the junkie develops tolerance for the drug, he must use ever increasing amounts to reach the same high—thus the price of a habit can run as high as $100 a day. If he shoots too little, he does not get the kick he wants; if he shoots too much, he risks coma and death from an overdose. An overdose depresses the brain's control of breathing, slowing respiration to the point where the body simply does not get the oxygen it needs. If he tries to stop suddenly—cold turkey—he must endure the screaming, nauseating, sweating agonies of withdrawal.

Junk has been common even among teenagers in the ghetto for 20 years. Around 1950, Harlem-bred Claude Brown writes in *Manchild in the Promised Land*, "horse was a new thing. It was like horse had just taken over." Now, says Criminologist Roger Smith, director of a drug therapy center near San Francisco, "the emerging junkie of the 1970s is a middle-class junkie as well as a junior junkie." Here are some of those contemporary junkies who have shaken the habit—at least for now:

Sheera is 14, red-haired and wholesome-looking, the teenage girl next door. Her father manages a restaurant in New York City; her mother works in the records department of a city hospital. "I didn't start using heroin until I was 13. I guess I started using drugs to be like everyone else. There were older kids that I looked up to, but there were kids my age, they were also using drugs. I wanted to try it too. I messed around with pills and pot. Then I went to Israel for a summer and came back, and all my friends were on heroin. I snorted a couple of times, skinned a lot, and after that I mained it. I was sent to a school for emotionally disturbed children. Getting drugs there was easier for me than on the streets. Except for heroin. There wasn't too much of that.

"I don't know if I would have been accepted by my friends if I hadn't used drugs. My feelings are that I wouldn't have been. I wanted to be like them. They were all using drugs because they got bored with things. My parents never spoke to me once about drugs before I got involved. After I got involved, I used to see my father, but my father wouldn't say anything. My mother used to lay down a few rules. I talked to them about it. I used to go and tell my mother, kind of hoping that she'd say to me 'Stop and that's final.' But she never did."

Ted, 15, tall and somewhat gawky, is in serious trouble with the law: several burglary charges in a Chicago suburb where he lives, possession of narcotics, and truancy. He has taken overdoses twice in recent months; his parents found him sprawled out, unconscious. "In eighth grade I started glue sniffing. It was the only thing around and it was pretty widespread, but I got bored with it after the first few times. Drugs were starting to catch on then, and some older guys turned me on to marijuana." Then it was LSD and amphetamines, and finally heroin. "I knew people who shot, and I wanted to see how it affected them. I wanted to get stoned. I shot smack nine or ten times. After the first quarter of freshman year, I didn't care. I didn't have the will power and I just cut out. I was going for anything that would give me a high. I've shot a lot of cocaine and gotten stoned on smack. I never really worried about a habit because I'd known people who'd taken a lot more than me and stopped. After a while, though, kids don't care if they get hooked. I feel I can learn a lot from all this. It's like burning your hand. Now I really have no desire to go back on drugs. I want to stay clean."

Ted's father, a conservatively dressed public relations executive: "We asked about drugs, but he denied that he was taking anything. He's been burning incense for years, reading books about the East. And I thought was going Oriental. In late January, I saw needle marks in his arms. I'd say "Those look like needle marks," and he'd answer 'Just a bruise.' There just isn't any help—not the family doctor or the hospital or the police or the school."

Ted's fortyish, attractive mother: "It was like he was bewitched. People kept saying he'd grow out of it. It took a while to sink in. You just don't want to believe it. It's the helplessness that's the worst part. You're scared to get up in the morning. You don't know what you'll find. The real need is where to get help, someone to talk to, somewhere to turn."

Bill is 16, pale and a bit withdrawn; his father is a New York City librarian. "There were no big problems with my family. The main thing is that the friends I was with—there was so much drugs that everybody was using them. My friends would say let's get high. I didn't want to say no, so I got high with them. I'd just say all right. I got started through drinking and then smoking reefers. I started heroin when I was 14. I wasn't really strung out [badly addicted]. I wouldn't get sick and upset. I used to take money from my father's drawer and ask for money on the street, some change sometimes. I used to get heroin from anywhere. I'd get it in my building, the next building, on the street corners. I got arrested with my friends. We were shooting up in the hallway, and a cop came along and busted us.

"My sister used to tell me all the time that I was stupid. My father, he's 37 or 38. He used to talk to me when he found out; he used to sit down for about 45 minutes or an hour and talk to me and then I'd say O.K., I'm not going to use it no more. He used to touch me sometimes, and I would cry. Once I left the house and went back out, it might be in my mind for a little while not to use drugs, but once they showed it to me and I had

money, I'd just say well, I'll get high. Right after my father talked to me, I'd go right if I have nothing left."

Bill's mother confesses: "We knew nothing. Billy used to come in after a high, but he would act animated and alert. A couple of times we found him passed out on the couch. We just figured he was tired. He could have stayed right on the couch and died of an overdose. We wouldn't have known." Adds his father: "Last summer, we thought Billy was on something. We hoped it was pills or pot. What if it's heroin? What can you do then? You just kind of wish it away. Now I feel as if I have nothing left."

Jeffrey, 19, slight and almost frail, started on marijuana at 15 and went through LSD and amphetamines before he got into heroin at 18. "I started on smack exactly on the third anniversary of the first time I smoked pot. I'd never stuck a needle in my arm before, and I was petrified. I didn't know what to expect. A friend hit us up. For me, it was a thrill thing. I spent whole weekends hitting up. I was enjoying it more and more. I started hitting up once a day, and a couple of months later I started shooting two and three times a day.

"It's not the high with heroin. It's that rush for the first minute, when it hits your bloodstream. It's one minute of heaven, that first jolt. Right after, you feel good. In two or three hours you get nervous, wondering where your next fix is coming from. I started begging, doing anything. All my time was spent raising money for a fix."

Except for marijuana, Jeffrey has now been clean—off drugs—for several months. "Heroin is a death trip," he says today. "I really enjoyed it. But once you get the habit, you're in trouble. One good friend is in the hospital with an $80-a-day habit. Another is almost dead from hepatitis. Two others I know, one a girl, died from overdoses. Every time you stick that needle in your arm, you're playing with your life."

Jeffrey's father, a prosperous Chicago wholesaler: "A psychiatrist told me and our doctor that Jeff would grow out of it. I say if you feel they're on anything, that's the time to stop them. Explain to them that they'll go on to something worse. We never denied him anything. Maybe we were too easy. But we always felt he respected us. We don't drink. We don't run around. We lead a good conservative life. The hopeful thing to me: he does want help. My son? Ridiculous—until it happens to you."

Jeffrey's mother, expensively dressed, beautifully coiffed. "We have a religious home. We were totally ignorant. We knew he smoked marijuana, but he never got into trouble. He was always a good boy. He never gave us any problems. I don't think I'll ever be the same. I'm always wondering—is he taking it or not? If he starts again, it'll kill me. I couldn't take much more."

RESPECTABILITY FOR HEROIN

Obviously, one of the obstacles to early detection of heroin addiction in a teen-ager is the unwillingness of middle- or upper-class parents to acknowledge the idea that their son or daughter is seriously hooked on heroin. The customary last resorts in personal crisis are undependable. Parents tend to trust doctors implicitly, for example. But one 17-year-old girl from New York's suburban Westchester County arrived in a New York hospital for a checkup with fresh needle marks all over her arm. "The doctors kidded me about it," she says. "They said, 'Oh, oh, we know what you are doing.'" Yet they never told her parents.

Once parents discover that their child is using heroin, inevitably they blame themselves; in such tragedies, families can spend a lifetime unraveling the twisting threads of guilt without ever resolving where it lies. More immediately, however, it is important that parents learn how to recognize the symptoms of addiction. If they do not, or if they refuse to accept the harsh evidence, the chance of saving their child from an early death or a ruined life can be irretrievably lost. One well-to-do Washington, D.C., father, whose 16-year-old started on heroin at 14 and is now in a Virginia detention home, says bitterly: "I would not trust my son in my house. They'll just have to keep him away until he straightens himself out. I've been kicked in the teeth so many times."

HEROIN'S NEW IMAGE

Why have children and heroin come together now in this deadly combination? According to Dr. Eugene Schoenfeld, who has treated young addicts in San Francisco and writes a popular "Dr. HIPpocrates" column in the Berkeley Barb, explains: "There is a growing use of heroin among young people because young people tend to value the respect of their peers above everything else. Taking the most dangerous drug you can find is a way of gaining that respect. It's a kind of *Machismo* thing."

Says New York's Dr. Donald Louria: "We are seeing an ear of multiple use of any and every kind of drug. And it is moving so fast that it is different this year from last year." The traditional barriers between much of society and the users of such hard drugs as heroin, cocaine and morphine are collapsing. "Heroin has become respectable," says Mrs. Harriet Benjamin, a worker at Synanon in Santa Monica, Calif. "The image of the dirty old man in the schoolyard is dead." Ten years ago, middle-class high school kids looked down on heroin users; now it has shed the fear and the lower-class taint. Heroin users are no longer an exclusive club. Heroin is part of the larger drug scene.

Part of the problem is that to the young, the adult world sets only a hypocritical example. Parents warn their children against pot, which most kids find harmless. Many of the young smoke marijuana and leave it at that, although Dr. Louria warns that "if a young person smokes marijuana on more than ten occasions. the chances are one in five that he will go on to more dangerous drugs." As Larry Alan Bear, New York City's addiction services commissioner, sees it: "In some cases, the attitude toward the straight world is, 'Look, you kill yourselves with cigarettes and booze: let me use what I want to.' Other times, it's simply an 'up-yours' attitude."

In the ghetto, alienation from the rest of society is nothing new. The children of affluent middle-class America have just begun to turn to narcotics in frustration or perhaps boredom with the world. They may be taking the permissiveness in which they were raised too literally. Sociologists William Simon and John Gagnon suggest: "We have become, as a nation, a population of pill-takers. Both the actual miracle and the myth of modern medicine have made the use of drugs highly legitimate. Our children, in being casual about drugs, far from being in revolt against an older generation, may in fact be acknowledging how influential a model that generation was." Add to that the painful adjustments that every adolescent must endure—the physical and emotional challenges of puberty, the hazard-strewn search for self-discovery—and any drug can mean danger to all but the most stable. Like alcohol, marijuana may not be risky for a secure adult, but to an anxious teen-ager it offers a seductive release from the hard reality of growing up. His judgment is unformed, and he may all too readily go on to harder drugs.

A FLOWER AT THE BEGINNING

Rooting out illegal dealing in heroin poses vastly complex problems. The herion market is enormously profitable, and drying up the sources of supply involves an incredible tangle of such fractious forces as foreign governments and the U.S.'s own Cosa Nostra.

The flow begins with the white-to-purple-flowered opium poppy, *Papaver somniferum*, an annual plant grown as a cash crop in Turkey, Mexico and the "golden triangle" of Southeast Asia: the northern portions of Burma, Thailand and Laos. The U.S. is putting heavy pressure on Turkey to end legal poppy growing, so far without much success. Raw opium is converted into so-called morphine base; much of the U.S. supply is refined into heroin at simple clandestine laboratories in southern France. It has come into the U.S. concealed in the toilets of international jets, in cans carrying Spanish fish labels, in hollowed-out ski poles, in automobiles, in false-bottomed wine bottles and crates, in shipments of electronic equipment—the smugglers' ingenuity is inexhaustible, and the supply of lawmen to deal with it is not large. The Bureau of Narcotics and Dangerous Drugs has 850 agents. They have not always been above temptation: 14 were indicated in 1969 for drug trafficking. U.S. Customs men are spread thin; in New York there are only 15 on the drug beat at the airports and on the entire waterfront. Says one: "This is like being a blind goalie in a hockey game."

Much of the heroin traffic, notably in New York City and Miami, is financed and handled by the Mafia, but over the past five years more and more independents and amateurs have crowded into the act: Cubans, Puerto Ricans, blacks, even a few hippies. Top Mafia bosses supposedly banned all dope peddling in 1957 to clean up their image and avoid prosecutions, but, as Informer Joe Valachi said in 1963, "there is always somebody sneaking."

WHAT CAN EDUCATION DO?

That is not surprising, considering the temptation of astronomical profits. One kilogram—2.2 lbs.—of morphine base is worth $350 in Turkey; after it is refined to heroin in France, the price jumps to $3,500; unloaded in New York City, it is worth $18,000 before dilution. By the time the heroin gets to the street pusher, it is in one-ounce lots of 25% heroin—the rest is usually milk sugar or quinine—that cost the pusher $500 each. The pusher further cuts the diluted drug into glassine packets of 5% heroin, which he sells for $5 each—the so-called "nickel bag"—to the user. The original kilo has now grossed $225,000 for suppliers, traffickers, pushers and peddlers. The first user often splits the nickel bag into even smaller quantities that he resells for $2 or $3, making a profit that he himself can use to help support his habit. Because the addict often does not know just how strong the stuff he has bought really is, he can easily give himself an overdose that makes him unconscious or even kills him.

Federal officials concede that law enforcement alone is not enough. "To talk only in terms of eliminating the illicit drug supply is, in my judgment, a shortsighted approach," says John Ingersoll, the BNDD director. "What we need is a concomitant long-range program that will eliminate the demand." To that end, the bureau sends out speakers and brochures to teachers, school administrators and community leaders. In the New York City school system, drug education now starts in the fourth grade.

Irwin Tobin, who runs the New York City program, insists that "the drug problem was not created by the schools, and it will never be solved by the schools alone." He added: "Some principals still don't think they have a problem, or just don't want to admit it." At Manhattan's Robert F. Wagner Junior High School, Principal Bernard Walker has group sessions for parents and kids, and every day he reads a news article about drugs over the school public address system. Are drugs available at Wagner? "I don't think so," Walker answers carefully. "I don't *think* so."

Education programs are of no use to children who are already using drugs. "They

can keep showing those movies in school for ten or 20 years and the kids are going to keep shooting up in the bathroom," says an 18-year-old New Yorker who has been on drugs most of his teen-age life. "When I was shooting up, I like to read about other junkies in the papers. It fed my sickness. I liked to hear about the ODs [overdose cases], and I'd think I was brave for taking it." For kids on junk, of all the forms of treatment or temporizing that have been tried, the residential group therapy center seems to provide the strongest support. The theory is that kids get each other on junk, and kids can help each other get off it. Parents are not quite helpless, but their children are often more immediately influenced by schoolmates and friends.

Blacks are understandably resentful that the problem of teen-age heroin addiction is suddenly getting attention because it has reached the white middle class. They have lived with it for two decades in the ghetto, and they are rightly enraged when a Narcotics Bureau official says that it was a problem—"but it was one we could live with." A 20-year-old in the New York City Phoenix House program, who started on heroin in Harlem at twelve, complains: "Up there it's easier to get it than to avoid it. This is a good reason why the blacks are so mad that the police don't bust all the very obvious pushers. They don't because they are paid off."

Warren Blake, a black police community relations officer in Harlem, asks: "You don't know what the people up here are saying? Now that white people's kids are involved, the politicians are worried." There is undoubtedly truth in that plaint, though everyone dealing with teen-age addiction vehemently agrees that governmental efforts in law enforcement, education, treatment and rehabilitation are so far barely more than a gesture; most U.S. cities have simply no facilities whatever for handling teen-age addicts, and even New York officially has no public funds specifically for treating addicts under 18.

At Synanon, where success with adult addicts who stay within the supportive framework of the house is high but sadly lower with those who leave completely, Synanon Official Bill Ullman contends: "There is no cure for heroin." Dr. Densen-Gerber believes that teen-agers will be easier to help than adult addicts, if only because they are more resilient physically and emotionally and highly responsive to peer group influence inside a treatment center. But she is at a loss to deal with the Ralphies, the pre-teen junkies who are unable to comprehend that the alternatives to treatment are jail or death. "The more children his age we get," she says, "the more new theories will we have to develop. How are we going to reach the Ralphies?" She adds: "Each child infects other children. We cannot let them walk around. We have to treat them. We have no choice. If there were thousands of kids afflicted with smallpox, would you let them roam the streets?"

THE SYMPTOMS OF YOUTHFUL ADDICTION

How can a parent tell if a child is using heroin? No single sign is certain proof. The drug affects individuals differently, and many symptoms can be indicators of other youthful maladies. But any sudden change in a child's manner or habits should put parents on guard. What to watch for:

Early stages of use are characterized by abrupt changes of mood and behavior, such as loss of interest in school, dates, sports and other activities, truancy, carelessness about personal appearance. Also by unusual seclusiveness, frequent talking or reading about drugs, loss of appetite, increased thirst, constipation. While "high," a user may act drowsy or intoxicated or show a lack of concern for pain. The pupils of his eyes may contract to pinpoints.

After developing tolerance to the drug, a user may be able to work and converse normally under its influence. Loss of appetite and constipation will continue; he may look pale and undernourished. Look for signs of injections: black and blue tattoolike marks, small scabs or long scars along veins, especially on forearms, backs of hands and insteps, small drops of blood on clothing. An addict may keep his sleeves rolled down to hide marks.

Withdrawal symptoms, when use of heroin has been interrupted, are the easiest indicators to spot: restlessness, nervousness, excessive yawning and sweating, running nose and eyes, twitching, cramps, vomiting and diarrhea. Pupils may be wide open. This period can last up to three days.

At all stages, a user may be desperate for money. Parents should watch for disappearance of salable objects from the house.

Heroin addicts are often extremely cunning in avoiding detection. The drug usually comes in little glassine bags. It is a fine white, gray or brown powder, very bitter to the taste. The tools needed for an injection usually consist of a hypodermic syringe, often made from an eyedropper and a needle, a spoon or bottle cap (to dissolve the heroin) and cotton balls (to strain it).

A parent should calmly confront a younger child with his suspicions without accusing or condemning him. He should take the child to a clinic, doctor or psychiatrist for an examination. If an older child flatly refuses examination, the parent should turn to juvenile court or social agencies for help. Some states have forced commitment to narcotics treatment centers, others permit voluntary rehabilitation.

In areas where such programs are inadequate, parents unfortunately have little choice but to go to the police. That step is a difficult one to contemplate, but a hooked child is almost certain to end up in police hands anyway as he steals to maintain his ever more expensive habit.

HOW ADDICTS ARE TREATED

Heroin was believed to be harmless when it was developed in Germany in 1898 as a morphine substitute and cough suppressant. Only later was it realized that it was twice as potent as morphine. No one treatment for heroin addiction works in all cases, and there are almost as many approaches to the problem as there are experts.

One method is the so-called "British system," based on the operating premise that heroin addiction is a sickness, not a crime. As originally conceived, the system allowed British physicians who were convinced that complete withdrawal would endanger the addict's physical and mental health to prescribe maintenance doses of the drug. This was permitted only if the addict patient could not be persuaded to undergo a cure or enter an institution. The program has one obvious advantage: by making drugs legally available, it eliminated the addict's dependence on black-market suppliers and made it unnecessary for him to steal to support his habit.

The law also had disadvantages. Continuing rather than curing drug addiction, it led to an increase in addict registration: the number of known heroin addicts rose from 454 in 1959 to 2,782 by 1968. The system was also subject to abuse. Some doctors grossly over-prescribed heroin to addicts, who sold what they did not use. Their action forced the government to change the law in 1968 so that only specially designated consultants at certain hospitals could prescribe drugs.

Another approach to the problem of heroin addiction is the methadone maintenance program. Pioneered in New York beginning in 1964 by Drs. Vincent Dole and Marie Nyswander, the program involves switching an addict from heroin, which can cost $50 or more a day on the black market, to methadone, a synthetic substitute that can be made available legally for about 15¢ for a day's dosage. Administered as part of a total rehabilitation program involving counseling and therapy, methadone eases heroin withdrawal and blocks heroin's euphoric effects. This enables an addict to function normally and hold a job, something that few heroin users can do. But methadone itself is addictive, which means that those who use it must either be helped to taper off from the synthetic, or continue their habit for the rest of their lives. Methadone advocates maintain that this is no worse than a diabetic's daily use of insulin.

Many medical and legal authorities object to substituting one form of addiction for another. Others are concerned about the lack of supervision in some treatment centers. Unless the centers check urine samples daily, addicts can continue to use heroin. But the program has solid support among those addicts enrolled, who see in it their only hope of leading a relatively normal life.

Their hope is justified by a recent study of New York's methadone program. According to Dr. Dole, 82% of those who originally enrolled in the New York program are still participating, and three-quarters are now either at school or at work. But funds and facilities are limited. Only 2,500 are participating in the New York program, and thousands of others are on a nine- to twelve-month waiting list for admission, a situation that Dr. Dole compares to "asking someone to wait for artificial respiration."

The most accepted means of dealing with the drug addict is through a small, controlled therapeutic community. These residential communities first detoxify, then attempt to rehabilitate the drug user by restructuring his ego and life pattern. Some, like California's famed Synanon, are run largely by former addicts. They accept only those who have proved their determination to kick the heroin habit, and seek to increase the addict's understanding of himself and his problems through often brutal group-encounter sessions. Others, like New York's city-run Phoenix and Horizon Houses, utilize both ex-addicts and professionals.

Still others, like Marathon House, serving the Providence, R.I.-Attleboro, Mass., area, rely heavily on addicts and ex-addicts to help one another under staff scrutiny. A few, like the two federal narcotics hospitals at Lexington, Ky., and Fort Worth, Texas, are more conservatively run; most of their patients are ordered there by the courts rather than entering voluntarily and have less motivation for reform. More than 90% eventually return to heroin.

The programs in a therapeutic community are long, running from 18 to 36 months for an individual. Though those who leave the communities often return to narcotics most of those who complete the programs stay on, forming a cadre to help other addicts through the ordeal of rehabilitation. A few go on to form similar communities. More than five Synanon chapters have sprung up across the country since Synanon was founded in 1958.

There is no agreement within the medical community as to which of these approaches is best, and there is serious competition for the relatively small amount of money available to combat addiction. "Everyone sees everyone else as a threat to his program," says one New York physician, and his observation is as accurate as it is unfortunate. For while the experts are arguing, people are becoming addicted and dying.

TELL THE PUBLIC THE TRUTH ABOUT THE COSTS OF THE VIETNAM WAR

Mr. PROXMIRE. Mr. President, during the political campaign of 1968, Pres-

ident Nixon complained about the credibility gap. He said:

It is time we once again had an open administration—open to ideas *from* the people, and open in its communication *with* the people—an administration of open doors, open eyes and open minds.

And Candidate Nixon said:

A President must, whenever he possibly can, make the decision for more knowledge rather than less.

He said:

I have great confidence in what the American people are able to assimilate, and I think if you tell the American people the hard truth, they will make the hard decisions.

We can all agree with those statements. If we tell the American people the truth, they will make the hard decisions. We should trust them with more knowledge rather than less. It is time we had an open administration. Candidate Nixon was right in stating those principles.

But President Nixon has failed to follow the advice of Candidate Nixon.

VIETNAM COSTS WITHHELD

He has withheld from the American people the cost of the Vietnam War. Last year's budget disclosed the Vietnam costs in detail. But the budget for fiscal year 1971 does not include that information. In addition, the President's chief economic advisers—witness after witness—refused to give any estimates of the costs for the war in Vietnam and Southeast Asia in testimony before the Joint Economic Committee's hearings on the economic report.

This failure may well be President Nixon's economic blooper of the seventies. It may parallel President Johnson's economic blunder of the past decade when in 1966 he refused to face the cost of the war and committed the economic blooper of the sixties.

Then, President Johnson underestimated the cost by $10 billion, failed to adopt timely fiscal and monetary policies, and set in motion the inflation for which we are still paying.

Only when the facts were blasted out of their Pentagon pigeonholes and made public was it possible to focus constructive criticism and public debate on the mistakes and bring a belated change in policy.

President Nixon's failure to reveal the facts could be the prelude to equally unhappy events for his administration and for the country. It could lead to President Nixon's economic "Dienbienphu."

WHY THE PUBLIC NEEDS TO KNOW THE FACTS

There are a dozen reasons why the American people should be told the costs of the Southeast Asian war.

The American people need to know those facts so that we can determine the great issues of war and peace, and how involved we intend to become in Laos and Vietnam and Southeast Asia. The American people have a right to make that decision and to make it with their eyes open.

The American people need to know the facts because the costs of Vietnam and the Southeast Asian war affects every important economic decision the Government, the business community, wage and salary earners, and those who consume the goods of industry, must make in the new fiscal year.

The American people need to know what the Vietnam war costs if they are to make intelligent decisions, choose between programs and policies, and determine the needs and priorities of the Nation through their elected representatives.

NEEDED TO ESTABLISH PRIORITIES

Intelligent judgments about the peace dividend cannot be made until the facts and figures about the costs of the Vietnam war are given to us by the President and his administration.

That information is needed to decide what plans should be made to meet unemployment or underemployment in the years ahead.

It is needed if the country is to make intelligent decisions about the conversion of the economy when or if major spending for the war comes to an end. In fact, how can we plan intelligently for the conversion of industry and for the rehabilitation of our soldiers if we are not told either whether or by how much the costs of the Vietnam war will decline?

We need the information to judge what plans we should make about programs which affect the balance of payments. Annual military expenditures for our balance-of-payments account have risen by $1.5 billion or more since the Vietnam war escalated in 1965–66, and now stand at an annual deficit of $4.8 billion.

In summary, we need the information to know what actions we should take to dampen inflation, stimulate economic growth, prevent unemployment, judge our defense needs for the remaining strategic and general forces for which we are asked to provide, determine what part we can properly play in helping to defend other parts of the world, and to choose what programs to meet our domestic needs will have priority.

There is no doubt that the information is needed and that the American people should have it.

CONTRADICTORY REASONS GIVEN FOR WITHHOLDING FACTS

But instead of getting the information, it is denied to us. And in denying it the spokesmen for this administration have given us a series of contradictory statements about why we have not received the facts.

On the one hand we are told that the figure exists but that we should not have it. The Budget message says explicitly:

Our plan to end the fighting in Vietnam . . . is well underway.

But then it states:

Because of the need to maintain the security of this plan, certain information included in recent budgets does not appear this year. (Page 81.)

That statement tells us first, that there is a plan which, by its nature, must be tied to some reasonable budget estimates. But second, it tells us that it is withheld for reasons of security.

Yet, when we asked Chairman McCracken of the Council of Economic Advisers, when he appeared at the annual hearings of the Joint Economic Committee, what figure the Council used for this fiscal year's cost of the war in Vietnam, he replied:

I simply do not have that figure.

That I think is an incredible reply. It is not possible to make a reasonable annual economic report unless that figure is known.

And it is impossible to believe that the administration does not have some reasonable figure about the cost of the Vietnam war.

Secretary Laird himself said last October that by June 30, 1970, the costs of the war would be running at an annual rate of $17 billion, or $13 billion below the peak rate under President Johnson of $30 billion annually.

Many will recall that Secretary Laird made a considerable reputation for himself as a Member of the House as a critic of the figures given to the Congress and the public by the Johnson administration on the costs of the war.

ACCURACY DOWNGRADED

But in our hearings, representatives of the administration tried to downgrade the accuracy of any figure—past or present—about the cost of the Vietnam war.

Mr. Herbert Stein, a member of the Council, complained that because "it was always so difficult to segregate what part of the defense expenditure should be attributed to the Vietnam war" it was impossible to tell us what part of the reduction in Vietnam outlays went to increased domestic spending and what part went to non-Vietnam military spending.

Mr. Mayo, the Director of the Bureau of the Budget, in talking about the public estimates on the costs of the Vietnam war given by Secretary of Defense Laird, said that he did not "accept the premise of these figures on Vietnam spending being good, sound figures."

Are we really asked to believe that Mr. Laird's figures—old or new—are not sound?

Why was Mr. Laird an expert on the cost of the Vietnam war as a Member of Congress when he did not have access to all the figures? And why is he no longer an expert and his figures so downgraded when as the Secretary of Defense he does have access to all the figures?

I think neither the Congress nor the American people will accept any of these contradictory explanations.

There is no basis whatsoever for withholding the facts on the cost of the Vietnam war from the American people. It certainly cannot be accepted on the grounds of security.

IF TROOP WITHDRAWALS TOLD—CANNOT WITHHOLD FACTS ON GROUNDS OF SECURITY

The American people have been told from day to day the number of troops in Vietnam. It is public information that the authorized number of troops in Vietnam was 549,500. That is a public fact. It is public knowledge that the number of troops we had in Vietnam fell short of that number and that the total deployed there was about 540,000.

We were told first that 25,000 and then 30,000 troops would be withdrawn. On

December 15, 1969, we were told that another 50,000 would be withdrawn by April 15, 1970. On March 3, 1970, we were told that an additional announcement on withdrawals would be made in April.

Altogether the reduction of 105,000 troops from the total of 540,000 deployed in Vietnam has been announced.

If the number of our troops in Vietnam is made public and broadcast to the world, without harming security, the administration cannot withhold the cost of the Vietnam war on grounds that it would violate security.

WHAT ARE THE REAL REASONS?

Mr. President, what could be the real reasons for withholding the costs of the war in Vietnam? There are a number of straws in the wind.

First, the budget message states that U.S. actions in implementing the administration's plan "depend upon the actions of the other side in Paris and on the battlefield, as well as on progress in Vietnamization."

That seems to mean that the plan for the withdrawal of troops from Vietnam is up to others and may well be much slower than we have been led to believe.

Second, there is only a reduction of $5.3 billion in the military budget for fiscal year 1971. In my judgment, even with the most generous estimates for additional costs due to inflation and pay raises, there should have been a net reduction of at least $15 billion in the fiscal year 1971 Pentagon budget. This, too, indicates that the costs of some major elements in the military budget will be considerably higher than they should be.

Third, there is a most curious statement in the February 20, 1970, posture statement of the Secretary of Defense. On page 59 of that statement in the discussion of the general purpose forces program for fiscal year 1971, Secretary Laird makes the following statement:

> However, because of the uncertainties surrounding deployments in Southeast Asia beyond April 15, 1970, we cannot project the detailed structure of our land forces for FY 1971."

There is no way we can have an accurate budget until the projections for general purpose forces is made.

Finally, according to Under Secretary of the Treasury Paul H. Volcker, the balance-of-payments costs attributable to the Vietnam war for some years have been estimated roughly at a billion and a half dollars annually or more. In testimony February 19 before the Joint Economic Committee Secretary Volcker said that while he did not have the figure for this year, "I do not think there has been any appreciable change in that figure."

But the announced withdrawal of 105,000 troops, with further withdrawals anticipated, and the reduction in the annual costs of the war from a peak of $30 billion to a level of $17 billion by June 30 of this year, as stated in October by Secretary Laird, should mean an appreciable reduction in the balance-of-payments costs of the Vietnam war. That it has not raised serious questions about what is going to take place.

FAILURE TO GIVE FACTS ON COST RAISES SERIOUS QUESTIONS

Because of all of this, I think we must ask some questions ourselves.

Is it possible that the administration is not going to deescalate the war at the rate they have led the public to believe?

Perhaps we will not reduce our forces in Vietnam to 200,000 men or less and withdraw our combat troops.

Is the situation in Laos far more serious than we have been officially led to believe, and is the administration hiding the costs associated with that situation?

Is the build up of North Vietnam supplies very much greater and far more threatening than we have been led to believe? Is the cost of Vietnamization going to be much greater than we thought?

Is the logical explanation for the administration's refusals to give us the facts about the cost of our military operations in Southeast Asia that we do not intend to substantially reduce our forces or our expenditures in Southeast Asia, or reduce them at anything like the rate we have been led to believe?

Is there any other explanation as to why the administration is shoving the facts under the rug?

CONCEALMENT THREATENS CREDIBILITY OF ADMINISTRATION

The cost of the Vietnam war is being concealed from the American public. The reasons given for it bring into question the credibility of the administration. They stretch the credulity of the American people.

The President should carry out his campaign pledges. We need an administration which is "open in its communication with the people." We need an administration which practices what the President preached and has confidence that the American people will make hard decisions if they are told the hard truth.

The President should "make the decision for more knowledge, rather than less." President Nixon should tell the truth to the American people about the cost of Vietnam.

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

Mr. PROXMIRE. Mr. President, if I have time, I yield to the Senator from Illinois.

Mr. PERCY. I think the questions raised by the distinguished chairman of the Joint Economic Committee are most appropriate. As a member of that committee, I, too, would hope that we could have the President's figures on what the cost of the war will be, not just for this fiscal year, but the next fiscal year, and then project it into the future where, hopefully, it would be zero.

I do not think, however, there would be any motive in the administration's not disclosing the figures other than that it is extremely difficult to project such figures under circumstances when we are not escalating the war and combat activity is decreasing. Everyone has in mind a figure of $25 billion to $30 billion. We know it could not be larger than that, because we have drawn down U.S. troop levels considerably in Vietnam since this administration took over; the actual cost must be less than that. How rapidly the cost can be further reduced depends upon the circumstances the Senator from Wisconsin has mentioned—whether progress can be made in Paris, whether there will be an increase or decrease in the rate of infiltration, and what the level of hostilities will be. But certainly there is no reason why the administration would not want to disclose projections if it could disclose such figures under existing conditions.

We have had a forthright statement on Laos. The distinguished Senator from Wisconsin was not on the floor at the time the distinguished Senator from Kentucky (Mr. COOPER), a member of the Foreign Relations Committee, commended the President on his candor, forthrightness, and timeliness in making his statement. I cannot imagine that the Laotian situation will be allowed to increase the overall costs of U.S. involvement in Southeast Asia.

I join the Senator in hoping that we can obtain these figures, as we have in the past, at the earliest possible time. It would help us in our own work, and I feel the administration will release the figures when it can bring together all the pertinent data.

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have sufficient time to reply.

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

Mr. PROXMIRE. Mr. President, that is a statement which the administration has made in the past. We have heard it before. The situation in Vietnam was always subject to change and was indeterminate. The estimates made by the administrations in the past were always off, but at least there were estimates in an effort to determine what the cost of the war would be. But we do not have it now. After all this estimate has been made. It is in the 1971 defense budget. It is there. I am simply asking that they break it out and tell us.

I call further attention to the fact that last October Secretary Laird said that the cost of the war would be down to $17 billion a year by June 30 of this yeas—1970—on the basis of an annual rate. Now he does not seem to be able to give us this information, which we must have if we are to make the judgments that we have to make on anti-inflationary policies, budget policies, and priority policies, and which should be made on the basis of the most authoritative and responsible estimates we can get, and that means from this administration.

DEFENSE RESEARCH AND DEVELOPMENT

Mr. SCHWEIKER. Mr. President, for some time I have been concerned with the excessive cost overruns occurring in our defense procurement process. In particular, I have been bothered by the practice of commencing production of a defense system before research and development of that system is completed.

This is an unsatisfactory practice from a number of standpoints.

First of all, with the complexity and expense of the technology involved in weapons systems today, it is obvious that production models are expensive. If significant changes are made after production is commenced, a double expense occurs; incorporation of changes is expen-

sive, and the money spent on the initial production model is wasted.

In addition, this process dilutes the savings obtained from authorizing only a small amount of money for research and development prior to proceeding with full production. Taking advantage of the benefits derived from research and development is an efficient practice which is diluted if we do not wait for production until we know what these benefits are.

From the standpoint of sound business practices, it is obvious that before production is commenced on sophisticated defense systems, we must know whether the system itself is workable, and what design is the most efficient and practical. If production is commenced before this information is known, it is obvious that enormous costs will be added by production changes after the results of research and development are known.

In my opinion, the practice of allowing concurrent research and production of a defense system is the most flagrant abuse in our defense procurement system, and the most significant cause of cost overruns.

Congress must take steps to restore control over the authorization process. One way is to prohibit authorization of funds for production of any defense system until research and development has produced a system that will work. The staggering costs that have resulted from commencing production before research is completed can no longer be tolerated.

Mr. President, an example of this problem of simultaneous production and research will be studied by the Senate Armed Services Committee this week, when we hear Deputy Secretary of Defense David R. Packard discuss the recent request by a major defense contractor for interim financing. Lockheed Corp. has described graphically the costs that this double financing practice brings about.

I do not want to weaken our national security in any form. But we have problems of inflation and unmet domestic needs that demand serious attention. We are also receiving reports of cost overruns on defense projects which are unacceptable. One way to solve these problems is to eliminate the fat on defense procurement contracts by eliminating inefficient practices and procedures.

Concurrent financing of production and research and development is just such an inefficient practice, and I will be studying this problem carefully. I feel it is a major job of the Congress.

PLAN FOR POWERPLANT SITES IN VERMONT

Mr. AIKEN. Mr. President, last week Vermont's private utilities, municipal power companies, and rural electric cooperatives announced a plan for powerplant siting which may well serve as a model for the electric industry, private and public, to follow in every State in the Nation.

Federal agencies and private power combines have held innumerable conferences and have done much talking about plant siting, but it is Vermont that is leading the way to the practical, cooperative solution of the problem.

Public attention was first focused on this problem in February 1968, when it was disclosed at a public hearing of the Joint Committee on Atomic Energy that the Edison Electric Institute, the trade organization for the Nation's leading private utilities, was working with the Atomic Energy Commission on a major study of all potential sites for nuclear plants.

Excluded from this study were the Federal Power Commission, the American Public Power Association, and the National Rural Electric Cooperative Association.

This disclosure caused a quick change in plans.

From that time on much has been written and said about the need for nuclear plant siting on a broad Federal interagency basis, in cooperation with organizations representing the private utilities, municipally owned companies and the rural electric cooperatives.

The Vermont plan, which was announced last week, approaches the problem realistically.

The Vermont private utilities, in cooperation with our Vermont municipals and rural electric cooperatives, have engaged one of the Nation's outstanding engineering, consulting, and architectural firms to carry out a site survey for future generating units to the middle 1970's.

The cost of the new study as of now is being shared by the Vermont Electric Power Co., the Central Vermont Public Service Corp., the Burlington Municipal Electric Co., the Washington Rural Electric Cooperative, and the Green Mountain Power Corp.

Mr. President, I have read the detailed description of this study.

It will attempt to meet the four basic requirements I laid down in 1968 when I introduced legislation to revise our entire approach to the problem of meeting the skyrocketing demands for electric energy.

These requirements, and they are clearly written into the guidelines of the Vermont plan, are:

First, to protect the public health and safety;

Second, to protect and conserve natural resources;

Third, to prevent regional monopoly of electric generation, and

Fourth, to insure an adequate supply of power in areas threatened by shortages.

The Vermont plan recognizes that in our State the demand for electricity is doubling every 6 years.

It therefore contemplates the need for a generating plant of 400,000-kilowatt capacity in 1975—probably an oil- or coal-fueled plant, and another plant in the 800,000-kilowatt range by about 1980.

The latter, it is expected, would be an atomic plant.

The precise specifications of the Vermont plan call for:

First, esthetic and environmental considerations relating to future land use, recreation, and multiple use concepts;

Second, accessible location and geologic considerations;

Third, complete air pollution control;

Fourth, the use of cooling towers and/or cooling ponds to control thermal effects, and

Fifth, necessary transmission lines with full attention to esthetic effects.

Most important of all is the fact that this is not another scheme by the private utilities to monopolize electric power and use this monopoly control to squeeze out the publicly owned companies and cooperatives, as well as the small privately owned utilities.

Vermont's private utilities have found by actual experience that cooperation with the publicly owned utilities means greater efficiency in serving the public and makes for higher earnings.

Cooperation, rather than cutthroat competition or outright monopoly, is the key to success for the electric industry.

The monopoly-minded big utility combines could learn a valuable lesson from the Vermont experience.

I therefore ask unanimous consent, Mr. President, that a press release and a detailed description of the Vermont plan be printed in the RECORD at this point.

There being no objection the press release and description were ordered to be printed in the RECORD, as follows:

VERMONT ELECTRIC POWER CO., INC.—PRESS RELEASE (NO. 70–12)

RUTLAND, VT., March 4, 1970.—Commonwealth Associates Inc. of Jackson, Michigan, an engineering, consulting and architectural firm has been employed by Vermont Electric Power Company, Inc. to carry out a site survey for future electric generating units to help meet electrical needs of Vermont in the mid-1970's and early 1980's, according to an announcement today by Velco President, L. Douglas Meredith.

Meredith said that the initial survey in 1970 will be a review and evaluation of potential power plant sites. "We will study terrain and land usage data," he said. "Every effort will be made to bring government departments, conservation, resource, planning and other interested public groups into the site discovery process.

"We are making this announcement early so that the plant siting process will reflect all potential sites which meet the tests from a community planning and engineering feasibility point of view," he added.

"Green Mountain Power Corporation, the City of Burlington, the Washington Electric Cooperative, and Central Vermont Public Service Corporation have already indicated that they will share in the studies estimated to cost about $100,000, conducted by Commonwealth Associates, and other Vermont electric utilities may elect to join with us," Meredith added.

Howard Lewis, Velco Vice President and Chief Engineer, said that the initial study reflects the need for a new power station based on a demand for electrical energy that is compounding at an annual rate of 12 percent. This means that in about six years, we must have new electrical facilities that will meet our electric consumers' needs that are double what they are today, he commented.

Lewis further indicated that preliminary plans indicate a 400,000 kilowatt plant is needed in 1975 in an area within a 75 mile radius of Burlington. He said that another plant in the 800,000 kilowatt size may be necessary about 1980.

"The study to be conducted by Commonwealth Associates," Meredith commented, "will seek several plant site recommendations which will be the best sites for all concerned reflecting environmental, aesthetic, engineering and economic considerations.

"In choosing our consulting firm, we set specifications that will lead to site selection with environmental considerations prominent in the decision process," he said. "There were other specifications: (1) aesthetic and environmental considerations that relate to future land use, recreation and multiple use concepts; (2) plant size from 400,000 kilowatts; (3) general location in Vermont and within a 75 mile radius of Burlington, Vermont; (4) location to be accessible by either rail, highway, navigable waterway or pipeline; (5) geology—geological considerations; (6) air pollution control—meteorological considerations considered for each site; (7) hydrology and thermal effects—the use of cooling ponds and/or towers; (8) fuel to be used and transportation and storage; (9) transmission connections to relate to aesthetic and environmental effects as well as to general engineering aspects; (10) taxes to be studied; and time schedule."

"Our initial plans are directed toward the building about 1975, of a 400,000 kilowatt electric generating unit, termed a cycler," Lewis said.

"In meeting our hourly, daily and annual electrical needs we have to supply three distinct classes of electrical load," Lewis commented, "namely, the base load which is produced 24 hours a day and 365 days a year, the intermediate load which is produced 10 to 14 hours a day and about 5 days in every week, and the peak load which must be available and is usually needed 3 to 4 hours about 5 days in a week during the colder weeks in the year.

"The optimum economic mix of generation in Vermont's power supply to meet the indicated load requirements in the 1970's indicates that an intermediate producer or a cycler plant should be built. This would be a plant capable of starting up at 7 AM to carry load for 10 to 14 hours and then shut down overnight. It would meet the load requirement needs for Vermont best, all things considered, as we see the demands that Vermont's electrical customers will create by the mid 1970's," Lewis said.

COMPREHENSIVE PLANNING FOR VERMONT'S POWER GENERATION NEEDS DURING THE NEXT DECADE

(By Vermont Electric Power Co., Inc., March 4, 1970)

INTRODUCTION

Vermont Electric Power Company has commissioned Commonwealth Associates Inc., a consulting engineering firm with headquarters in Jackson, Michigan, to make a preliminary inventory of potential sites for electric power plants within the State of Vermont. The ultimate object of the search is to identify and evaluate perhaps a dozen locations where generating plants can best be constructed, now or in the future, in order to meet growing needs for electric power.

In launching this undertaking, Vermont Electric Power Company has emphasized that the site search must take into account (1) the necessity to provide Vermont with an adequate, economical and reliable supply of electric power and (2) the necessity to preserve fully Vermont's scenic values and environmental qualities. The latter criterion will be stressed no less than the first.

The survey will center upon finding sites for large nuclear and fossil-fueled (coal, oil or gas) plants, although the possibilities for conjunctive development of pumped storage hydro capacity will not be overlooked. Location of plants on lakes and rivers to provide necessary cooling water will be considered. Consideration will also be given to the construction of artificial lakes and cooling towers. In either case, a primary objective will be to avoid damage to the existing ecology. In cases where artificial lakes may be created, their recreational and scenic value will be a factor to consider. In connection with this work, the consultant has been directed to exercise a maximum of modern engineering ingenuity in proposing measures to keep the power plant in harmony with its surroundings.

This preliminary search and identification of the most favorable sites will be conducted with the aid and advice of State, regional and Federal agencies. Any plans formulated will equal or surpass current rules and regulations for preservation of the environment. It is intended that the citizens of the State will be fully informed of progress and findings in connection with this undertaking.

The first steps toward implementing this survey have already been taken, and it is estimated that the work will be completed in mid-August 1970. At that time, VELCO's consultant will submit a final report describing the favored locations, the alternative possibilities considered, and the relative merits of the favored sites from all standpoints.

Action upon this final report, if any, will be taken pursuant to all rules and regulations, particularly with respect to 30 VSA 246, which provides for a public hearing and a Finding of Public Good by the Vermont Public Service Board before construction can be started on a large power plant.

NEED FOR SURVEY

In recent years, the people of Vermont have increased their demands for electric power at the rate of slightly over 12 percent per year. This means that the need for electric power doubles roughly every 6 years in our State. In other words, the Vermont utilities must plan, finance and construct a system of electric generation, transmission and distribution facilities so that, at the end of each 6 year period, there exists a system of double the capacity what it was before. This is an expansion rate greater than our electric industry's average.

Much of the electric power currently consumed in Vermont is generated outside of the State and carried into the State by means of high voltage transmission lines. But studies show that it is not practical to continue this practice very far into the future. Previous studies made by and for Vermont Electric Power Company have shown that, for economic and engineering reasons, more of the power consumed in Vermont must be generated in Vermont. These studies have shown that by 1975 additional generating capacity in the amount of about 400,000 kw is needed and should be located somewhere within the State boundaries. It is presently anticipated that this 400,000 kw addition will only need to be used 20% to 40% of the time and that, therefore, it should be fossil-fueled. The large and expensive stock pile of fuel contained in nuclear plants makes them unsuitable for this part time duty. The same studies indicate a subsequent need for another 800,000 kw addition by the early 1980's. The latter addition would probably be used a high percentage of the time and could be either a fossil-fueled or nuclear plant, depending upon the future state of the art and economic developments.

Mindful of this pressing need, Vermont Electric Power Company is taking the steps outlined herein to plan for the future in a disciplined and farsighted manner, taking into account the peoples' need for a healthful and pleasing environment as well as their need for electric power.

By means of thorough engineering study and clear identification of all of the factors involved and with the aid and advice of State, local and Federal agencies as well as concerned citizens, Vermont Electric Power Company hopes to develop an objective, orderly and long range plan for satisfying the total future needs of the community which it serves.

It should be noted briefly that while this study deals primarily with the siting of power plants, *the associated need for transmission lines will not be neglected.* It is logical to deal first with the power plant problem because this is the most important component of the electric system insofar as the environment is concerned. It should be stressed that similar measures are being taken to maintain transmission lines in proper harmony with the surroundings.

COMMONWEALTH ASSOCIATES INC.

Commonwealth Associates Inc. is an international firm of engineers, consultants and architects with headquarters in Jackson, Michigan. As an engineering group, Commonwealth has been in continuous operation for more than 50 years.

The total employment of Commonwealth Associates is nearly 750, and its technical staff approaches 600. More than 300 are engineers and architects, the majority holding professional registrations in one or more states. The technical organization is supported by an adequate staff of accounting, stenographic, data processing, reproduction and other administrative servce employees.

In Engineering News Record's report on the 1968 business volume of the top 500 design firms in the world, Commonwealth was rated 16th largest in its field of practice. Commonwealth's activities are international as well as domestic and a wide variety of assignments are currently being carried out in many parts of the world.

Engineering and economic studies, design engineering and construction management are the principal services provided by Commonwealth to utility, industral, governmental, commercial and institutional clients.

POWERPLANT NEEDS

It was noted earlier that the main objective of the current undertaking is to find sites for thermal power plants, either nuclear or fossil-fueled. The fossil fuels include coal, oil and natural gas, and the possibilities for economic utilization of any of these fuels, alone or in combination, are to be considered in connection with the site search.

A description of the requirements for power plant siting may be of interest. The first and most obvious requirement is the land upon which to situate the plant. This land should be as flat and level as possible to avoid undue costs of grading and excavation.

There must be good access to the site, adequate for carrying in heavy equipment and materials needed for construction. Major power plant components, particularly nuclear plant components, tend to be extremely heavy and bulky. Access for bringing fuel in and transmitting electricity out, as well as ordinary vehicular traffic, is needed. Depending upon the situation, access by highway, railway, pipeline and barge may be involved.

One critical need is for cooling water to condense the steam leaving the turbine. A rule of thumb states that a barrel of cooling water must be circulated for every kilowatt-hour generated. Thus, a 400,000 kw plant might circulate up to 400,000 barrels of water per hour when operating at full output. This rule applies to a fossil fuel plant. Present-day nuclear plants require roughly 50 percent additional cooling water. It should be apparent that a substantial amount of cooling water is involved.

It must be stressed that the cooling water is not consumed to any significant degree. It simply passes through the plant for the purpose of absorbing heat. It is not contaminated in a chemical or sanitary sense. But cooling water is heated up as it circulates through the plant and this rise in temperature can, if not properly managed, disturb aquatic life processes. This is so-called "thermal pollution." The State of Vermont has established regulations to prevent serious injury to aquatic life, and these rules must be observed.

If there is ample river flow or large-volume lake water which can be used for cooling without substantial temperature rise, the lowest cost system can be utilized. But more costly measures could be resorted to if necessary to avoid unacceptable conditions. These include creation of an artificial lake or cooling pond or the use of cooling towers. These additional cooling facilities can be constructed but, of course, the cost of electricity thus produced will be increased.

The amount of water actually consumed by the plant, commonly called make-up water, is relatively insignificant compared to the amount circulated for cooling. Finding a source of make-up water normally presents no great problem. Make-up water can even be taken from wells if there is not another more practical source.

A nuclear plant site has one more special requirement. It must, to a degree, be isolated from heavily concentrated areas of population. The Atomic Energy Commission has established stringent rules governing the siting of nuclear plants to prevent any likelihood of public exposure to radioactive material and, needless to say, these rules will be observed.

In summary, a suitable power plant site must offer adequate land area, preferably relatively flat and level and providing a good foundation for heavy construction. There must be access to take materials and fuel in and electricity out. There must be a source of make-up water. To achieve maximum economy of production, it should ideally offer a natural source of cooling water, although deficiencies in this and other areas can be overcome by engineering measures, if necessary and warranted.

PLANT VERSUS ENVIRONMENT

Having described the plant's needs, let us consider its effect upon the surrounding environment.

The most obvious effect is appearance. A power plant can be made relatively attractive insofar as industrial installations are concerned, but will probably never be termed a scenic attraction by anyone except engineers.

Two measures can be taken to minimize any possible assault upon the eye. First, the potential plant sites will, if possible, be located in areas already zoned or characterized by industrial usage or in areas remote from normal scrutiny. Second, the plant can be positioned, constructed and landscaped so as to be as unobtrusive as possible. A maximum of engineering skill and ingenuity will be utilized to minimize any undesirable visual impact.

A second effect is the heating of natural waters if these are used for cooling purposes. This effect has been described before and it was noted that suitable engineering measures can and will be taken to conform with State regulations.

Air quality is another obvious concern in connection with power plant siting. Fossil-fueled plants must necessarily discharge combustion gases into the atmosphere. Methods are available, and more effective methods are being developed, to remove the elements which are objectionable from these effluent gases. An important part of the study under discussion will be to effect a proper reconciliation between the plant and its environment, applying suitable corrective measures as needed.

Nuclear plants do not normally affect air quality. However, Atomic Energy Commission criteria for plant licensing governs the safe dispersion of effluent gases and such prescribed precautions will necessarily be given full weight in the site selection process.

SITING ECONOMICS

It is noted in this paper that there is a definite relationship between aesthetic and environmental demands and the cost of electric power production, and hence the ultimate cost of electricity to the consumer. This is a subject deserving special emphasis since it is, in a sense, the "name of the game."

Any extra measures taken to avoid infringement upon the environment result in extra cost of the electricity to be produced. Fortuitous situations to the contrary are rare. It is Vermont Electric Power Company's purpose in instituting this investigation, to define, in cooperation with governmental agencies and the citizens of Vermont, a proper and reasonable balance between the public need for low cost electricity and the public need for a wholesome environment.

SUBSEQUENT STEPS

It is Vermont Electric Power Company's intent to conduct this study with the aid and cooperation of State, local and Federal agencies throughout. It is also intended that concerned citizens' groups will be kept informed. Upon completion of Commonwealth's survey, the results will be made available to these agencies and the public with the hope of finding broad areas of mutual understanding and agreement with respect to some of the sites.

Further action toward acquiring sites, investigating them in detail, and definitively planning actual construction may then be taken as the need develops.

The preliminary site search and evaluation to be made by Commonwealth Associates will include sites already owned. The merits of such previously identified sites will be weighed in the balance on an equal footing with any new sites to be discovered.

It should be stressed that the participants in this study do not intend to take steps to acquire an interest in new properties for the siting of a power plant until there has been open examination of the survey results. If there can be some unanimity of opinion as a result of this procedure, it is hoped by Vermont Electric Power Comany and its associated utilities that they will receive the support and cooperation of the citizens of Vermont.

This study is believed to be the first of its kind, but it is anticipated that similar efforts will be commonplace throughout the nation in the years ahead.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 514.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PELL, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. MONDALE, Mr. EAGLETON, Mr. PROUTY, Mr. JAVITS, Mr. DOMINICK, Mr. MURPHY, and Mr. SCHWEIKER conferees on the part of the Senate.

S. 3563—INTRODUCTION OF A BILL TO PROVIDE IMPROVED IDENTIFICATION PROCEDURES IN CRIMINAL CASES

Mr. HRUSKA. Mr. President, I send to the desk a bill which I introduce on behalf of the Attorney General. I ask that the bill be appropriately referred, and I ask unanimous consent that the bill and the letter of transmittal be printed following my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and the letter of transmittal will be printed in the RECORD, in accordance with the Senator's request.

(See exhibits 1 and 2.)

Mr. HRUSKA. This is an identifications procedures bill similar to S. 2997, a bill which I had the privilege of cosponsoring with the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Colorado (Mr. ALLOTT). Hearings will begin tomorrow on S. 2997, before the Criminal Laws and Procedures Subcommittee of the Judiciary Committee.

This administration is firmly committed to an all-out and vigorous attack on crime. To that end the police need all reasonable weapons to combat crime, as long as those weapons do not infringe upon constitutionality protected rights.

One such weapon that will be of major assistance in crime solution is the administration's proposal to require a brief appearance, under court order, by suspects in criminal cases for the limited purpose of having these suspects participate in identification procedures such as fingerprinting.

In order to afford the utmost protection to those citizens required to participate in these procedures, the bill narrowly circumscribes the basis for issuance of the order, the conduct of the procedures, and the type of evidence which may be obtained and, in general, clearly defines the powers granted and the rights afforded. In so doing, the bill strikes the proper constitutional balance between the rights of the individual and the rights of society.

To date there is no statutory or case-developed method to require a suspect in a criminal investigation to participate in such quickly performed identification procedures as fingerprinting, appearing in lineups, or executing handwriting exemplars, unless there has first been an arrest on probable cause. It is, however, quite apparent that such authority, even though carefully circumscribed, would be of enormous benefit to law enforcement.

The procedures that will be required under our proposal are largely of proven reliability. The 20th century has seen a wide expansion of the use of science in crime solution. More and more often police and other investigative agencies call upon crime laboratories and scientists to examine and analyze clues and evidence. Nowhere has the impact of science on crime solution been greater than in the field of fingerprinting. Fingerprints are recognized as the most reliable form of personal identification known, and their use in this country dates from as early as 1904. This type of identification evidence can be taken

quickly and easily and its use in the Nation's courtrooms is widespread.

Handwriting, blood analysis, hair samples, and the like, have all in recent years proved to be reliable methods of obtaining identification evidence in crime solution. The dependability of these methods of obtaining evidence is established and their use is also widespread

The bill (S. 3563) to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures, and for other purposes introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

EXHIBIT 1

S. 3563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 223 of title 18, United States Code, is amended by inserting immediately after section 3502 the following new heading and section:

"§ 3503. NONTESTIMONIAL IDENTIFICATION

"(a) If a judicial officer finds on the basis of an affidavit setting forth the underlying circumstances that:

"(1) there is probable cause to believe that an offense has been committed;

"(2) there are reasonable grounds, not amounting to probable cause to arrest, to suspect that the person named or described in the affidavit committed the offense and;

"(3) the results of specific nontestimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense—

the judicial officer shall issue an order requiring the person named in the affidavit to appear at a designated time and place for nontestimonial identification. At the request of the person named in the affidavit, the judicial officer shall modify the order with respect to time and place of appearance whenever it appears reasonable under the circumstances to do so.

"(b) If it appears from the affidavit that a person named or described in the affidavit may, upon service of the order to appear, either flee or alter or destroy the nontestimonial evidence ordered, the judicial officer may direct a marshal or other federal law enforcement officer to bring the person before the judicial officer. Such judicial officer shall then direct that the designated nontestimonial identification procedures be conducted expeditiously. After such identification procedures have been completed the person shall be released or charged with an offense.

"(c) Any person who fails without adequate excuse to obey an order to appear served upon him pursuant to this section may be held in contempt of the court which issued the order.

"(d) An order to appear pursuant to this section may be servd by a United States marshal or by any other officer authorized by law to execute a warrant. The order shall be served upon the person named in the affidavit by delivery of a copy to him personally. Service may be had at any place within the jurisdiction of the United States.

"(e) An order to appear shall be signed by the judicial officer and shall state—

"(1) that the presence of the person named in the affidavit is required for the purpose of permitting nontestimonial identification procedures in order to aid in the investigation of the offense specified therein;

"(2) the time and place of the required appearance;

"(3) the nontestimonial identification procedures to be conducted and the approximate length of time such procedures will require;

"(4) the grounds to suspect that the person named in the affidavit committed the offense specified therein;

"(5) that the person will be under no legal obligation to submit to any interrogation or to make any statement during the period of his appearance except for that required for voice identification;

"(6) that the person may request the judicial officer to make a reasonable modification of the order with respect to time and place of appearance, including a request to have any nontestimonial identification procedure other than a lineup conducted at his place of residence; and

"(7) that the person, if he fails to appear, may be held in contempt of court.

"(f) Nontestimonial identification procedures may be conducted by any Federal investigative agent or law enforcement officer or other person designated by the judicial officer. Blood tests shall be conducted under medical supervision, and the judicial officer may require medical supervision for any other test ordered pursuant to this section when he deems such supervision necessary. No person who appears under an order of appearance issued pursuant to this section shall be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures unless he is arrested for an offense.

"(g) Within forty-five days after the nontestimonial identification procedure, a return shall be made to the court from which the order issued setting forth an inventory of the products of the nontestimonial identification procedures obtained from the person named in the affidavit. If, at the time of such return, probable cause does not exist to believe that such person has committed the offense named in the affidavit or any other offense, the person named in the affidavit shall be entitled to move that the court issue an order directing that the products of the nontestimonial identification procedures, and all copies thereof, be destroyed. Such motion shall, except for good cause shown, be granted by the court.

"(h) An order may issue under this section only for an offense as defined by any Act of Congress or triable in any court established by Act of Congress and which is punishable by imprionment for more than one year.

"(i) As used in this section—

"(1) the term 'nontestimonial identification' includes identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, handwriting exemplars, voice samples, photographs and lineups;

"(2) the term 'judicial officer' means any justice or judge of the United States, any United States commissioner or United States magistrate and any judge of a court of the District of Columbia."

SEC. 2. The analysis of chapter 223 of title 18 is amended by adding after the item relating to section 3502 the following:

"§ 3503. Nontestimonial identification."

SEVERABILITY

SEC. 3. If a provision of this Act is held invalid, the holding shall not affect the validity of provisions which are severable. If a provision of this Act is held invalid in one or more of its applications, the holding shall not affect any other application of the provision.

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

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

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

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend title 18, United States Code, to authorize courts to issue orders requiring the appearance of certain persons for the purpose of having these persons participate in nontestimonial identification procedures.

Under present law no statutory method exists to require suspects in criminal cases to assist in such quickly performed identification procedures as fingerprinting, appearing in line-ups or executing handwriting exemplars unless they have first been arrested on probable cause. Often, however, without such identification probable cause to justify an arrest will be lacking. Similarly, the person will remain a suspect even though such procedures can be of great assistance in law enforcement and in crime solution.

Under the attached proposal a judicial officer will be authorized to issue an order requiring a person to submit to nontestimonial identification procedures. The order must be based on an affidavit which sets out probable cause to believe an offense has been committed, that there are reasonable grounds to suspect that the person named committed the offense even though probable cause to arrest is lacking and that specified nontestimonial identification procedures would be of material aid in determining whether the person named in the affidavit committed the offense. The court order would then issue requiring the person to appear at a reasonable time and place to undergo the specified identification procedures.

The proposal contemplates that the full range of reasonable identification procedures that can be designated nontestimonial and are not violative of the Fifth Amendment right against self-incrimination may be required under an order to appear. Thus, nontestimonial identification is defined to include fingerprints, handwriting exemplars, blood tests, photographs, line-ups and the like.

Care is taken to protect the rights and convenience of the person required to participate in indentification procedures. Thus, he is given the right to have the court direct that the products of his appearance be destroyed if they fail to provide probable cause to arrest him and to request the court for reasonable changes in the time and place of his appearance, including the right to ask that the procedures take place, where possible, at his place of residence.

Legislation similar to the enclosed, S. 2997, is presently pending with the Subcommittee on Criminal Laws and Procedures of the Judiciary Committee. While I support the objectives of S. 2997, I believe that the legislation now being proposed would provide a more effective tool for the investigation of criminal activity and the apprehension of criminals than would S. 2997. I urge early consideration and adoption of this proposed legislation.

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

Sincerely,

———— ————,
Attorney General.

S. 3564—INTRODUCTION OF A BILL TO AMEND THE YOUTH CORRECTIONS ACT

Mr. HRUSKA. Mr. President, I send to the desk a bill which seeks to amend the

Youth Corrections Act by authorizing the use of examiners to conduct interviews of youthful offenders who have been committed to Federal institutions. It is introduced at the request of the Attorney General.

I ask unanimous consent that the Attorney General's letter of transmittal and the text of the bill be printed at the conclusion of my remarks, and that the bill be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and the letter of transmittal will be printed in the RECORD, in accordance with the Senator's request.

(See exhibits 1 and 2.)

Mr. HRUSKA. The Youth Corrections Act provided for the establishment of a special division of the Board of Parole to deal with problems peculiar to youthful offenders. This Youth Corrections Division, composed of members of the Board of Parole, makes recommendations concerning the treatment and corrections policies for committed young offenders; it orders the release of offenders on parole; it orders the return to custody of offenders when appropriate; and it orders the unconditional release of those who have successfully completed 1 year on parole.

In addition to the foregoing, the Youth Corrections Act provides that the members of the Division will conduct interviews of young offenders after initial commitment and upon return to custody. The Division is located in Washington, D.C., and is therefore unavailable to conduct these interviews in many cases until long after a particular offender has been taken into custody. Examiners have been used to conduct these interviews, as they do for adult offenders, but only when the young offender waives his right to be interviewed by a member. If, however, the young offender refuses to sign a waiver, the interview must wait until member of the Division is available. This often results in substantial delays, which may minimize the value of these interviews.

The amendment which I offer would merely authorize the Division to designate examiners to conduct those interviews in the same manner as they do with adult offenders while the Division members remain in Washington to confer and make final decisions based on the information provided by the examiners.

This amendment was recommended by the Task Force on Corrections of the President's Commission on Law Enforcement and Administration of Justice, and is designed to make the operation of the Board of Parole and the Youth Corrections Division much more effective and efficient.

The bill (S. 3564) to amend the Federal Youth Corrections Act, 18 U.S.C. 5005 et seq., to permit examiners to conduct interviews with youth offenders, introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

EXHIBIT 1

S. 3564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5014 of title 18, United States Code, is amended by inserting ", or an Examiner designated by the Division," after the words "of the Division".

SEC. 2. Section 5020 of title 18, United States Code, is amended by deleting the words "or a member thereof" and inserting in lieu thereof ", a member thereof, or an Examiner designated by the Division".

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

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

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

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend the Federal Youth Correction Division within the Board to permit Examiners to interview youth offenders.

The Youth Corrections Act provides for a Youth Correction Division within the Board of Parole. That Division, composed of members of the Board of Parole as designated by the Attorney General, makes recommendations concerning the treatment and correction policies for committed youth offenders, orders the release of offenders on parole, the return to custody for further treatment of those who do not succeed when conditionally released, and the unconditional release of those who are successful for at least one year on parole.

Another function of the Division is to interview youth offenders after initial commitment and upon return to custody. Sections 5014 and 5020 of title 18, United States Code, provide for members of the Division to conduct these interviews. This proposal would permit the Division to designate Examiners to perform this function.

Presently, Examiners are used by the Board of Parole for interviews with adult offenders. However, since the Youth Corrections Act provides for Division members to interview youth offenders, it is necessary to obtain a waiver for an offender if an Examiner is to interview him. If a youth offender does not consent to a waiver, his interview must be delayed until a Division member can visit the institution where he is confined. This results in even greater delays when the youth offenders involved are confined in adult-type institutions.

The Board of Parole would like to institute a new program with Examiners conducting a majority of the interviews with youth offenders as well as adult offenders while Board members remain in Washington to confer and make final decisions based on the information provided by the Examiners. This program, which would be greatly facilitated by the enactment of this proposal, will make the operation of the Board and the Youth Division much more effective and efficient.

The Task Force on Corrections of the President's Commission on Law Enforcement and Administration of Justice recommended the use of Examiners along the lines proposed here.

The Department of Justice urges the early introduction and prompt enactment of this measure.

The Bureau of the Budget has advised that the submission of this recommendation is consistent with the Administration's objectives.

Sincerely,

_____,
Attorney General.

THE EXPERIENCE OF ILLINOIS UNDER THE FEDERAL OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. PERCY. Mr. President, too frequently when we pass laws we fail to follow up to see what effect they have had. I am very pleased this morning to have the opportunity to report that the experience of Illinois to date under the Federal Omnibus Crime Control and Safe Streets Act of 1968 has been very successful and very encouraging. As a matter of fact, it is my understanding that Illinois has made the strongest financial commitment of any of the 50 States under the provisions of this act.

I ask unanimous consent to have printed at this point in the RECORD the report made by the Governor of the State of Illinois, Richard B. Ogilvie, before the Judiciary Subcommittee of the House of Representatives on February 19, as to his impressions of the impact of the law and how it should be administered in the future.

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

STATEMENT OF GOV. RICHARD B. OGILVIE

Chairman Celler and members of this subcommittee: I greatly appreciate this opportunity to testify before your distinguished subcommittee today. My testimony is being offered both from the vantage point of my role as governor of Illinois, and also as a representative of the National Governors' Conference.

First, I am here to report the experience of Illinois under the Federal Omnibus Crime Control and Safe Streets Act of 1968.

Second, I appear in support of this act, and in opposition to H.R. 15676, the amendatory features of which would, in my judgment, seriously hamper the progressive efforts under way in Illinois and in many other states.

Under the federal act, you have looked to the states for planning leadership in strengthening our system of criminal justice. I feel that this is most appropriate, since the formation and administration of the organic criminal law is constitutionally the responsibility of the states. In Illinois, we have taken this responsibility seriously.

During the past decade, Illinois has made major strides in strengthening our system of criminal justice.

A new criminal code was adopted in 1961, and has served as a model to other states. In 1963, Illinois reorganized its basic laws of criminal procedure, and in 1965, a juvenile court reform program was adopted.

During the past year, a strong legislative program was enacted which has several key features: All correctional work for youths and for adults was consolidated in a single state department separate from our law enforcement agencies. For the first time, Illinois was given a fulltime, professional Parole and Pardon Board. We have also created a statewide Illinois Bureau of Investigation on the model of the FBI to consolidate and expand our efforts against organized crime and the traffic in drugs.

These actions reinforce the state's primary role, but we also recognize that the front line in the fight against crime is at the local level.

In Illinois, local enforcement is divided between sheriffs in 102 counties, and police departments in nearly 800 municipalities. Clearly, such a number of operating units require a high degree of coordination, cooperation, and new financial support.

The federal act of 1968 was a major first step in meeting these needs. My first executive order upon taking office 13 months ago established the Illinois Law Enforcement Commission as the official state agency required by the 1968 act.

The commission includes 32 members representing every facet of the state's system of criminal justice. Major emphasis has been placed on non-political or bi-partisan representation from concentrated urban areas, from the areas of high crime incidents, and from minority groups. Under the commission are 36 regional planning units through which the greatest allocation of planning funds, $212,000, has gone to the City of Chicago.

Action funds have been allocated chiefly on the criteria of crime rates. Supplemental emphasis has been given to such other factors as population density, the incidence of civil disorders or of organized crime activities, the progress made locally under previous grants, and local conditions requiring special attention.

Two facts about the Illinois Law Enforcement Commission deserve your attention. First, we have consistently exceeded the requirements of the federal act. Last year 50 per cent of the planning funds went to local governments, though only a level of 40 per cent was required. In the allocation of action funds, where there is a requirement that 75 per cent of the moneys go to local agencies, we have reached a level of 86 per cent during the past year and expect to continue this record of performance during 1970.

The second significant fact about our program is that Illinois, to my knowledge, has made the strongest financial commitment of any of the 50 states.

To meet the matching requirements of the federal act, the state appropriated $3,232,800 for fiscal 1970. But to this figure we added a total of $5 million for statewide programs to supplement our comprehensive state plan.

The program of Illinois, to a marked degree, augments and strengthens the block-grant concept embodied in the federal act. In special circumstances we have been able to supplement the financial resources of local governments which are unable to develop their own matching funds. For example, in the economically depressed City of Cairo, the commission awarded $25,000 in state money for a police-community relations program. Without this direct state assistance, the plan would have gone unfunded; it would have gone nowhere.

A broad program called "Action Now" is well under way in Illinois. And the state has assumed the entire local share of this $1 million special anti-crime program. Illinois has earmarked $732,000 in state funds to the program, and has already committed nearly $200,000 for three phases of "Action Now," namely, community relations, police management, and education and training in criminal justice.

Our own block-grant program, which is thoroughly consistent with the principles embodied in the federal act of 1968, is but one aspect of the commitment of Illinois to the broader principle of revenue sharing with local governments.

Illinois last year enacted the first income tax law in its history. An integral feature of the act is the direct payment of one-twelfth of state income tax revenues to cities and counties on a per-capita, no-strings basis. Concurrent with this action, the state increased the local share of the state sales tax from three-quarters of a cent to a full cent.

Thus I think it is apparent that Illinois can make a strong case before this subcommittee in support of the present federal act. Our experience has been highly rewarding, and it has produced many additional benefits to all concerned with the problems of crime in our state.

For the first time, for example, all elements of the criminal justice system are meeting on a regular basis to exchange views. They are participating directly in the development of a comprehensive and unified effort. Through this process, we have been able to open lines of communications between agencies which have in the past jealously guarded their specific areas of responsibility. We have begun to inventory our criminal justice problems and our resources so that we can rationally allocate our resources to matters which cut across jurisdictional lines. Major progress has been made in the standardization of statistics, emergency radio frequencies, computer techniques, and information retrieval.

In view of the record of progress in Illinois, therefore, I must oppose H.R. 15676.

It would, first of all, take from the states much of the means by which they can discharge their primary responsibility for creating and administering the criminal laws. It would diminish the degree of accountability which should be demanded of the states.

As proposed to you, the amendment would, in effect, set up another co-equal level of responsibility which conceivably could work at cross-purposes with state efforts.

It would deny to communities some of the expert assistance now available in Illinois through the professional staff of our Law Enforcement Commission. It would create twin paths for fund applications, and would further confuse local officials in their efforts to meet federal requirements.

The strong statewide program in Illinois is rooted in a high degree of local autonomy, coupled with effective statewide planning and assistance. Our entire program is oriented in community action, under local control. And I would be less than candid with you if I did not say today that we have created a workable system, a system that enjoys a high degree of support, a system that is getting the job done with a minimum of friction between state and local governments.

We have taken the hand you extended to us in 1968, and we have in turn extended our hand and our own funds to our communities.

Crime in our society is one of the most deadly challenges before us. I would urge that you strengthen, rather than weaken, the effectiveness of our response.

The role of the states is pivotal in the battle against crime. And I am hopeful that the record of Illinois will lead you to reject the amendment before you.

THE TRAGEDY OF WAR

Mr. PERCY. Mr. President, I was on a plane last Friday and met there a young Kokomo, Ind., man who had returned from Vietnam and was being treated at Walter Reed Hospital. The young man was missing both his legs, one arm, and one eye. It was, once again, a grim reminder that the tragic war in Vietnam continues, taking its toll day in and day out. It was a reminder of the many other young men I had seen in hospitals in Vietnam and in Japan, in my own State, and the 65 injured men from Vietnam with whom I flew back to this country in a hospital plane last year.

Although the war in Vietnam is not as much in the front pages of the newspapers these days and is not as heavily accounted for in the mail we receive, still I think we must never stop reflecting on the nature of this war. We must never forget that it is continuing and that we must persist in our efforts to end it at the earliest possible time.

It is for this reason that I wish to commend the administration for its positive effort in deescalating the war. Certainly, it has made clear its intention to turn this war over to the Vietnamese government and people and to deescalate steadily and in an irreversible fashion our involvement in the war.

As a grim reminder to my colleagues in the Congress, I ask unanimous consent to have printed in the RECORD following my remarks an article written by James P. Sterba, of the New York Times, which appeared in the San Francisco Chronicle on February 13, sent to me by a Marine Corps veteran who served in the front ranks in Vietnam. He stepped on a land mine at Christmastime and is now back in this country. He testifies to the fact that this article accurately and factually portrays the grim realities of the war continuing in Vietnam, a war that the Nixon administration is hoping to end at the earliest possible time. I trust that our rate of drawdown of U.S. forces can be accelerated and steadily implemented.

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

THE GI IN VIETNAM—A REPORT ON HIS WAR

(By James P. Sterba)

SAIGON.—"When we were fighting up north, we got ambushed by a whole battalion of NVA (the North Vietnamese army) and there was so much stuff flying you couldn't tell if you killed anyone or not. But another time, I was on a patrol with a buddy and we stopped at this fork in the trail and we started smoking cigarettes and joking, and two gooks walked right down the trail at us. It was like time stood still. We looked at them and they looked at us and then we blew their _____ away.

"You walk up and see them dead, that you just killed them, and you say, 'Goddamn, I just killed that man.' But then you think, 'Well, Jesus Christ,' and you look at his gun and you know he'd have done the same thing to you if he'd had a chance. Before I came over here, I thought to myself, 'Damn, could I kill a man?' Well, you learn fast in Vietnam."

Specialist 4 Herbert McHenry, 21 years old, from Akron, Ohio—a grunt. (Grunt: GI slang for a front-line soldier, army or marine.)

If you hung around enough at the muddy firebases and in the jungles with the kids who pulled the triggers for the old men who ran this war in 1969, you sometimes got the feeling between the hours of boredom and the seconds of terror and the daily entrances by jet and nightly exits by aluminum box, that the kids could work things out with the kids on the other side.

That if the wires from the Pentagon to the South Vietnam command nerve centers and from Hanoi to the Cambodian caves had all of a sudden fallen still, the kids sent here to kill each other might have all stood up in the sun, dropped their guns and started picking flowers.

Of course that didn't happen in 1969, or in the opening days of 1970, and it would undoubtedly never happen in a modern war. But in 1969, Vietnam seemed like that kind of a war. It was not a war of national hate, but a hated, dreary struggle.

All the early idealism was gone. Its flickering lights were snuffed on June 8, when President Nixon announced withdrawal in a statement at Midway that must stick in the minds of every mother and father whose son has since left home for his year of war.

The touted air cavalries had gotten their big headlines years ago, swarming like locusts up the An Lao, the La Drang and a hundred other valleys. The marines had made their

amphibious assaults and had fought their Khe Sans.

The airborne paratroopers had already saved both Hamburger Hill and the American Embassy, and the thought of saving them again was somewhat distasteful. The big medals had been distributed too often already and nobody came to the ceremonies any more to take pictures.

Now, the tactical operations centers and headquarters were air conditioned and computerized and filled with middle-aged career men who occasionally caught colds and wrote memos suggesting the cooling systems be turned down.

The sergeants pushing booze at base bars were making more money than the American generals pushing the war—but less money than some South Vietnamese generals pushing anything they could get their hands on.

The war was still costing more than $500 a second. University extension courses were being taught in classrooms on huge, paved and sometimes lawned rear bases, where old sergeants were getting tougher and tougher about unshined boots.

At these big bases, jogging was on the increase, along with sunbathing and softball tournaments. At Tan Son Nhut in November, the Army announced the formation of "Armed Forces Theater Vietnam, a touring military production group" that kicked off the 1969–70 theatrical season with "You're a Good Man, Charlie Brown."

Worlds away from all this, however, amid the mud and the dust and the mosquitoes and the blood and the dead and the dying, the Grunts—it was a proud name they had chosen (from the grunting sounds made by foot soldiers under heavy field packs)—were still getting their arms and their legs blown off.

But in 1969 they were not the same Grunts as before—the ones who filled the all-volunteer units a couple of years ago, not the gung-ho enlistees and toughened three-war sergeants whom information officers cited in 1966 as evidence of the professionalism of the American military machine. These Grunts did not come from the ranks of the post-World War II silent, or Jack Kerouac's Fifties, or the concerned early Sixties, or even the committed mid-Sixties.

No, these Grunts were somehow unlike those others. These Grunts were the class of 1968—they had come out of that America some of their commanders had seen only from the windows of the Pentagon. They were graduates of an American nightmare in 1968 that stemmed mostly from the war they had now come to fight—the year of riots and dissension, of assassinations and Chicago, the year America's ulcer burst.

What many of them didn't know was what the Army would do with them as draftees. It would make most of them Grunts. And the arithmetic was there on what happened to Grunts as they entered basic training: 15,000 dead and 45,000 wounded in 1968. The dead and wounded were not file clerks or grease monkeys or radio repairmen. The dead and wounded were Grunts, overwhelmingly.

The members of the class of 1968 went through advanced infantry training at places like Fort Polk, La., or the "shake and bake" school for instant non-commissioned officers at Fort Benning, Ga. Their MOS (Military Occupational Specialty) would be stamped on their records: 11B, which meant infantry rifleman. But most of them would have no real idea of what it meant to be an "11 Bush," even after they stepped off the troop planes at Bien Hoa and Cam Ranh Bay and the data-processing machines were matching them with units.

Many were scared when they were trucked or flown to their new units' headquarters, but they didn't pay much attention then, during those first days of "in-country processing," the re-enlistment sergeants gave their spiels about not having to stay "out there" very long if they would only sign up for another three years.

If they signed, then after only eight months in the Army, four or five of which had already been spent in training in the States, they could go home for a month and then come back and finish their year in Vietnam as a file clerk or a security guard.

It wouldn't be long, however, before many of them would be trying to remember what the reenlistment sergeant had said.

One of their first tasks was learning grunt language. As replacements, they weren't new members of the unit, they were "cherries." They learned that grunts never die, they get "greased." They never said yes, they said "that's a Roge," or "Roger That." Their opponents were not the enemy, they were "gooks" or "dinks." In fact, to many grunts, any Vietnamese was a "gook." Grunts would not put on their equipment, they would "saddle up." They didn't stage ambushes, they "blew bushes." They "humped the boonies" or "busted bush." Some of them never looked for the enemy, they went "chuck-hunting."

"My second day out, we blew a bush and four gooks were entirely wiped out. First dead ones I saw. You get a little sick, I ain't never shot one. Most of the time, you don't know who killed them 'cause everybody's just firing and you can't see them anyway.

Sergeant Nicholas Francic was 21 years old and had spent the first 11 months of 1969 on the line with the First Infantry near Dau Tieng as a draftee from Pittsburgh. With two weeks left in Vietnam, he was thinking about going home to "the world."

"I don't think I'll talk about it when I get back to the world because it would just be so far to believe. Before I came over here, guys would tell war stories and I'd say, 'Bull, just war stories.' But now I'd believe anything anybody ever told me about it over here. I don't think anybody could believe half the stuff that's going on here. I'm glad I'm getting out. I don't know what I'd do if I was just gettin' here now."

Private M. A. Dirr, a 21-year-old Marine from Cincinnati, lay on a bed in a ward room of the USS Repose, a hospital ship, off the coast of Da Nang in September.

"I don't know whether it was an RPG (rifle-propelled grenade) or one of our tanks. It was dark and some other guys (Marines) were about 50 meters away and they didn't know it was us and they opened up on us."

Was it worth it?

"Boy, after that, I don't see any sense in fighting over here," he said. Dirr wouldn't fight any more. At the end of his bed where his feet were supposed to be, there was only one lump in the sheet—his contribution to peace with honor having been one foot.

Maybe it was true that there were no real fronts in Vietnam, but there were definite levels of safety.

The 36 square miles of Army headquarters at Long Binh, for example, was safe, really safe, even though it was hit by rockets occasionally and somebody was killed or wounded.

The 50,000 men who spent their year at Long Binh were known to the grunts as "REMF's" (rear-echelon—mother ———). REMF's, the grunts said, were the ones who would go home being for the war and telling war stories, 99 per cent of which would be boloney. The biggest battles at Long Binh were fought between the MP's and drunken soldiers, and there were far more casualties from accidents there than from rockets.

But as you went toward the battlefields—from the division to the brigade to the battalion to the company—the proportions reversed.

At the company level in 1969, enlistees were rare, black faces were much more numerous, and draftees were everywhere. It was a rather neat dichotomy: between the men in the military and the kids in the war; the majority in the rear and the minority in the front; the comfortably bored and the miserably scared; the soldiers who had heeded their country's call and had become one of the military's "own" (the Army protects its own, they said), and the soldiers who had pretended not to heed it; the living and the dying.

Grunts in several line companies estimated that 80 to 90 per cent of the soldiers in their ranks were draftees and that from 20 to 40 per cent of them had some college.

Once you got down there on the ground in the boonies it was amazing how much your values changed. Despite what all the philosophers and politicians and social scientists said, you were an animal with one basic instinct dominating all others: survival.

The Grunts have a phrase for it: "Cover your ass."

It would take a book to describe the dehumanizing experience of being shot at. The barricades and billyclubs and tear gas at Columbia and Chicago seem so cheap after the first shot zings over your head.

Absolutely everything becomes at once irrelevant except survival. If there was ever an event that "blew your mind," being shot at was it. After it, you were not the same person. Those who had been through the experience would warn others away from it, but somehow think less of those who had not had the experience.

"I don't really have anything against demonstrators, or blame people for not coming here," said Lieutenant James Friedman, 21, of Burlington, Iowa, during Christmas dinner at Landing Zone Professional west of Chu Lai. "But after you get in the Army and are sort of jerked over here and have been through some bad stuff, it's almost like being older than those people."

To live, if you were a Grunt, you had to shoot back. You had to become a killer, or at least a potential killer in the most immediate sense. Thus, you could still find a lot of tough guys out there in 1969. And if you stuck a microphone in their faces, they'd say, "Bomb Hanoi" or "Invade the north" or Nuke the gooks."

And why not? When your life was on the line, you were for everything that helped preserve it right at that instant. Many of the concerned Grunts, before they get here, had serious qualms about the use of napalm. But, now, in the middle of combat, they would tell you there was absolutely nothing in the world more beautiful than the sight of those silver canisters tumbling end over end from a jet bomber and exploding in a huge ball of red flames and black smoke right where the gooks were shooting from. They felt like cheering, and sometimes they did.

Some Grunts would even say that they liked to kill. "I've killed 18 myself," said Sergeant Eddie Allen, a 23-year-old 75th Infantry Ranger from Muncie, Ind. "I don't talk about it much, but I don't mind it. In fact, I sort of enjoy it."

Shy, quiet and friendly, Staff Sergeant Patrick Tadina, 27, from Honolulu, had spent 44 months in Vietnam by 1970, mainly, he said, because he didn't know what else he could do.

He had become one of the most decorated enlisted men of the war; two silver stars, two Vietnamese crosses of gallantry, five bronze stars all with "V" for valor, three Army commendation medals all with "V" for valor, and three purple hearts.

Tadina said he didn't particularly like killing people, just outsmarting them. His personal body count was 109.

It was during the times when death was close—when an arm or a leg had to be lifted by a crying friend out of the dirt and placed on a litter next to a young soldier yelling, "Jesus Christ, Oh my God, it hurts, it hurts, it hurts," and the med evac chopper is still five minutes away as the medic's stained

fingers fumble with the needle and the morphine bottle—that they all looked 12 years old.

It happened daily in 1969. Toward the end of the year, an average of 14 were killed and 100 wounded per day.

Sometimes the silliest things would happen out there in the boonies where the war was supposed to be such serious business. The battalion officers would spend hours in front of their maps, charting the next day's operation. The communications codes were set, the various coordinates were plotted, the strategy unveiled.

The next morning, as the countdown grew short, the plotters would appear nervous as they briefed the company officers. But when the company officer spread word to the Grunts to "saddle up," the Grunts would mope along, scowling and muttering about playing another "damned lifer game," the kind they'd been through dozens of times before, the kind they were still dirty and tired from doing a few days ago.

But for the planners, these productions were exhilarating, intricate affairs, in which the power of the huge American military might was almost visible—all that fire power, that "air-mobility."

Then the Grunts would move out, perhaps on foot, or by truck, or by the greatest kind of John Wayne move-out the Army had, the "combat assault" or "Eagle Flight." And the battalion commanders and majors would climb into their "Charley Bird" (command and control helicopter), and the artillery support would be poised, the Cobra gunships ready to scramble.

"As the Grunts neared the scene of their secret search for "Charley," the colonels would be hovering above in the cool morning air, hoping for a "good contact." Then the Grunts, if on an Eagle Flight, would be dropped in and quickly fan out as the radio networks were checked and everyone waited to see whether or not the "LZ" (landing zone) was hot." Is usually wasn't.

And so after 30 minutes, the majors and the colonels would fly back to their fire bases and tend to other business, while closely monitoring the radios to see if the Grunts made "contact." ("War is hell, but contact's a mother ———," the Grunts said.

On most days, the war for the Grunt was just plain miserable, as Specialist 4 Steve Dokey, a 21-year-old draftee from Benton Harbor, Mich., and Specialist McHenry explained:

"We were OK the first two months I was here and then Charlie started blowin' bushes on us," said Dokey. "Seen my buddies getting it. See one come out with no legs, started not likin' it so much."

McHenry: "Say you're a civilian back in the world and you ask a guy if he's been to Vietnam and he says yes and he doesn't care to talk about it. Well, you know he's seen some ——— because this ——— you don't want to talk about. You can't explain it to anyone who didn't go through it. Like when I first got in this country, I was scared. But after a while what really got me was that nobody told me you gotta live like an animal. You gotta sleep in a hole at night. And all the other ———."

Dokey: "Who wants to tell your parents that your buddy came out with his guts hangin' out, no legs?"

McHenry: "A couple of days ago I got chewed out by the CO 'cause my parents wrote to Red Cross saying they hadn't heard from me. Well, it's just the same old drag. There's nothin' to write about. It's monotonous. Day in, day out. You don't care what day it is. You don't know the date. You just know you got 365 days to keep from gettin' blown away."

In 1969 the world discovered that massacres could be committed by "us" as well as "them." After the revelations of My Lai, journalists scurried over the countryside looking for atrocity stories and dug into old notebooks trying to find incidents they had jotted down months before anybody seemed to be interested in "good-guy" brutality.

Instant-book writers, politicians, sociologists, psychologists all chipped in their two cents' worth of the most complex explanations. Scarcely a word was heard from the Grunts on the subject. But if you asked them, some of the most sensitive Grunts would politely suggest that all the researchers need do was read Joseph Heller and William Golding—it was all there.

"Sometimes, it's just like 'Lord of the Flies' out there," said Specialist 4 David Rogers, a 21-year-old Hamilton College graduate and conscientious objector who was serving as a combat medic.

"Eleven Bushes are wonderful people, but this is a very corrupting experience. Everyone is young here now. Some guys get weird at times. They don't want me to dust off (evacuate to a hospital) a wounded VC. They say they want to see him die. Then other times we'll run into some other unit of Americans, and I'll start throwing flowers and leaves at them and these same guys will join in."

At a hilltop landing zone in the Que Son Valley south of Da Nang in August, a helicopter sat down and unloaded two young black-pajamaed prisoners taken from the fighting in the valley below. One was taken into a bunker for questioning. The other squatted on his heels outside.

"If he moves," said the soldier who had brought them as he went inside, "blow the sonofabitch away." The prisoner didn't move much, but within 10 minutes some of the other soldiers at the landing zone had come over to take a look at him.

Within 15 minutes, somebody tossed him a canteen of water. Then somebody threw him some cigarettes. Then matches. Then some spearmint chewing gum. Then a candy bar.

Sipping scotch at a cocktail party in Saigon in late 1969, an Army colonel—unusually sensitive for a colonel—had a little too much to drink and began talking about an informal study he said he'd made with some classified statistics.

"It's amazing," he said. "You know how many guys are putting their lives on the line here every day—less than 80,000 out of a half a million. And I'll bet you three-quarters of them are draftees and 11B's. You know what the chances of an 11B getting killed or wounded in his year in Vietnam? About one in two."

The actual statistics, the military here insists, are not available.

In 1969, the grunts would take the rubber tire Ho Chi Minh sandals from the feet of their victims, but you never heard them talk about taking ears. They would dangle the sandals from their web canteen belts. Around their necks, they dangled chains with peace symbols and love beads that as they walked would sometimes click against the fragmentation grenades or ammunition clips on their chests. It was their helmets which revealed most.

Sometimes they would write "Rice Paddy Daddy," "I love my pig (M–60 machine gun)," or "Yeah, though I walk through the valley of the shadow of death, I fear no evil, for I'm the meanest mother ——— in the valley."

And somewhere on nearly every other helmet in 1969 would be written the word "peace" or "just give peace a chance," with peace symbols drawn around it. From 100 yards away, they looked like soliders. From 10 feet away, they almost looked like a tribe of flower children.

"None of my guys are gung ho," said 1st Lieutenant Bodie Delaney, leader of the Third Platoon, Alpha Company, First Battalion, 501st Brigade, 101st Airborne Division in Thua Thien Province west of Hue. "Out of 28 guys, I have six college graduates, one with a master's in zoology, 10 guys with some college and all but one with high-school diplomas. All but four of them were drafted. Everybody falls into the same category. All of them are reduced to the same level—cover your ass for a year."

At 21, Staff Sergeant Richard Metzger of Indianapolis was the old man of Charlie Company, Second Battalion, 28th Infantry, First Infantry Division, not because of his age but because 22 times in the last year he had inked in solid one or two days on the wallet calendar he always carried.

Those black days were the fire fights he had been in during the 11 months and 14 days he had spent on the line. In late November, he had six days left in the Army and was finally back in the rear—at Dau Tieng—preparing to go home.

"A lot of guys are re-upping now. When I came over here, nobody re-upped. But, I'll tell you, if I came over here right now, I'd re-up because I know what it's like out there. The only reason why I didn't re-up was because my wife would never forgive me if I did. But if it wasn't for her, I'd have done it and got the hell out of the field."

Sgt. 1st Class Graham E. Newshafter, 38 years old, 21 of them in the army, worked in the First Cavalry re-enlistment office in Phuoc Vinh in October.

"We have 19 career counselors here and we serve the people right out there on the LZ's" he said. We have a quota system for the first-termers—90 a month, or one-half of 1 per cent of our total division strength. I don't know how many men re-enlist to get out of the field. But, remember, this is the only war we've fought in which the Army gives you an opportunity to get out of the field."

In August, out of 138 First Cavalry draftees and enlistees on their first hitch who re-enlisted, 121 were 11 Bushes.

The Americal Division, the largest in Vietnam, has consistently fought sharp, bloody battles in the mountains to the west. It also has consistently had one of the highest re-enlistment rates in Vietnam.

"This month," said Sergeant Major Paul Shaffer, an enlistment noncommissioned officer for 10 years, "we have hopes of setting another record."

On a sizzling hot day in August, it was less than ironic, then, when a helicopter touched down on landing Zone Center, on a hill above the Hiep Duc valley northwest of Chu Lai, and dropped off a reenlistment sergeant.

That was the day that a ragged, demoralized, exhausted company—Alpha, Third Battalion, 21st Infantry, Americal Division—trudged up the hill from a week of hell in the valley below with only half the men it had started with.

World-famous Company A, the one that had refused, for an hour, to go to war, was being given the opportunity by the United States Army to re-enlist, to serve for three more years, but not "out there."

By the end of the day, the re-enlistment sergeant's results, remarked one officer, had been "outstanding."

Mr. MANSFIELD. Mr. President, I listened with interest to what the distinguished Senator from Illinois just said about the war in Vietnam. I hate to think of the casualties which already have been caused by that mistaken war, that continuing tragedy, in an area in the world in which we never should have become involved in the first place, because it is not and will not be vital to the security of this Nation.

I wonder how many of these youngsters coming back are going to be in the same category as the distinguished Senator from Illinois has just indicated one was—two legs missing, an eye missing, and perhaps more.

In this tragic war, 268,296 have been wounded up to last Thursday. There have been 40,750 combat deaths up to last Thursday. There have been 7,534 noncombat deaths in Vietnam up to last Thursday. That is a total of 316,588 young men. And for what?

I hope this is the last "Vietnam" in which this country will ever become involved, in any part of the world, because this is too high a price to pay for far too little. The lessons of Korea, in the first instance, and now Vietnam in the second, should be more than enough to imprint upon the minds of the American people of all political persuasions that this is just one too many.

Speaking of Vietnam, most of the youngsters over there happen to be under 21 years of age, and yet there are people in this body and elsewhere in the country, as well as in the legislatures of certain States, who would deny these youngsters between the ages of 18 and 21, unless they come from certain States, the right to vote, the right to exercise their franchise, the right to have a small voice in the making of the policies which they are now being called upon to carry out, not through any choice of their own, because they have no choice.

I was delighted to note that the distinguished Senator from Kentucky (Mr. COOK) this morning introduced a bill with a large number of cosponsors by means of which it will be possible, without going through the constitutional amendment process—the Senate and the House and the President all agree—to pass a law by statute which will make the youngsters of this country 18 years of age and above eligible to vote.

It is an amendment which I introduced with other Senators, which seeks to grant that privilege to these youngsters who have contributed so much. We ought to bear in mind that a great majority have contributed a great deal and only a very small, minuscule minority—pretty good on the headlines and publicity—have contributed very little.

I am thinking of the great number of young Americans whom we tend to underestimate, to pass by. I think it is a mistake. But this week, this body will have a chance to vote on an amendment to the Scott-Hart substitute which will allow us to state our position, as to whether we really believe in giving the 18-year-old the right to vote—the 18-year-olds who at that age can marry, who are subject to death on the battlefields after being drafted at that age and who are treated as mature people and as adults in the courts at that age.

Mr. President, the ability of Congress to lower the voting age from 21 to 18 by statute has been brought into sharp focus during recent days. I have proposed, with others, an amendment to the pending Voting Rights Act that would accomplish this long overdue proposal. Although there have been significant authorities on Constitutional law—including former Solicitor General Archibald Cox—who have concluded without equivocation that Congress has the constitutional power to lower the age by statute, I requested the opinion of another leading constitutional authority in our country—Paul A. Freund, professor of constitutional law, Harvard Law School. Today I received a reply. Professor Freund, who is on sabbatical at Center for Advanced Studies, Stanford, Calif., this year, concludes that Congress does have the constitutional authority to lower the voting age by statute.

The clarity of Professor Freund's reasoning is clear even to nonlawyers.

I ask unanimous consent that this letter from Professor Freund be printed in the RECORD.

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

CENTER FOR ADVANCED STUDY IN THE BEHAVIORAL SCIENCES,
Stanford, Calif., March 5, 1970.

Hon. MICHAEL J. MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I greatly appreciate your telegram inviting me to elaborate on the opinion which I expressed in an address in June 1968, that Congress might, by statute, lower the voting age for state and Federal elections to the age of eighteen.

The Constitution of 1787 left the question of suffrage basically to the several states. In Article I, section 2, it is provided that the electors in each state for the House of Representatives "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." Article 1, section 4, provides that the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each state; Congress is given the power by law to make or alter such regulations. My opinion does not at all rest on the last clause. Although "manner" has been given a generous construction, to include, for example, Federal corrupt practices laws applicable to national elections, the specific provision on "qualifications" in the earlier section would rule out any effort to absorb the requirement of a minimum age for voting into the "manner" of holding such elections. And so if the text of 1787 stood alone there would appear to be no basis for the legislative proposal.

But that original text does not stand alone. The Fourteenth Amendment, with its guarantee of equal protection of the laws (no less than the Fifteenth, prohibiting specifically disqualifications based on race or color) introduced a vital gloss on the authority of the states, namely that unreasonable classifications by law are unacceptable. This general standard applies to the laws of suffrage no less than to other laws, despite the fact that racial disqualifications are treated specifically in the Fifteenth Amendment. It is much too late to question this force of the Fourteenth Amendment in this area. Indeed, the first of the so-called white primary cases was decided on the basis of the Fourteenth rather than the Fifteenth. As Justice Reed later pointed out, "Without consideration of the Fifteenth, this Court held that the action of Texas in denying the ballot to Negroes by statute was in violation of the equal protection clause of the Fourteenth Amendment." *Smith* v. *Allwright,* 321 U.S. 649, 658 (1944), referring to *Nixon* v. *Herndon,* 273 U.S. 536 (1927). The whole line of reapportionment cases rests on the applicability of the equal-protection guarantee to the suffrage; and surely religious qualifications, which are impermissible for office-holding, would be equally forbidden for voting in light of the Fourteenth Amendment.

The essential question, then, is whether Congress, in its power and responsibility to enforce the guarantees of the Fourteenth Amendment, may properly conclude that the exclusion from the suffrage of those between 18 and 21 years of age now constitutes an unreasonable discrimination. That this is a judgment for the Congress to make is plain from the original conception of the Fourteenth Amendment and from recent decisions under it. Section 5 of that Amendment, empowering Congress to enforce its provisions "by appropriate legislation," was regarded as the cutting edge of the Amendment. It was expected that Congress would supply the substantive content for the deliberately general standards of equal protection, due process, and privileges and immunities.

Recent decisions have emphasized the propriety, indeed the responsibility, of Congressional action in the area of voting rights. In 1965, as you know, Congress enacted a provision of the Voting Rights Act that overrode state requirements of literacy in English, where a person had received a sixth-grade education in another language in a school under the American flag. It was argued, in contesting the Federal law, that Congress could so provide only if the English-literacy requirement were regarded by the Court itself as in violation of the equal-protection guaranty of the Fourteenth Amendment. Upholding the Federal law, the Supreme Court emphasized that the judgment of unreasonable discrimination was one that Congress had appropriately made for itself, and that its judgment would be upheld unless it were itself an unreasonable one. Any other view of the Court's function, said the Court, "would depreciate both Congressional resourcefulness and Congressional responsibility for implementing the Amendment. It would confine the legislative power in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the 'majestic generalities' of section 1 of the Amendment." "[I]t is enough," the Court added, "that we perceive a basis upon which Congress might predicate a judgment that the application of New York's literacy requirement . . . constituted an invidious discrimination in violation of the Equal Protection Clause." *Katzenbach* v. *Morgan,* 384 U.S. 641, 648–649 (1966).

The Supreme Court has held, in a six-to-three decision, that the poll tax as a condition of voting in state elections is unconstitutional even without a Congressional judgment on the matter. *Harper* v. *Virginia Board of Elections,* 383 U.S. 663 (1966). Whether or not one agrees with that decision, for present purposes the case has a twofold significance. The first relates to the dissenting opinions. Justice Black, protesting against the "activism" of the majority (as others have termed it), went on to say, "I have no doubt at all that Congress has the power under section 5 to pass legislation to abolish the poll tax in order to protect the citizens of this country if it believes that the poll tax is being used as a device to deny voters the equal protection of the laws . . . But this legislative power which was granted to Congress by section 5 of the Fourteenth Amendment is limited to Congress . . . For Congress to do this fits in precisely with the division of powers originally entrusted to the three branches of government—Executive, Legislative, and Judicial." *Id.* at 679–680. The other dissenters, Justices Harlan and Stewart, referred to the possible authority of Congress and said that they "intimate no view on that question." Id. at 680, n. 2. Thus it is entirely possible that had Congress itself acted, the decision might have been unanimous.

The second point of significance in the poll-tax case is the bearing of the constitutional amending power. There was then in effect, of course, the Twenty-Fourth Amendment, abolishing poll taxes in relation to Federal elections. Both the majority and minority opinions show that Congressional authority is not precluded because the sub-

ject might be committed, indeed had been committed, to the amending process.

It could be asked whether, on the basis of the views reflected here, it was actually necessary to have achieved woman suffrage through a constitutional amendment. At the time of the Nineteenth Amendment the power of Congress to enforce the equal-protection guaranty was in a dormant state. The alternatives were thought of as a judicial decision striking down exclusively male suffrage, or an amendment to the Constitution. In retrospect, it seems tolerably clear that from the standpoint of constitutional power (putting aside considerations of political expediency), Congress could have determined by law that exclusion from voting on the basis of sex was an unwarranted differentiation.

The question for Congress is essentially the same, whether the exclusion be on criteria of sex, residence, literacy, or age. It is not my purpose to review the considerations that have been brought forward in favor of reducing the voting age. They involve a judgment whether twenty-one has become an unreasonable line of demarcation in light of the level of education attained by younger persons, their involvement in political discussion, their capacity in many cases to marry, their criminal responsibility, their obligation for compulsory military service. Historically, we are told, twenty-one was fixed as the age of majority because a young man was deemed to have become capable at that age of bearing the heavy armor of a knight.

The cumulative effect of such considerations on the continued reasonableness of twenty-one as a minimum voting will, I am sure, be canvassed by the Congress. My purpose, responsive to your invitation, has been to indicate why I believe that Congress may properly make such a judgment and embody it in the form of a statute.

Yours very sincerely,

PAUL A. FREUND,
Professor, Harvard Law School.

THE WALKER FAMILY—DEVOTION TO DUTY

Mr. GRIFFIN. Mr. President, the State of Michigan has long been known as the "Arsenal of Democracy." But the contribution of the State to the defense of America has never been limited to supplying the arms and equipment to enable the men in our armed services to carry out their mission.

A symbol of Michigan's contribution to our Nation's defense, and an example to the entire Nation, is the family of Mr. and Mrs. James Walker, of Fremont, Mich. The Walkers have 10 sons and all of them have served in our Armed Forces. Six of their 10 sons are serving now in the Air Force. Of the four sons who are now civilians, three served in the Air Force and one in the Marine Corps.

Each and every one of the 10 sons enlisted in the service of his choice.

Currently on active duty are S. Sgt. Norman A. Walker, whose 6 years of service so far have taken him to Korea and Germany; S. Sgt. Charles W. Walker, now at Plattsburgh Air Force Base, N.Y., after serving in Vietnam and Okinawa; S. Sgt. Stephen J. Walker, presently stationed in Thailand; Sgt. Mark Walker, now in the Philippines after 18 months in Vietnam; Sgt. Richard Walker, on duty in Vietnam; and Airman Dennis L. Walker, of Sheppard Air Force Base, Tex.

The members of the Walker family who are veterans of our Nation's service are David D. Walker, a former staff sergeant who served in Thailand; Gerald C. Walker, a veteran of service in Vietnam, who is now living in Saigon and works as a jet engine mechanic with Lear-Seigler Aircraft Corp., of Grand Rapids; Frank B. Walker, whose service was as a marine sergeant, and Robert G. Walker, a former Air Force staff sergeant who was a radar technician.

Besides their 10 sons, Mr. and Mrs. Walker have two daughters, Mrs Carol Rice, of Muskegon Heights, Mich., and Mrs. Helen Wade, of Hopewell, Va.

In these trying times—resistence to the draft, demonstrations against military bases and, in some cases, outright refusal to fulfill military obligations—the Walker family stands as a bright and shining example of the loyalty, dedication, and devotion that most Americans feel for their country.

Like so many others, Mr. and Mrs. Walker are patriotic Americans who lead quiet lives, who pay their taxes and are rarely noticed outside their own communities and their own circle of friends. But they are being recognized as very special people this week.

They have been brought to our Nation's Capitol as the guests of the Veterans of Foreign Wars of the United States, now holding its annual midwinter conference in Washington. This organization of former servicemen deserves special praise for forming attention upon the contribution of James and Pearl Walker of all 10 of their sons to their Nation's service.

I am especially pleased to have been able to assist the Walkers and the VFW during their stay in Washington and to thank Raymond A. Gallagher commander in chief of the VFW, and James Milliron, commander of the VFW Department of Michigan, for enabling Mr. and Mrs. Walker to view the Nation's Capitol which their sons have so selflessly served.

The PRESIDING OFFICER (Mr. STENNIS in the chair). If the Senate will indulge the Chair at this time, the Chair would like to commend the Senator from Michigan for bringing these facts to the attention of the Senate as well as to the public. The Chair commends this wonderful family, particularly its 10 sons who exemplify with such fine spirit their dedication to the Armed Forces.

Mr. GRIFFIN. Mr. President, I thank the Presiding Officer for his generous remarks.

ONE AMERICAN'S HOPE FOR THE FUTURE

Mr. GRIFFIN. Mr. President, I was recently notified that one of my constituents, Richard W. Skinner, of Tecumseh, Mich., was selected as winner of the George Washington Honor Medal Award given by the Freedoms Foundation.

Mr. Skinner, an officer in the Air Force ROTC at the University of Michigan, wrote a letter entitled "My Hopes for America's Future."

This young man's love for his country, his assessment of its current condition, and his hope for its future are worthwhile reading.

I ask unanimous consent that the letter be printed in the RECORD.

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

MY HOPES FOR AMERICA'S FUTURE

My hopes for America's future are wider than the eastern seaboard, longer than the Mississippi, higher than Mount McKinley, and deeper than the Pacific. They are stronger than the granite of the Rockies, older than Plymouth Rock and shared by well over 200 million people. They are hopes for lasting peace, prosperity, and prominence. They are segments of American thought, goals which have been obtained only after years of struggle; targets that are often shot at and missed by people less fortunate than Americans; gifts that have been taken for granted by others and lost in the dusts of crumbling civilizations.

What else have Americans to dream on? Little in respect to that which our ancestors had and that which is shared by the majority of the people on earth. When once our parents hoped for personal freedoms—like freedom to worship, freedom to choose their leaders and to speak, freedom to produce and to sell, and freedom from tyranny and misjustice, modern America hopes for bigger cars, larger homes and longer vacations; small goals in consequence, though real goals, for unfortunately, modern Americans have fallen into the routine of "have," and have forgotten the "have not." We sometimes forget and have, indeed, little to remind us of the precarious position anything as fragile as freedom has in a world where choice is a costly possession. Yes, the modern American is born into a world where it is unnecessary to quest for freedoms, and we have lost perception of their importance.

I hope that man will strive to recover an understanding of his American Heritage, a knowledge of the gifts he has already attained—that he will seek out his most valuable possessions and guard them, and fight for them if necessary. I hope that man will be willing to sacrifice lesser riches for those that he must maintain. If he is willing to recognize these trusts to sustain the "American Dream" he will not have to worry about America's future, for it will be guided by the greatest pillars of civilization that man has known—the United States.

My hopes for America's future include a desire that modern man re-evaluate his position in society, that he reconsider his personal objectives and that he assert his goals for a greater and better America. He has had the foundation of freedom laid for him. He has toiled on that block for over one hundred and ninety years. I hope that he will continue where others have slowed or stopped—he must take that responsibility.

Yes, my hopes for America's future are great—but they are not too great, they are certainly not new but they will never be old. They dance across a whole continent and into a vast ocean, they flow into the far north, they are realities, and they are dreams—a hope for a bright tomorrow?

TRIBUTE TO THE COMMUNITY OF EAST CHICAGO HEIGHTS

Mr. PERCY. Mr. President, of the 250 communities in the Chicago metropolitan area, I do not think there would be much dispute that the community of East Chicago Heights would probably be at the bottom of the barrel so far as its economic and social statistics are concerned.

The gloomy statistics are as follows:

Education—median number of school years completed, 7.9, with only 10 percent of the population over age 25 having completed high school.

Health—the highest infant mortality rate in Cook County; 39.7 deaths per 1,000 births.

Unemployment—9.85 percent of males over age 14 in work force; 19.5 percent of females in work force. Only 3.8 percent of employment in professions.

Poverty—more than a third of all families—36.1 percent—living on incomes below $3,000. Median family income, $4,421.

Housing—65.4 percent of all families living in substandard dwellings.

Welfare—28.8 percent under age 21 receive aid to dependent children, 26.5 percent over age 65 receive old age assistance.

These statistics would be discouraging and gloomy—and indeed they are—other than the fact that the spirit of the people in this community has not been crushed despite the crushing economic conditions they face. This is, as could probably be surmised, essentially a black community. But this community has determined that it is going to rise by its own bootstraps. And despite the fact that it is virtually devoid of industry or a tax base, it intends to do something for its own people, its own aged, its own children, its own undereducated people.

I have had occasion to visit this community on several occasions. And I am very pleased to indicate at this time their efforts to raise for themselves the one-third matching funds for an OEO grant that would enable them to construct a community center which has now essentially been completed.

I was there at the kickoff. Children contributed nickels, dimes, and pennies. They sold bottles and other objects to raise money for the center.

I do not think there is an individual in the community that has not been contacted. They have called on some of the neighboring communities and business establishments for assistance and help.

Mr. President, I ask unanimous consent that there be printed in the RECORD the report made by some of the leading citizens of this community on the heartening progress they have actually made in an otherwise very discouraging situation.

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

THE TURNING POINT—1965–69

At midpoint of the decade of the '60s, we found our first funds for a community project all our own, which we could plan for and carry out. Before that, it was always other people coming in from outside the community to do "a little something" for us. Through the Cook County Office of Economic Opportunity, we applied for and received funds to begin two day care centers in the only available community space, the two public housing projects on either side of Highway 30, in which so many of our people live. The following year we obtained from the same source the necessary funds to remodel an old house and to begin our first Head Start program. Under our own Citizen Advisory Committee, these programs have successfully served children between the ages of 3 and 5, giving them the full range of medical, educational, nutritional and social services that so many of our children require if they are to begin to overcome the handicaps of poverty into which they are born. In addition to good care for children, the program has enabled mothers to become or to remain fully employed. We are very proud that all of the local people hired into these programs have received professional training, so that now it is entirely operated by local staff with good qualifications.

The involvement of mothers in this program has been excellent, giving the whole community a little army of concerned people who have learned from their own experience that they *can* make a difference. Our success and our increased self-confidence as a result, led us to encourage our Village government to apply for a Neighborhood Facilities grant from the Department of Housing and Urban Development. We began to see that we could stop our long skid into the seemingly bottomless pit of disadvantage if we could extend our day-care, head-start experiences into other services and upgrading programs for all age groups in the community. This would require suitable space, and money to hire and to train or retrain our own suitable staff. Our Village Board submitted the application for an N–F grant in December, 1966. Nothing happened.

Then, suddenly, in April, 1968, the Mayor of our Village received notice that HUD had made a reservation of $389,000, and that if we could match this amount with our local share of $195,000, we could build the multi-purpose community center that we needed so badly.

The HUD requirements for a ⅓ matching share for a community like ours is, of course, ridiculous. With a total assessed valuation of only 4½ million dollars for the entire village, we couldn't possibly tax ourselves enough to raise it. But following an appearance of our Mayor on an evening news broadcast after the HUD announcement was made, we received an encouraging response from people outside the community who offered their help, including United States Senator Charles Percy. We were not sure that it could be done, but our elected officials decided that we would be no worse off if we tried and failed, so the Mayor appointed an Advisory Committee for a Community Center composed entirely of local citiens who, in turn, invited five people from outside the community to join us, and thus, this inter-community, bi-racial board was born.

With the assistance of a volunteer attorney, we formed the East Chicago Heights Community Service Center, Inc., incorporated under the laws of the State of Illinois, and then applied for and received from the Internal Revenue Service, tax exempt status under sec. 501(c)(3). On Decoration Day, May 31, 1968, Senator Percy was our guest speaker and kicked off our campaign to raise the matching funds. From the nickles and dimes of school children and sale at our open air rally that day, we raised $500 . . . only $190,000 to go!

Despite discouragement from many people who were supopsed to know how such things are done, we raised $70,000 by the end of our first deadline; another $26,000 by the end of the second, and, finally, on December 31, or just six months after we started, we had raised $128,000 in cash and pledges. The Village government then followed through on their earlier commitment, and called for a referendum which our people approved by a three to one majority to issue $75,000 worth of bonds, and so by March 1, 1969, the local share was secured. This story of sacrifice, of setbacks, of strugles that are never encountered in cities because of their superior command of resources of all kinds, is unusual in the annals of HUD, and unheard of in our segregated suburbs. But we did prove to ourselves and to other people that a sense of community *does* exist, and that if we can continue to take the initiative, we will find support from individuals and institutions in the broader south suburban community.

We would like to report that after so astounding a success, everything had gone smoothly for us from then on. It has not, nor do we think it every will. We think that the struggles that have marked the end of the decade of the '60s will continue into the '70s. But we would point out that now, the nature of the struggle is different, because a few of us have "been to the mountain-top". We have stopped to skid. We are beginning to climb up and out. Whether we will "make it" remains unpredictable. We only know that we have more to build on, a lot more, as we go into the '70s than we had at the beginning of the last decade. We can now begin to see the ways to bring about substantial improvement in the quality of life for every man, woman, and child living in this community . . . still blighted, but not hopeless.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mrs. GREEN, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. O'HARA, Mr. CAREY, Mr. HAWKINS, Mr. WILLIAM D. FORD, Mr. HATHAWAY, Mrs. MINK, Mr. MEEDS, Mr. AYRES, Mr. QUIE, Mr. ASHBROOK, Mr. BELL, Mr. ERLENBORN, Mr. SCHERLE, Mr. DELLENBACK, Mr. ESCH, Mr. STEIGER of Wisconsin, and Mr. RUTH were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore (Mr. ALLEN):

H.R. 13300. An act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities, and for other purposes; and

H.R. 14944. An act to authorize an adequate force for the protection of the Executive Mansion and foreign embassies, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF AGREEMENTS SIGNED FOR FOREIGN COUNTRIES UNDER PUBLIC LAW 480

A letter from the Acting General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of agreement signed for foreign currencies under Public Law 480 (with an accompanying report); to the Committee on Agriculture and Forestry.

PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL HOME LOAN BANK BOARD

A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to authorize the appropriation of funds to be utilized by the Federal Home Loan Banks for the purpose of adjusting the effective rate of interest to short-

term and long-term borrowers on residential mortgages (with an accompanying paper); to the Committee on Banking and Currency.

PROPOSED LEGISLATION TO ESTABLISH A FEDERAL HOME LOAN MORTGAGE CORPORATION

A letter from the Chairman, Federal Home Loan Bank Board, to create a Federal Home Loan Mortgage Corporation, and for other purposes (with an accompanying paper); to the Committee on Banking and Currency.

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON THE DISPOSAL OF CERTAIN FOREIGN EXCESS PROPERTY

A letter from the Deputy Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the disposal of certain foreign excess property; to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements of the Virgin Islands Corporation (in final liquidation), for fiscal year 1969, Department of the Interior, dated March 6, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the combat readiness of the Strategic Air Command, Department of the Air Force, dated March 9, 1970 (with an accompanying report); to the Committee on Government Operations.

PROPOSED GRANT AGREEMENT WITH THE UNIVERSITY OF IDAHO, MOSCOW, IDAHO

A letter from the Acting Director, Bureau of Mines, Department of the Interior, transmitting, pursuant to law, a proposed grant agreement with the University of Idaho, Moscow, Idaho, for a research project entitled "Development of Improved Ventilation Technology for Non-coal Mines and Other Underground Excavations" (with accompanying papers) to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION BY THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

A letter from the Chairman, American Revolution Bicentennial Commission, transmitting a draft of proposed legislation to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF THE ATOMIC ENERGY COMMISSION

A letter from the Chairman Atomic Energy Commission, transmitting, pursuant to law, one copy each of the Commission's official reports—"Annual Report to Congress for 1969" and its supplement, "Fundamental Nuclear Energy Research—1969" (with accompanying reports); to the Joint Committee on Atomic Energy.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 1497. An act to permit the vessel Marpole to be documented for use in the coastwise trade (91–719).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 360. Resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries into the United Mine Workers election of 1969 and pension and welfare funds generally (Rept. No. 91–720).

Mr. MANSFIELD subsequently said: Mr. President, earlier today the Senator from North Carolina (Mr. JORDAN) reported from the Committee on Rules and Administration Senate Resolution 360, authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries into the United Mine Workers election of 1969 and pension and welfare funds generally.

I ask unanimous consent that the individual views of the Senator from Kentucky (Mr. COOPER) be printed as part of the report.

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

BILLS INTRODUCED

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

By Mr. CHURCH:

S. 3557. A bill to require that after a certain date the General Services Administration and the Post Office Department purchase a certain type of motor vehicle; to the Committee on Government Operations.

By Mr. MAGNUSON (for himself, Mr. PASTORE and Mr. SCOTT, by request):

S. 3558. A bill to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting; to the Committee on Commerce.

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

By Mr. PEARSON:

S. 3559. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to make income on insured loans sold out of the Agricultural Credit Insurance Fund subject to Federal income taxes, and for other purposes to the Committee on Finance.

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

By Mr. COOK (for himself, Mr. GOLDWATER, Mr. DOMINICK, Mr. SCOTT, Mr. JAVITS, Mr. PACKWOOD, Mr. HATFIELD, Mr. CASE, Mr. BOGGS, Mr. SCHWEIKER, Mr. BROOKE, Mr. FONG, Mr. PERCY, Mr. YOUNG of Ohio, Mr. BAYH, Mr. RIBICOFF, Mr. MCGEE, Mr. CHURCH, Mr. CRANSTON, and Mr. HUGHES):

S. 3560. A bill to provide for lowering the minimum age at which citizens shall be eligible to vote in elections; to the Committee on Rules and Administration.

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

By Mr. BYRD of West Virginia:

S. 3561. A bill for the relief of Miss Christina Flores; to the Committee on the Judiciary.

By Mr. HUGHES (for himself, Mr. MANSFIELD, Mr. YARBOROUGH, Mr. JAVITS, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, and Mr. SCHWEIKER):

S. 3562. A bill to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence; to the Committee on Labor and Public Welfare, by unanimous consent, then title IV of the bill to be re-referred to the Committee on the Judiciary, and Title VI of the bill to be re-referred to the Committee on Finance, by unanimous consent.

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

By Mr. HRUSKA:

S. 3563. A bill to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear monial identification procedures, and for other purposes; and

S. 3564. A bill to amend the Federal Youth Corrections Act, 18 U.S.C. 5005 et seq., to permit examiners to conduct interviews with youth offenders; to the Committee on the Judiciary.

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

By Mr. MCINTYRE:

S. 3565. A bill to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes; to the Committee on Commerce.

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

By Mr. SCOTT (for himself and Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. COOK, Mr. DOLE, Mr. HART, Mr. INOUYE, Mr. MCGEE, Mr. MANSFIELD, Mr. MILLER, Mr. PERCY, Mr. RANDOLPH, and Mr. SCHWEIKER):

S. 3566. A bill to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture; to the Committee on Labor and Public Welfare.

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

By Mr. CURTIS:

S. 3567. A bill to amend the Consolidated Farmers Home Administration Act of 1961 and the Housing Act of 1949 so as to extend to veterans of the Vietnam era the same loan preference with respect to farm and farm housing loans as are extended under such arts to veterans of other wars; to the Committee on Agriculture and Forestry.

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

Mr. KENNEDY (for himself, Mr. BAYH, and Mr. MATHIAS):

S. 3568. A bill to amend chapter 7, title 5, United States Code with respect to procedure for judicial review of certain administrative agency action, and for other purposes; and

S. 3569. A bill to amend section 553, title 5, United States Code, relating to administrative practice and procedure, to remove certain exemptions from the requirement of notice of proposed rulemaking; to the Committee on the Judiciary.

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

By Mr. MONDALE:

S. 3570. A bill for the relief of Dr. Vasu Dev Arora, his wife Kanchan Bala and son, Ajay Kumar; to the Committee on the Judiciary.

By Mr. COOPER:

S. 3571. A bill for the relief of Prof. Gunter Haslop; to the Committee on the Judiciary.

S. 3558—INTRODUCTION OF THE PUBLIC BROADCASTING FINANCING ACT OF 1970

Mr. MAGNUSON. Mr. President, by request, Senator PASTORE, Senator SCOTT, and I introduce the following bill which would amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting.

I ask unanimous consent to have a letter that was submitted by the Department of Health, Education, and Welfare requesting the legislation as well as an explanation of the purpose of the legislation printed in the RECORD.

I am hopeful that hearings will be held very shortly on this legislation.

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

The bill (S. 3558) to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting, introduced by Mr. MAGNUSON, for himself and other Senators, by request, was received, read twice by its title and referred to the Committee on Commerce.

The material submitted by Mr. MAGNUSON is as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
March 3, 1970.

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

DEAR MR. PRESIDENT: We are enclosing herewith a draft bill, "To amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting." This bill would be cited as the "Public Broadcasting Financing Act of 1970."

The Corporation for Public Broadcasting was established by Public Law 90–129, enacted November 7, 1967, in order to facilitate the development of public radio and television broadcasting. The enclosed legislative proposal is designed to carry out the President's recommendation, as set forth in his Message on Education Reform, to extend Federal support of the Corporation.

The bill would authorize annual appropriations for the Corporation through fiscal year 1973, in order to provide a sound basis for its continued growth and improvement. Such sums as may be necessary would be authorized for each of the fiscal years 1971 through 1973.

The Congress did not intend the Corporation to derive its resources solely from the Federal Government. Accordingly, in line with the President's recommendations, the bill would also create an incentive for additional financial support for public broadcasting from non-Federal sources, by providing for federal matching (on a dollar for dollar basis) of non-Federal contributions to the Corporation.

Paragraph (2) of section 396(k) of the existing law, which limits grants or contracts to any one station or for any one project to $250,000 for fiscal years 1969 and 1970, would not be extended. This provision has an unduly restrictive effect on the operations of the Corporation.

We should appreciate it if you would refer this draft to the appropriate Committee for consideration.

We are advised by the Bureau of the Budget that enactment of this bill would be in accord with the program of the President.

Sincerely,

JOHN G. VENEMAN,
Acting Secretary.

PURPOSE

The purpose of the bill is to provide continued financing for the Corporation for Public Broadcasting. The bill authorizes annual appropriations for the Corporation through fiscal year 1973, thus allowing the Corporation time to develop more support by the general public for public broadcasting. The draft bill would also reflect such public support by providing for Federal matching of non-Federal contributions for public broadcasting. This would serve as an incentive for additional financial support from non-Federal sources.

DESCRIPTION

Appropriations would be authorized in two parts, drawing on the model used successfully for the National Foundation on the Arts and the Humanities.

The first part would be a definite annual appropriation.

The second part would be Federal matching on a $1 for $1 basis of the contributions, gifts, etc., made to the Corporation during each fiscal year.

Funds for Federal matching would also be appropriated annually, but within ceilings specified in appropriation language. Thus, the Corporation would be assured of annually receiving up to the ceiling, assuming that non-Federal contributions amount to as much as was estimated at the time the appropriation is requested.

Subsection (2) of section K of the existing law would be repealed by the draft bill. That subsection limits grants or contracts to any one station or for any one project to $250,000.

S. 3559—INTRODUCTION OF A BILL TO MAKE INCOME ON INSURED LOANS SOLD OUT OF THE AGRICULTURAL CREDIT INSURANCE FUND SUBJECT TO FEDERAL INCOME TAX PURPOSES

Mr. PEARSON. Mr. President, one of the most pressing needs facing thousands of our rural communities today is the development of adequate water and waste disposal systems.

The Department of Agriculture has estimated that there are over 44,000 rural towns without adequate waste disposal facilities and 34,000 rural towns without adequate water systems.

These estimates dramatically illustrate the enormous challenge facing rural communities in providing adequate public facilities for their residents.

Mr. President, the development of adequate water and waste disposal systems is of particular importance to the well-being of our farm communities and smaller towns and cities.

Lack of an adequate water and waste disposal system may very likely present a health hazard for the residents of the community.

Every rural community with an inadequate waste disposal system is very likely to be a source of pollution for our precious water resources.

Moreover, inadequate water and waste disposal systems severely hinder a community's efforts to attract new business and industry. Indeed, it is widely recognized, Mr. President, that the existence of adequate water and waste disposal systems is essential to a community's economic development efforts. If new job creating industries are to be located in rural communities, these communities must be able to provide necessary public facilities to serve the needs of these industries.

Several Government agencies offer assistance to communities for the development of water and waste disposal systems. One of the most effective such programs is one administered by the Farmers Home Administration. But, at the moment, the potential of this program is severely crippled.

The Farmers Home Administration first provided assistance to rural communities for the development of water facilities in 1937. However, it was with the enactment of Public Law 89–240 in 1965 that the Farmers Home Administration was given the tools to become involved in a major way with the development of water and waste disposal systems. This law authorized the Farmers Home Administration to make and insure loans to rural communities for water and waste disposal projects and also to make development grants for such projects.

Public and quasi-public agencies and private nonprofit corporations including cooperatives, water districts, towns, and other such organizations which serve residents of open country and rural towns of no more than 5,500 people, may receive financial and technical assistance for planning, developing, and improving facilities for extending water and waste disposal services, provided they are unable to obtain adequate credit from other sources at reasonable rates.

One of the most valuable instruments provided the Farmers Home Administration by Public Law 89–240 was the authority to purchase tax-exempt bonds of public and quasi-public bodies through the Agriculture Credit Insurance Fund and then to resell these bonds, with Farmers Home Administration insurance endorsement, to private investors. In the short period of time between the enactment of Public Law 89–240 and the end of the 1969 fiscal year, Farmers Home received 3,418 applications from rural communities to finance water and waste disposal projects through this mechanism of insured public bonds.

This program was so attractive to small rural towns because unlike larger cities they have great difficulty selling their bonds to private investors. However, the insurance endorsement by FHA assures their marketability and allows the town to proceed with the development of its water and waste disposal system.

This heavy demand for insured public loans triggered a study by the Treasury Department and Bureau of the Budget which resulted in the decision that it was not proper for the Government to insure loans to such public bodies if the interest income paid to the insured lenders was to be tax exempt.

As a result, FHA was limited in fiscal 1967 to $35,000,000 in insured loans of this type. No such loans have been authorized since then and the Farmers Home Administration has rejected over 3,100 applications—representing approximately $600 million—during that period

Mr. President, I am today introducing legislation which would overcome the objections of the Treasury Department. This legislation would permit the Farmers Home Administration to purchase through its Agriculture Credit Insurance Fund, tax-exempt bonds from public bodies that were issued to finance water and waste disposal facilities. These bonds would then be insured by the Farmers Home Administration and resold to private investors, but with the requirement that the purchaser pay income tax on the full amount of interest paid to him by the Farmers Home Administration. Under present law the Farmers Home Administration would

pay the bond issuing authority an interest rate of not to exceed 5 percent.

In order to be competitive in today's market, the Farmers Home Administration would have to pay about 8 percent interest on these bonds. Thus, the agriculture and credit insurance fund would have to finance an interest subsidy of about 3 percent. However, it is quite likely that the flow of new tax revenue to the Federal Treasury would more than compensate for this subsidy.

For fiscal 1970 the Bureau of the Budget authorized the Farmers Home Administration to make insured loans of this type of up to $245,000,000 pending passage of legislation similar to that which I introduce today. This would permit approximately 1,300 additional loans for water and waste disposal facilities. Even this substantial increase would not meet the existing demands for this type of loan. However, for the purpose of illustration, we will use the $245 million figure which, as I say, is really very minimal considering the needs. A 3-percent interest subsidy on $245 million is $7,350,000. That is to say that this is the additional dollar cost to the agriculture credit insurance fund. However, an extremely high percentage of those who would be purchasing these bonds from the Farmers Home Administration are in a 50 percent or higher income tax bracket. Again for the purpose of illustration, we can multiply the $245 million figure by the anticipated 8 percent interest. This yields a total interest income of $19,600,000. If this were then taxed at the 50-percent rate, the new taxes to the Federal Treasury would equal $9,800,000 which is considerably more than the interest subsidy cost of operating the program.

But even if there were no new revenues generated, it would seem to me that the $7 million subsidy figure would be a small cost compared to the enormous benefits that would be gained by opening up this new money source to rural communities which so need to develop and improve water and waste disposal systems.

This legislation is clearly justified as a part of our overall effort to stimulate rural development and also as a part of our overall efforts to control the problem of water pollution.

Mr. President, the Senate passed legislation similar to that which I propose today late in the 1968 session. Similar legislation was introduced again last year by the distinguished Senator from New Mexico (Mr. MONTOYA) with the cosponsorship of the distinguished Senator from Vermont (Mr. AIKEN). The bill I introduce today does not differ substantially; however, it does allow the Farmers Home Administration to purchase tax-exempt bonds used to finance irrigation and drainage projects as well as water and waste disposal projects.

Mr. President, the passage of this legislation would open up a valuable source of assistance which would be used by at least 100 rural communities in Kansas and several thousand across the Nation. This program would not likely result in any net drain on the Treasury. Indeed, a revenue surplus is quite probable. And most certainly the resulting development and improvement of rural water and waste disposal systems would contribute to improved rural health, reduce water pollution, and further the overall cause of rural economic development.

Thus the justification for this legislation is apparent and I hope that the Congress acts favorably upon it. Mr. President, I ask unanimous consent that the text of the bill 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. 3559) to amend the Consolidated Farmers Home Administration Act of 1961 to make income on insured loans sold out of the Agricultural Credit Insurance Fund subject to Federal income taxes, and, for other purposes, introduced by Mr. PEARSON, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 (d) of the Consolidated Farmers Home Administration Act of 1961 is amended by adding at the end of the following new sentence: "Interest or other income paid out of the fund to the insured holders of notes hereafter sold out of the fund shall not be exempt, under section 103 (a) of the Internal Revenue Code of 1954 or similar successor law, from Federal income taxation."

S. 3565—INTRODUCTION OF A BILL TO PROTECT THE CONSUMER FROM MISLEADING, UNDECIPHERABLE, AND UNTRUSTWORTHY WARRANTIES

Mr. McINTYRE. Mr. President, every day consumers purchase thousands of different kinds of appliances, personal products and automobiles, most of which are accompanied by some kind of warranty outlining what the manufacturer will do in case of defects in the products or failure to perform properly during a specific period.

These warranties constitute one of the major problems facing the consuming public. In many instances the purchasers are virtually unable to decipher the scope or coverage of the guarantee they receive when they make their purchase.

The technical language and format of the warranties on many products would send a Philadelphia lawyer scurrying for a textbook, and are totally incomprehensible to the average person. The consumer is not sure what protection the warranty gives him although the language conveys the impression that the repair of any defects in the product will be automatic, complete, and without charge. In all too many cases this blind optimism has proven unfounded.

In many cases, small type, appropriately hidden at the bottom of the large type, disclaims any implied warranty or fitness of the product for use and establishes all kinds of preconditions for obtaining the services listed. This is hardly consistent with the popular belief that warranties, whether implied or stated, mean that a manufacturer will stand behind his product.

When something does go awry with a warranted item the impact on the consumer is often disastrous. There may be unreasonable and excessive delays in providing repair service. Often, completely unrealistic procedures must be followed in order to obtain repair. For example, there have been warranties which require the return of the item in the original box in which the product was sold to the consumer. That box usually goes in the waste container on the night of the purchase or, at least, is destroyed before the warranty is read and understood or the product malfunctions.

In some instances, warranties require that the imperfect product must be returned to a distant and difficult to reach specific location to obtain repair under the guarantee. There are many instances of the unavailability of the proper parts to make needed repairs. Often there are unexpected "service charges." In other cases, even after repairs have supposedly been provided, the product still does not perform properly.

Public attention and concern has prompted some improvement in this area and many companies are attempting to improve the understandability of warranties and to fulfill the promises made under them. But such efforts are neither universal nor completely effective. As a result the consumer still does not know how long a product will last, nor can he have full confidence in the manufacturer's ability and willingness to provide repair service.

I am therefore introducing legislation, the goal of which is to enable the purchaser to understand a warranty and to insure that the manufacturer fulfills his obligations thereunder. This legislation would require clear and concise language as to what is covered and what is not covered in each warranty. The caveats, exclusions, and disclaimers by the manufacturers and the responsibilities of the purchaser will be readily apparent and understood under the provisions of this legislation.

This legislation would also protect against the now common practice of inserting a disclaimer of any implied warranty into an express warranty. I do not believe that manufacturers should be able to avoid in this manner legal obligations which they might otherwise have. I was happy to note that the Chairman of the Federal Trade Commission testified in this same vein when he appeared before the Consumer Subcommittee of the Senate Commerce Committee.

There are several bills pending which deal with warranties. I would note especially the bill S. 3074 introduced by the distinguished chairman of the Senate Commerce Committee, the Senator from Washington (Mr. MAGNUSON). This is an excellent bill for the purposes for which it was drafted, and one which I can wholeheartedly support. It indicates once again the magnificent leadership the Senator from Washington has given in attempting to solve the problems of the consumer. However, I believe there

are additional problems with respect to warranties which I hope will be solved by the national warranty standards and performance bill which I am introducing today.

Most of the existing proposals authorize the setting and publication of standards for warranties. However there appears to be some question as to whether such standards would have the force and effect of law. My bill, I believe, does provide the force and effect of law and offers a feasible means for enforcement.

Additionally, the standards proposed in most of the legislation previously offered will, I believe, hardly be pervasive enough to insure full disclosure on the myriad of products which might be covered. Another drawback to these proposals is that the regulations would have to be on a case by case basis using the cease and desist mechanism of the Federal Trade Commission. It would certainly be difficult to prove in court that a warranty is not clear and concise when serious attention is focused upon it and, indeed, there also seems room for argument as to what is clear and concise and to whom.

Another area not sufficiently defined in proposed legislation is what amount of service on a product is necessary in order to be considered adequate and whether a manufacturer can be prosecuted because one of several areas of service falls below accepted standards.

The previously proposed legislation is laudable and worthwhile insofar as it goes, but I think these bills overlook the pragmatic problems of achieving compliance. I believe that the bill I am offering today alleviates many of the difficulties implicit in a regulatory program based on generalities. Registration of all warranties, such as I propose, giving the Federal Trade Commission a chance to review them for clarity, conciseness and full disclosure appears to me to be an efficient, easily administered and expeditious means of dealing with warranty problems. It would place the major responsibility on the manufacturers, where it belongs, to provide meaningful warranties which they could be required to back up.

Administrative safeguards would be provided to avoid arbitrary decisions by the FTC. There would be an initial period provided during which all existing warranties would be conditionally registered, pending review. I believe that this initial period for review by the FTC and the knowledge that registration could be revoked if warranties were found lacking would stimulate immediate improvements and accomplish much in a short time.

I hope that this plan of protecting the consumer from false, misleading and deceptive warranties will receive the strong and full support of my colleagues.

Mr. President, I introduce for appropriate reference a bill, the National Warranty Standards and Performance Act of 1970.

Mr. President, I further ask that the full text of this proposed legislation be printed at this point 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. 3565) to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes, introduced by Mr. MCINTYRE, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Warranty Standards and Performance Act of 1970".

DECLARATION OF POLICY

SEC. 2. The warranty accompanying an article of sale frequently comprises a major element of the total value represented to the consumer. Informative, accurate, clear, and fair warranties, backed up by warrantors with quality replacement parts or efficient services warranted, are essential elements of our free market economy. The presentation and content of the warranty prior to sale, and the consistency of performance of warranty obligations after sale, should facilitate value comparisons and promote fair competition. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and business in reaching these goals in the marketing of consumer goods.

FINDINGS OF FACT

SEC. 3. The Congress finds that—

(1) those who warrant goods in an unfair manner or fail to provide for the performance, or fail to perform the warranty made, inhibit fair competition, frustrate value comparisons by consumers and promote disharmony between consumers and business;

(2) in order to facilitate value comparisons by consumers, promote fair competition within the business community, and promote harmony between consumers and the business community it is necessary to provide for the promulgation of standards governing the presentation, accuracy, clarity, and elements of disclosure of warranties, and to provide for the registration of warranties accompanying consumer goods;

(3) compliance with the standards set and provisions for performance of obligations of the warranty made should be conditions precedent to the granting of approval of any warranty accompanying consumer goods;

(4) actual performance of the obligations of a warranty should be a condition precedent to the continued registration of any warranty accompanying consumer goods;

(5) to make regulation of warranties for consumer goods in interstate commerce effective, it is necessary to provide for the standardization and registration of all warranties accompanying consumer goods which are likely to enter the channels of interstate commerce and directly affect such commerce; and

(6) regulation of warranties for consumer goods in interstate commerce without provision for standards and registration of warranties for consumer goods distributed only in intrastate commerce would discriminate against and depress interstate commerce in such goods and would adversely burden, obstruct, and affect such interstate commerce.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) Except as otherwise provided by this Act, it shall be unlawful for any person engaged in the manufacture or sale of consumer goods in interstate commerce or affecting interstate commerce to make with respect to such goods any oral or written representation purporting to be a guaranty or warranty unless (1) such representation is a warranty which has been determined by the Federal Trade Commission to conform to standards for presentation, accuracy, clarity, and disclosure for warranties which shall be established by the Federal Trade Commission under this Act, (2) such warranty has been registered with the Federal Trade Commission after its determination that the terms and conditions thereof, and the provisions made by the warrantor for the performance of the obligations thereof, conform to the requirements of this Act and of regulations which shall be promulgated by the Commission thereunder, and (3) such registration has not been revoked or suspended.

(b) The Federal Trade Commission shall promulgate such regulations as it shall determine to be necessary to provide effective notice to consumers as to the identity of particular items of consumer goods manufactured or sold in interstate commerce or affecting interstate commerce which, when offered for sale to consumers, are not subject to a registered warranty which is in effect in compliance with the requirements of subsection (a). Such regulations shall specify the identity of the parties required to furnish such notice, the manner in which such notice is to be given, and the contents or substance of such notice. Whenever any person is obligated by such regulations to give that notice, it shall be unlawful for such person to fail to give that notice in compliance with such regulations.

(c) If the Federal Trade Commission determines that, because of the nature, form, or quantity of any category of consumer goods or for any other reason which it determines to be good and sufficient, full compliance with all the requirements prescribed by this Act is impracticable or is not necessary for the adequate protection of consumers, the Commission may promulgate regulations exempting such category of consumer goods and warranties given with respect thereto from those requirements to the extent and under such conditions as it determines to be consistent with the purposes of this Act.

(d) Under such regulations as the Federal Trade Commission shall promulgate in conformity with the provisions of this Act, any person engaged in the manufacture or sale of any item of consumer goods may apply to the Commission for the registration of a warranty which such person intends to offer in connection with the sale of that item to consumers and for which such person proposes to assume responsibility for performance. Each such application shall be accompanied by five copies of the proposed warranty and such evidence of the willingness and capacity of the applicant to fulfill the obligations of the warranty as the Commission may require by regulation. After notice and an opportunity for hearing, the Commission at the earliest practicable time shall enter its order granting or denying the application and transmit a copy thereof to the applicant by registered mail. If the Commission grants the application made as to a warranty, it shall assign to that warranty a serial number which shall be placed upon each copy of the warranty furnished to consumers.

WARRANTY STANDARDS

SEC. 5. (a) Subject to the provisions of section 4(c), no warranty may be approved by the Federal Trade Commission for registration under this Act unless that warranty—

(1) is expressed in simple and readily understandable terms;

(2) clearly and conspicuously discloses the name and address of the warrantor and, where applicable, the name and address of any person or persons, or the identification of any class of persons, authorized to perform the obligations set forth in the warranty;

(3) contains a detailed statement of the terms and conditions of the warranty, in-

cluding any limitations on parts covered, the nature of damage or defects covered, the duration of the warranty, any obligations imposed upon the purchaser, and the time and manner of the warrantor's performance of his obligations under the warranty; and

(4) fulfills such other requirements as the Commission may determine to be necessary to provide a full and complete disclosure to consumers of the meaning of the warranty and the remedies provided thereby for the benefit of consumers.

(b) Subject to the provisions of section 4(c), no warranty may be approved by the Federal Trade Commission for registration under this Act if that warranty—

(1) provides or purports to provide for the transfer, by contract or otherwise, to any person other than the warrantor of the obligation of the warrantor to fulfill the terms and conditions of the warranty;

(2) relieves or purports to relieve the warrantor of any obligation—

(A) to correct any damage to or defect in any item of consumer goods which is present at the time of transfer of possession thereof to the first purchaser who is a consumer;

(B) arising under the law of any State with respect to any implied warranty of merchantability or fitness for a particular use; or

(C) with respect to the death of or personal injury to any person, resulting proximately from any damage to or defect attributable to the warrantor;

(3) imposes any legal obligation on a consumer of the product to indemnify or otherwise hold the warrantor harmless from any injury or harm which might arise from the use of any item of consumer goods; or

(4) imposes upon a consumer the responsibility for paying all or a portion of the cost of repairs or replacement which may be necessary within a reasonable period of time after the sale of the product to the first purchaser who is a consumer and which are required because of defects in designs, material, or workmanship.

(c) The Federal Trade Commission shall determine, upon the basis of good manufacturing practice within each industry engaged in the production of consumer goods, and prescribe by regulations as to each category of consumer goods, the period of time which shall be deemed to be a reasonable period of time after such sale in which items of each such category should not require repair or replacement.

PERFORMANCE STANDARDS

SEC. 6. (a) Subject to the provisions of this section and of section 4(c), no warranty may be approved by the Federal Trade Commission for registration under this Act unless—

(1) the Commission determines that the applicant for such approval has made adequate advance arrangements to insure that the obligations expressed in the warranty will be expeditiously performed;

(2) the Commission determines that such applicant is currently performing adequately the obligations expressed in the warranty;

(3) the applicant for such approval agrees, as a condition for registration, to take all reasonable measures prescribed by the Commission to inform potential retail purchasers of any limited or complete revocation, or limited approval, of the warranty registration directly affecting such a potential purchaser; and

(4) the applicant for such approval agrees to any special conditions or limitations on the manner of presentation, or reference to the approved registration in advertising or other promotional material, as the Commission shall determine to be required for the protection of consumers.

(b) Whenever the Commission determines that the capacity of an applicant to perform the obligations of a warranty is limited to particular geographical areas or sales outlets, the Commission may approve the warranty for registration subject to the limitation that it may be used only with respect to items of consumer goods which are offered for sale at retail in geographical areas in which, or through sales outlets at which, adequate facilities are maintained for the performance of the obligations of the warranty by or on behalf of the applicant.

(c) Whenever the Commission determines, after notice and an opportunity for hearing, that any person who has registered with the Commission a warranty approved under this Act has refused or failed to perform the obligations of that warranty, the Commission may order the revocation of that registration or the suspension thereof for such period of time as the Commission shall determine to be required to assure future fulfillment of the obligations of the warranty.

PENALTIES

SEC. 7. (a) the making, by any person engaged in the manufacture or distribution of any item of consumer goods in interstate commerce or affecting interstate commerce, of any oral or written representation purporting to be a guaranty or warranty of such item shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement under section 5(b) of that Act, unless that item is offered for sale to consumers subject to a warranty approved by and registered with the Federal Trade Commission under this Act and the registration of that warranty has not been revoked or suspended.

(b) Whoever, being a person obligated by regulations promulgated under section 4(b) to furnish any notice described therein, willfully fails to give such notice in compliance with such regulations shall be punished (1) for a first offense under this subsection by imprisonment for not more than one year, or a fine of not more than $1,000, or both, and (2) for each offense under this subsection committed subsequent to final conviction for a first such offense by imprisonment for not more than three years, or a fine of not more than $10,000, or both.

FEDERAL-STATE COOPERATION AND ENFORCEMENT

SEC. 8. (a) In carrying into effect the provisions of this Act the Federal Trade Commission is authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(b) The Chairman of the Federal Trade Commission is authorized to conduct examinations of facilities for warranty service and investigations of the performance by warrantors of their obligations under warranties through the employment of officers, employees, and procedures of the Commission, or through the use of the services of any law enforcement officer of any State, Commonwealth, or possession of the United States, or any political subdivision thereof, made available to the Commission by such State, Commonwealth, possession, or political subdivision.

PROCEEDINGS OF THE COMMISSION

SEC. 9. (a) The promulgation of rules and regulations by the Federal Trade Commission under this Act shall be subject to the provisions of section 553, title 5, United States Code.

(b) Proceedings before the Federal Trade Commission upon applications made under this Act for the approval and registration of warranties, and for the revocation or suspension of warranty registrations under this Act, shall be taken in conformity with provisions of law governing proceedings for the issuance of cease and desist orders under section 15 of the Federal Trade Commission Act (15 U.S.C. 45). Any order of the Commission denying an application for the approval or registration of a warranty under this Act, or revoking or suspending the registration of a warranty under this Act, shall be subject to judicial review in the manner provided by that section with respect to orders issued thereunder.

(c) For the purpose of conducting surveys and investigations under this Act, the Commission shall have all powers which are conferred upon it by section 9 of the Federal Trade Commission Act with respect to the conduct of investigations made by that Commission under that Act. The provisions of section 10 of the Federal Trade Commission Act (15 U.S.C. 50) shall apply to the act or omission of any person with regard to any subpena, order, or requirement of the Commission under this Act to the same extent, and with the same effect, as if such act or omission had occurred with regard to a like subpena, order, or requirement issued under the Federal Trade Commission Act.

REPORTS TO THE CONGRESS

SEC. 10. The Federal Trade Commission shall transmit to the Congress beginning in the first January after enactment of this Act and in each January thereafter a full and complete description of the activities of the Commission for the administration and enforcement of this Act during the preceding calendar year.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(1) "Commission" means the Federal Trade Commission.

(2) "Interstate commerce" means commerce within the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or between any place in a State and any place in another State, or between places in the same State through another State.

(3) "Warranty" means a written instrument by which a manufacturer or distributor assumes legally enforceable liability to refund the purchase price or repair or replace without cost to the consumer, or upon specified terms, any damage to or defects in any item of consumer goods at or after the time of delivery of possession of such item to the first purchaser who is a consumer.

(4) "Warrantor" means a person who gives or has given a warranty respecting a consumer product.

(5) "Person" means an individual and any partnership, corporation, association, or other legal entity.

(6) "Consumer" means the retail purchaser of consumer goods to whom a warranty is given and any other person who is entitled by the terms of the warranty to enforce against the warrantor the obligations stated therein.

(7) "Consumer goods" means any motor vehicle, appliance, device, article or other product which is intended for use primarily by individuals, and which is normally sold at retail for $10 or more.

SAVING PROVISION

SEC. 12. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined therein as an antitrust Act.

EFFECTIVE DATE

SEC. 13. This Act shall take effect six calendar months from the date of enactment: *Provided, however,* that warranties in existence before the effective date shall be conditionally registered until such time as they can be reviewed by the Commission: *Provided further,* That such conditional registration is in the interest of the public and will not continue any frauds, deceptions, or

misrepresentations. In no event shall a conditional registration be extended for more than eighteen months from the effective date of this Act.

S. 3566—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL COUNCIL ON AMERICAN MINORITY HISTORY AND CULTURE

Mr. SCOTT. Mr. President, I introduce for appropriate referral a bill to amend the Arts and Humanities Act of 1965 to provide for a National Council on American Minority History and Culture.

My bill would add an additional Council within the National Foundation on the Arts and Humanities. This new 11-member Council would be solely responsible for increasing the recognition of minority cultural contributions. The Council would study means by which the American public can achieve better understanding and knowledge of the history and culture of its minority groups whose contributions to our society have been neglected or inadequately presented.

The Council would submit a report of its findings and recommendations to the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, and the President and Congress within 1 year after its establishment. This first report would set forth recommendations for the most effective manner in which neglected minority history and culture can be disseminated to the American public.

It is my hope the new Council would draft plans to coordinate the data with the activities and programs of the Foundation, weaving in the minority experiences while promoting the purposes of the Foundation. The Council, I believe, could best do this if made up of members of the American minorities to whom this opportunity would say, "This is your challenge to explore the facts of your heritage and history over the American scene. It is up to you to do your own thing."

In previous Congresses, I introduced bills which would establish an independent Commission on Afro-American History and Culture, which would study neglected black history and culture and recommend the best methods of dissemination within the United States. Similar legislation was passed during the final days of the 90th Congress by the House of Representatives. My bill was approved by the Subcommittee on Arts and Humanities of the Senate Labor and Public Welfare Committee. The imminence of adjournment prevented the Senate from completing action on the measure.

These bills were the forerunners of the amendment I am introducing today. Although the original bill specified "Afro-American," the new amendment encompasses those American minorities which have been neglected, overlooked, and unrecognized in the story of the United States. The black minority, I believe, will constitute one of the largest minorities in this category.

I believe the approach taken in my new amendment is preferable also because the new Council would be installed under three existing Councils already engaged in the development and promotion of a national policy of support for the humanities and the arts, and would bring to them the benefits of minority inputs.

The history of suppression, disadvantage and inequity of the African-American especially is very well known. But the history of achievement, contribution, and participation is not a part of that American history commonly taught at all levels in all of our educational institutions. Nor has it been accurately portrayed by our entertainment media. We are at a point in our social development where it will no longer suffice simply to step from total neglect into crash programs with short life spans; these cannot adequately meet the challenge of dissemination of the black experience or that of other neglected minorities. There must be positive and deliberate programs of research, preservation and dissemination of the American minorities' history and culture. This can be done by the National Foundation on the Arts and Humanities.

The time is ripe for national leadership in fostering better understanding and knowledge of the contributions of American minorities and their heritages to American society.

This does not mean just including an African American, or other minority, history course in school curriculums; it also means highlighting the presence of these minorities in a wide range of activities such as literature, economics, music, or political science as the activity itself is studied or publicized. I believe the Council will serve best when it performs this task of identifying and dramatizing, in the classroom and out, the contribution of minorities to the total American experience. At its best, such an effort will support the long and often tragic struggles of our minorities to feel a part of this experience.

Mr. President, I ask unanimous consent that the text of my proposal 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. 3566) to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture, introduced by Mr. SCOTT, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture (hereafter referred to as the "Council").

(b) The Council shall study means by which the American public may achieve better understanding and knowledge of the cultural contributions and history of American minority groups whose contributions to the culture and history of the United States have been neglected or inadequately presented.

(c) (1) The Council shall submit a report of its findings and recommendations to the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the President, and the Congress within one year after the date of enactment of this Act and from time to time thereafter as the Council deems necessary.

(2) The first such report shall give particular attention to the most effective manner in which the history and culture of such groups may be presented to the public. Each report shall make recommendations for carrying out the objectives of this Act, including, but not limited to, (1) utilizing programs and activities under subsection (c) of section 5 and subsection (c) of section 7 of the National Foundation on the Arts and Humanities Act of 1965, and (2) legislation or administrative action.

SEC. 2. (a) The Council shall be composed of eleven members appointed by the President from among persons whose training or experience qualifies them as authorities in education, journalism, communications, or related fields, and who are knowledgeable with respect to American minority history and culture.

(b) The President shall designate one of the members of the Council as Chairman, and one as Vice Chairman.

(c) Six members of the Council shall constitute a quorum and a vacancy in the Council shall not affect its powers.

(d) The Council shall meet at the call of the Chairman or at the call of a majority of the members serving on the Council.

(e) (1) Members of the Council who are otherwise employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(2) Members of the Council not otherwise employed by the Federal Government shall receive compensation at the rate of $75 per day (including traveltime) for each day they are engaged in the performance of their duties as members of the Council and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

SEC. 3. In order to carry out the provisions of this Act, the Council is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Council;

(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed $75 per day for each day (including traveltime) during which they are engaged in the actual performance of their duties for the Council; and

(4) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 3567—INTRODUCTION OF A BILL TO EXTEND TO VETERANS OF THE VIETNAM ERA THE SAME LOAN PREFERENCE WITH RESPECT TO FARM AND FARM HOUSING LOANS EXTENDED TO VETERANS OF OTHER WARS

Mr. CURTIS. Mr. President, I introduce a bill to eliminate a very serious in-

equity in determining the eligibility priority of farmers to obtain Farmers Home Administration loans.

This inequity denies to veterans of the Vietnam war the same loan preferences which are extended to veterans of all previous wars.

I did not learn of this difference in the treatment of our returning Vietnam veterans until it was pointed out to me recently by a person who works in the administration of the FHA loan programs.

I think every Member of the Senate and hopefully every Member of Congress will agree with me that it is unfair and should be corrected immediately.

The veterans of Vietnam have fought just as hard and in many cases just as long for their country as the veterans of previous wars.

They have carried the arms and the flag of America to the battlefield with as much courage and selfless dedication as the veterans of any war in our history.

They have performed on the field of battle, in the skies, and on the seas in the finest traditions of our country.

They do not deserve to be treated as second-class veterans when they return to civilian life.

They deserve equal treatment under the laws giving loan preference to veterans when they choose to go into farming as a business.

My bill would grant this equal treatment, Mr. President, by amending the Consolidated Farmers Home Administration Act of 1961 and the Housing Act of 1949 to extend to Vietnam veterans the same preferences that veterans of earlier wars receive for farmownership loans, soil, and water loans, farm operating loans, and home purchase loans.

There are substantial numbers of these Vietnam veterans who are returning and who want to go into agriculture. They deserve the full support of the Congress.

My bill should be passed by an overwhelming margin.

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

The bill (S. 3567) to amend the Consolidated Farmers Home Administration Act of 1961 and the Housing Act of 1949 so as to extend to veterans of the Vietnam era the same loan preference with respect to farm and farm housing loans as are extended under such acts to veterans of other wars, introduced by Mr. CURTIS, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

S. 3568—INTRODUCTION OF A BILL RELATING TO SOVEREIGN IMMUNITY

Mr. KENNEDY. Mr. President, Chief Justice John Jay observed in 1793:

> I wish the State of society was so far improved, and the science of Government advanced to such a degree of perfection, as that the whole nation could in the peaceable course of law, be compelled to do justice, and be sued by individual citizens.

One hundred seventy-six years later, the wishes of the first Chief Justice remain unfulfilled. For while Congress has made great strides in establishing—through the Tucker Act and the Federal Tort Claims Act—systems of Federal monetary liability for contract and tort, the doctrine of sovereign immunity rests as a barrier to the redress of just grievances against the U.S. Government.

The ancient doctrine of sovereign immunity survived the American Revolution and was developed as court-made law with various foundations. Originally it was thought that the traditional immunity of the English sovereign was incorporated by implication in the article III grant of judicial power over "controversies to which the United States shall be a party." Conceptual arguments against sovereign accountability through the judicial processes involved the inability of courts to enforce a decree against the Federal executive without its assistance, and the abstraction that there could be no legal right against the authority making the law. These arguments have faded to antiquity, and the doctrine presently survives on the rationale that official actions of the Government must be protected from undue judicial interference.

Whatever its original justification, the immunity doctrine, as presently applied, is illogical, artificial, erratic, and confusing. In some cases where the rationale of the doctrine might be applicable, lawyers have had little difficulty sidestepping its application when challenging governmental regulatory activity. In others, such as quiet title actions or suits seeking judicial review of public land determinations, where the Government may have no substantive interest at stake, application of the sovereign immunity doctrine has been a source of frustration, uncertainty, and injustice.

Cases in which the doctrine has been invoked have included challenges to agricultural regulations, governmental employment, tax investigations, postal-rate matters, administration of labor legislation, control of subversive activities, food and drug regulation, administration of Federal grant-in-aid programs. The basic issues in each case, of course, should include assessment of the degree of judicial interference with governmental programs alongside the harm or threat of harm to individuals by governmental activities. But the immunity doctrine, rather than focussing the court's attention on these issues, instead diverts it toward sophistry and semantics. And this is the most fundamental objection to the present doctrine: it clouds the real issues whether a particular governmental activity should be subject to judicial review and, if so, what form of relief is appropriate.

Even with elimination of sovereign immunity as a general bar to suits against the Government, courts must still face the questions whether a particular activity is unreviewable because committed to agency discretion by law, because specific statutes preclude judicial review, because the particular suit is premature or not ripe, or because the plaintiff has failed to exhaust administrative remedies or lacks standing. But these questions should be met head on in each case, and not tucked under the umbrella of obsolete fictions.

I am introducing a bill that will give the citizen suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action, his day in court. The bill would facilitate nonstatutory judicial review of Federal administrative action without affecting the existing pattern of statutory remedies, without exposing the Government to new liability for money damages, and without upsetting congressional judgments that a particular remedy in a given situation should be the exclusive remedy. I emphasize that the bill would not effectuate a total abolition of the doctrine of sovereign immunity, but only a limited abolition. Thus, expressed congressional intent in specific areas is left intact.

This bill will also eliminate the technical defects in the law of party defendants, by allowing a broad option to plaintiffs in terms of defendants, and will provide to every Federal agency the capacity to be sued if named in an action by its official title.

The specific language of the bill was embodied in major part in a recommendation of the Administrative Conference of the United States. This past October the Conference met in plenary session and discussed and debated the general proposal as well as the specific language. Every executive department and major independent agency is represented on the Conference, as are members of the bar and of the academic community. And I think the resulting recommendation overwhelmingly reflects the sentiment of the practicing bar and the academic community in an important area of administrative practice.

In accord with the responsibility of the Administrative Practice and Procedure Subcommittee to review recommendations of the Administrative Conference at the earliest possible opportunity, and I welcome the comments and suggestions of all Members of the Senate on this topic.

As Government programs grow, and agency activities continue to pervade every walk of life, judicial review of the administrative actions of Government officials becomes more and more important. Only if citizens are provided with access to judicial remedies against Government officials and agencies can we realize a government under law.

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

The bill (S. 3568) to amend chapter 7, title 5, United States Code with respect to procedure for judicial review of certain administrative agency action, and for other purposes, introduced by Mr. KENNEDY (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 3569—INTRODUCTION OF BILL RELATING TO PUBLIC PROPERTY, LOANS, GRANTS, BENEFITS, OR CONTRACTS EXCEPTION TO ADMINISTRATIVE PROCEDURE ACT APPLICATION

Mr. KENNEDY. Mr. President, when Congress passed the Administrative

Procedure Act in 1946, it exempted from the notice, hearing, and right-to-petition requirements all rulemaking related to public property, loans, grants, benefits, or contracts. This position was adopted despite the recommendation of the Attorney General's Committee on Administrative Procedure that the rulemaking processes of the Government should be adapted to giving adequate opportunity to all persons affected to present their views, the facts within their knowledge, and the dangers and benefits of alternative courses. As a result of this exception, while agencies have been given program after program to administer, involving billions of dollars and affecting millions of citizens, officials remain in many respects insulated from the views of those intimately affected by those programs.

Various justifications have been advanced through the years from maintaining the APA exemptions for public property, loans, grants, benefits, or contracts. Early justifications relied on an asserted distinction between rights and privileges of citizens and between proprietary and nonproprietary functions of Government. These distinctions now appear discredited both in law and in the public mind, as many consider governmental programs as part of their daily lives—a matter of entitlement, or in the least, necessity—and many programs affect us regardless of our own choosing.

There can be no doubt that application of the APA to the excluded categories would provide administrators with more and better information, and would give affected citizens a feeling of participation and impact. In reality, the question to be asked is whether application of the Administrative Procedure Act provisions to this group of governmental activities will in some way substantially interfere with the orderly administration of Federal law, and if so, whether the level of such interference outweighs to both the Government and the public benefit of greater citizen participation in rulemaking.

Agencies have argued in the past that elimination of this exemption in issue would cause delay, would increase operating costs, would often be unjustified, would inhibit flexibility of agency actions, and would inject uncertainty into many phases of the rulemaking process. All of these objections have one thing in common—they apply with equal force to all other kinds of rulemaking included within the requirements of the Administrative Procedure Act. And indeed all rulemaking requirements would be intolerable if agencies had these alternatives to the formal rulemaking route for situations where notice and hearing requirements appear impracticable, unnecessary, or contrary to the public interest.

The Administrative Procedure Act already provides that when an agency finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, the notice and comment procedures may be dispensed with upon the incorporation of such findings and a brief statement of reasons are incorporated in the rules issued. This provision fully and adequately protects the Government in areas where the administrative processes and the objectives of governmental regulation would be seriously impaired by rigid adherence to formal procedures in each case. And thus we need not tolerate the total exclusion of important rulemaking proceedings from usual procedural requirements.

The bill I am introducing would affect only the specific exemptions relating to public property, loans, grants, benefits, or contracts. It would in no way affect the exemptions for rulemaking involving a military or foreign affairs function, agency management, or personnel, interpretive rules and statements of policy. Similar proposals have been embodied in a number of bills introduced in this and past sessions, and the Administrative Practice and Procedure Subcommittee has had the occasion to examine them, but only in the context of proposals to overhaul completely the Administrative Procedure Act. My bill slices out this narrow but most important area which requires further investigation by Congress and merits priority for legislative reform.

The Administrative Conference of the United States met this past fall and strongly recommended the legislation I propose—see CONGRESSIONAL RECORD, volume 115, part 29, page 38623. An excellent study, involving a survey of the views and procedures of relevant Federal agencies, was undertaken by a consultant to the Conference and constitutes an important basic document for our initial consideration. Because the Conference membership is composed in part of the chairman of each independent agency and the head of each executive department, this recommendation carries with it the weight of the heads of many agencies to be directly affected by it. It, therefore, also reflects credit on the efforts of the agencies and departments toward self-analysis and self-reform. Congress should do its best to support those efforts by responding to the Conference's persuasive call for opening up the vital areas of the Government's rulemaking to greater public participation and involvement.

I introduce my bill and ask that it 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. 3569) to amend section 553, title 5, United States Code, relating to administrative practice and procedure, to remove certain exemptions from the requirement of notice of proposed rulemaking, introduced by Mr. KENNEDY (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 553(a), title 5, United States Code, is amended by striking out the words "or to public property, loans, grants, benefits, or contracts".

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

S. 3072

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of S. 3072, the Federal Low-Emission Vehicle Procurement Act.

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

S. 3517

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Indiana (Mr. HARTKE), I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HART) be added to the bill, S. 3517, to provide Federal reinsurance of private pension plans.

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

S. 3522

Mr. JAVITS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Illinois (Mr. PERCY) be added as a cosponsor of S. 3522, my vehicle disposal bill, of which I am chief sponsor.

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

SENATE JOINT RESOLUTION 61

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Minnesota (Mr. MCCARTHY), I ask unanimous consent that, at the next printing, the names of the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Virginia (Mr. SPONG), be added as cosponsors of Senate Joint Resolution 61, proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

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

SENATE RESOLUTION 366—RESOLUTION SUBMITTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

Mr. MONDALE submitted the following resolution (S. Res. 366); which was referred to the Committee on Rules and Administration:

S. RES. 366

Resolved, That the expenses of the Select Committee on Equal Educational Opportunity, established by S. Res. 359, Ninety First Congress, agreed to February 19, 1970, which shall not exceed $375,000 through January 31, 1971, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSOR OF RESOLUTION

SENATE RESOLUTION 357

Mr. KENNEDY. Mr. President, on behalf of the Senator from Minnesota (Mr. MONDALE), I ask unanimous consent that, at the next printing, the name of the Senator from New Hampshire (Mr. MCINTYRE) be added as a cosponsor of Senate Resolution 357, expressing the sense of the Senate on inflation.

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

VOTING RIGHTS ACT AMENDMENTS OF 1969—AMENDMENTS

AMENDMENT NO. 549

Mr. COOPER submitted amendments, intended to be proposed by him, to the amendment in the nature of a substitute (No. 544) proposed by Mr. SCOTT (for himself and others) to the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, which were ordered to lie on the table and to be printed.

(The remarks of Mr. COOPER when he submitted the amendments appear earlier in the RECORD under the appropriate heading.)

IMPROVEMENT OF FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM—AMENDMENT

AMENDMENT NO. 550

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the bill (H.R. 14705) to extend and improve the Federal-State unemployment compensation program, which was referred to the Committee on Finance and ordered to be printed.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 545

Mr. KENNEDY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Texas (Mr. YARBOROUGH) and the Senator from Wisconsin (Mr. NELSON), be added as cosponsors of Amendment No. 545 to H.R. 4249, that would extend the right to vote to those 18 and over at its next printing.

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

ADDITIONAL STATEMENTS OF SENATORS

K. A. RANDALL, RETIRING CHAIRMAN OF FDIC

Mr. SPARKMAN. Mr. President, K. A. Randall has served as a member of the Board of Directors of the Federal Deposit Insurance Corporation from March 10, 1964, to March 9, 1970, and as its Chairman since April 21, 1965. This has been a period characterized by great change in the economy which in many instances has had an impact on the operations of the Federal Deposit Insurance Corporation and on banking and bank supervision. Mr. Randall has been deeply involved in a number of these developments and he has contributed much to the strengthening of bank supervision and our financial institutions. His influence has been most beneficial and will continue to be felt in the years to come. As he returns to private life, I wish to extend to him our best wishes and our thanks for his cooperation and assistance in our legislative deliberations, particularly those of the Senate Committee on Banking and Currency.

For those who have not been privileged, as I have to work closely with Mr. Randall, I shall summarize briefly his contributions within the area particularly of bank supervision. Of very practical importance and significance are the changes within the operations of the Corporation itself that Chairman Randall has been instrumental in bringing about. The physical facilities of the Corporation have been modernized to provide better working conditions for the staff; the Corporation's field operations have been reallocated among 14 instead of 12 regional offices for greater operational efficiency; and some additional subsidiary field offices have been established in the larger regions. The supervisory process has been strengthened by an increase in the Corporation's staff with immediate responsibilities for bank examination activities from 1,013 in 1964 to 1,686 at present, while the number of field examinations and investigations jumped from 12,484 in 1964 to 16,412 in 1969. The increased manpower requirements are the result not of more supervisory problems but the growth in the size of banks and the increasing complexity of their operations in a rapidly changing environment with its consequent impact on the individual bank, the financial community and the entire economy. During the period, moreover, manpower requirements have been augmented by the added responsibilities given the Federal bank supervisory agencies. As a consequence of these developments, the Corporation now has on the average a relatively young examination staff but one with strong potential for further development. Such a staff, however, needs both generalized and specialized training—for example, in data processing, in examining computerized banks, as well as in developing the ability to recognize changes of significance when banks are undergoing examination—a program which Chairman Randall strongly supported. We can feel assured that the quality of Federal bank supervision has been substantially improved during his term of office.

Chairman Randall's efforts to improve bank supervision are also reflected in the Corporation's expanded research activities. As one particular illustration of this work, there is the biennial survey of bank deposits which not only serves the Corporation's needs as a supervisor and insurer but is a unique source of information for bank management. Similarly, the income and dividend reports and reports of condition required of banks by the Federal bank supervisory agencies provide a wealth of data which the Corporation has made available on an individualized basis for insured banks, providing a valauble feedback to them.

Some of the changes in banking and bank supervision during Chairman Randall's term of office cannot be attributable solely or in part to his efforts. But Mr. Randall's concern with the banking structure of the nation and the effectiveness of the banking industry in meeting the public's needs no doubt played a significant part in facilitating the changes demanded by the new environment. These changes included the provision of more information to bank stockholders and to bank customers, a movement toward rationalization and greater uniformity in bank reporting, extension of supervisory powers in the areas where needed and, possibly most important, increased cooperation among the supervisory authorities of the financial intermediaries at both the State and Federal level.

Furthermore, Chairman Randall has been most effective in presenting the current issues and problems of bank supervision to the banking community in the course of his term of office at the Federal Deposit Insurance Corporation. The resultant dialog with many banking groups and individual bankers has enabled him to enlist their cooperation in efforts to raise banking standards, to improve services to the public, and to facilitate the supervisory process. Chairman Randall has brought youth, vigor, intelligence, and imagination to his job. These are qualities that we all appreciate.

Mr. BENNETT. Mr. President, today a fellow Utahan who in my estimation has distinguished himself as one of the Nation's most dedicated public servants, retires as Chairman of the Federal Deposit Insurance Corporation. He is K. A. Randall, who came to the FDIC from Provo, Utah, on March 10, 1964.

At the time of his Federal appointment, Kay was president of the State Bank of Provo. It was my privilege to have recommended his name to President Johnson who selected Kay for the 6-year term on the Corporation's three-man Board of Directors. In fact, President Johnson on a number of occasions remarked to me that in Kay "You gave me one of my finest appointments." Kay was, incidentally, the first major appointment made by the President after he took office in 1963.

Kay was on the Board of Directors hardly more than 1 year when he became Chairman of the Board on April 21, 1965. Since then, under his tutelage the FDIC has expanded in personnel, services and outlook to meet the needs of a rapidly changing banking industry as it responded to increasing public demands.

Some of the changes the FDIC underwent during Chairman Randall's tenure included reorganization of the Corporation's field operations among 14 rather than 12 regional offices for greater operational efficiency; updating of the Corporation's physical facilities to provide better working conditions for its staff; and an increase in the number of field examinations and investigations conducted from 12,484 in 1964 to 16,412 in 1969. The Corporation under Kay has also strengthened the internal or interagency bank examiner schools; instituted special training programs in examination of computerized banks; increased information to banks as a byproduct of supervisory activities; and has also increased availability and accessibility of information to bank stockholders and bank customers.

Time will not permit a fuller listing of Kay's numerous contributions to the FDIC and the Government as a whole. Suffice it to say that Chairman Randall contributed tremendously to the stability of the banking community; he brought innovation attuned to the times to the FDIC; and he handled insurance payments extremely well. In short, Kay did an excellent job.

I think that for the first time in memory, in this political town where performances rise and fall almost on a daily basis, there has been near-unanimous approval and appreciation for the job turned in by Kay. Nowhere in my travels through the economic, banking and political community did I hear any adverse comments about the way he was handling his job and his general performance at the FDIC.

I know I echo the sentiments of this body and all who have been acquainted with Kay's work in Washington in wishing him and his family every success as they return to private life.

SENATOR MANSFIELD APPEARS ON "FACE THE NATION" PROGRAM

Mr. MANSFIELD. Mr. President, yesterday, I appeared on the CBS television network in the program, "Face the Nation." I was questioned at length by CBS news correspondent George Herman; Peter Lisagor, of the Chicago Daily News; and Marvin Kalb, also of CBS news.

The penetrating and persistent questioning of these able correspondents elicited a thorough discussion of the Laotian question, as it is developing in that country; the President's recent statement on the situation; and the Senate debate of the subject.

I ask unanimous consent that the transcript of the program be printed in the RECORD.

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

FACE THE NATION AS BROADCAST OVER THE CBS TELEVISION NETWORK AND THE CBS RADIO NETWORK

Mr. HERMAN. Senator Mansfield, President Nixon has now responded to what he called grossly inaccurate reports on Laos with a lengthy message. Do you, sir, consider it a full, free, and frank report which dispels any possible credibility gap?

Senator MANSFIELD. I don't consider it a full report, by any means. I think it is a frank report, as far as it goes, but it doesn't go back far enough because I think the start of our involvement in Laos occurred in the time of the Eisenhower administration.

ANNOUNCER. From CBS/Washington, in color, "Face the Nation," a spontaneous and unrehearsed news interview with Senate Majority Leader Mike Mansfield, Democrat, of Montana. Senator Mansfield will be questioned by CBS News Diplomatic Correspondent Marvin Kalb, Peter Lisagor, Washington Bureau Chief of The Chicago Daily News, and CBS News Correspondent George Herman.

Mr. HERMAN. Senator, you questioned some of the historical parts of the President's report, how about the report on the present status of affairs in Laos? Are you satisfied that it is a full and really frank disclosure of what we have there now and what we are doing there now?

Senator MANSFIELD. No, I think there may be references but if they are they are very slight and indirect, relative to our participation with the Meos and others in the so-called clandestine war being waged against the Pathet Lao and the North Vietnamese.

Mr. LISAGOR. Senator, you said not long ago that we were up to our necks in Laos. Now the President says that we are there in a very limited way and that we have no plans to send in any ground combat troops. I take it that you don't quite either believe or trust that statement. Is that correct?

Senator MANSFIELD. I will stand by my original statement. We are up to our necks in Laos because we have sent in aid, we have sent in air power, we haven't sent in foot soldiers yet. I don't think we will; whereas, in Vietnam I think we are in over our heads.

Mr. HERMAN. Senator, it was debate in the Senate that produced the presidential statement on Laos. Do you feel that the statement will now end that debate?

Senator MANSFIELD. No, it depends on developments there, whether or not the Pathet Lao and the North Vietnamese go beyond the line which they have reached, which is the usual line, this seasonal warfare stratagem which both sides use. And, furthermore, I think that there ought to be a release—security reasons considered—of the hearings held by the Symington subcommittee. I am hopeful that that will be done, because I think there is a good possibility that an accord is being reached between the State Department and the Symington committee.

Mr. KALB. You mean as a result of new discussions between the department and the committee?

Senator MANSFIELD. Yes.

Mr. LISAGOR. But, Senator, if this is so important to us as a nation, our involvement in Laos, why can't you and other United States Senators who are privy to that information make it available on your own?

Senator MANSFIELD. Well, we would like to do it in accord with the State Department, but as far as the knowledge is concerned, anyone who has read the press for the past seven or eight years or longer, who has been out there on occasion, has a pretty good idea of what is going on. And the press, I think, has done a remarkably good job in reporting on Laos.

Mr. HERMAN. Isn't that what the President calls "grossly inaccurate reports," and therefore he issued this message?

Senator MANSFIELD. No, I think he may have been referring to some of the statements made in the Senate—I am just guessing, I don't know—because some of us were trying to raise the alarm, so to speak, put up a warning sign and to try and get things in focus so that we and the American people would be better informed.

Mr. HERMAN. You think some of your Senatorial colleagues or you yourself perhaps were grossly inaccurate in this debate?

Senator MANSFIELD. Well, I don't know. I can't speak about persons. I have tried to be accurate; I tried to be factual and constructive and, hopefully, that has been the case. Maybe some fault has been found with my statement that we are up to our neck in Laos. This is my personal feeling on the matter, because it is following the same pattern—first, aid, then logistics support, then air power, and then GIs. I don't think the GIs will go into Laos.

Mr. LISAGOR. Senator, is the sticking point here—I would like to be clear on this—is the sticking point here, so far as the administration is concerned, the fact that the Central Intelligence Agency is involved in a major way in Laos in supporting this so-called clandestine army of Meo tribesmen?

Senator MANSFIELD. I would say that and, in part, also the possibility of the Soviet Union being used as a go-between to keep the flames from getting out of control.

Mr. KALB. Senator, is the maintenance of Laotian independence worth the lives of American troops?

Senator MANSFIELD. No.

Mr. KALB. Why do you think it is therefore so important for the administration to tie itself to the current government of Souvanna Phouma?

Senator MANSFIELD. Well, because, for one thing, the Ho Chi Minh Trail runs through the panhandle of eastern Laos. It is tied to the security and safety of our men in Vietnam. The Plaine des Jarres situation is something entirely different and I think that we should disassociate the two.

Mr. KALB. Well, if you disassociate the two, that would mean that you disassociate a good part of the administration's defense of its operations in Laos. The whole point of this thing was to try to say that it is all tied in to Vietnam. Are you suggesting that there are really two separate operations that we are involved in?

Senator MANSFIELD. I am.

Mr. KALB. Could you describe that second operation, the one around the Plaine des Jarres?

Senator MANSFIELD. Well, the second operation is the one whereby we, at the request of the Royal Lao government, give air support and probably some other kind of support to the Royal Lao Army in contacts with the Pathet Lao and the North Vietnamese. I was surprised at the President's statement, at the North Vietnamese number of 67,000, which is a decided increase. When I was there last August, the figure generally accepted was around 50,000.

Mr. LISAGOR. Senator, if the Meo tribesmen are fighting there with American aid and advice, isn't that a promulgation of the Nixon doctrine, as you understand it, which is to have other people defend themselves with such aid as we can give them, but not to supply American ground troops to do that fighting?

Senator MANSFIELD. That is right, a low profile, in accord with the Nixon doctrine, which I endorsed 100 percent, would mean that we would not send in advisers even, or combat troops, but that we would logistically give support to the people whom we are interested in seeing maintain their standing.

Mr. LISAGOR. Isn't that what we are doing now in Laos?

Senator MANSFIELD. Well, except that——

Mr. LISAGOR. Or have we gone beyond that?

Senator MANSFIELD. Well, I think we have gone beyond that, for reasons of which I do not comprehend, which may be thoroughly understandable, and that has to do with the advisers and the use of planes to supply the Meo and other tribesmen under Vang Pao.

Mr. HERMAN. Doesn't this, however, revolve on the question of what it is the North Vietnamese are doing, whether this is an unusual offense or not?

Senator MANSFIELD. That is right, and the question is will they go beyond the present line and go towards Luang Prabang and Vientiane or just stop where they are.

Mr. HERMAN. In that connection, I wanted to quote to you the words of Souvanna Phouma, in an interview done by CBS Correspondent Bill McLaughlin for a special show we are doing Tuesday. He said, "The North Vietnamese offensive is the usual dry season offensive. So far it does not go in degree beyond normal offensives." And then he says there are some new weapons. He says, "However, I do not think that the way the North Vietnamese act give any evidence that the North Vietnamese are willing to commit the U.S. more deeply in the war in Indochina." He doesn't seem to see anything unusual or anything more striking in this. Is that contradicted by American advisers?

Senator MANSFIELD. No, the American advisers have been there for a long time. I think that the number of attachés at the U.S. numbers somewhere around 90. There may be others, in addition. I just happened

to read in the paper this morning where the air attaché acts as sort of a coordinator with his Laotian counterpart to indicate where the air strikes should take place.

Mr. KALB. It also is pointed out by a number of White House officials, Senator, that the United States Ambassador, Mr. Godley, in Laos, acts as a kind of military commander and is, in part, responsible for the operation of American strikes.

Senator MANSFIELD. That is my understanding.

Mr. LISAGOR. Senator, I am not clear about—excuse me, go ahead.

Mr. KALB. I was just trying to understand how this fits in with an ambassadorial role. It is unusual.

Senator MANSFIELD. It is, but Laos is an unusual situation. It is an area which is not tied to our own security but is tied, in part, to the situation which—to the tragedy which has taken place in Vietnam, a mistaken war as far as I am concerned. But, as I have indicated earlier, you have to divide it in two, between what is happening along the trail and what is happening throughout the rest of Laos.

Incidentally, about two-thirds of Laos is occupied by the Pathet Lao and the North Vietnamese, plus the fact that you have got very significant Chinese concentrations there.

Mr. LISAGOR. Would you advocate then, Senator, that we get out of Laos altogether, stopping these bombing raids, removing our advisers, and only concentrate on the Ho Chi Minh Trail?

Senator MANSFIELD. I would, and I would, in accord with the Nixon doctrine, give to the Royal Lao government the necessary support which it needs.

Mr. LISAGOR. Now, let me ask you about a theory about why the North Vietnamese are in Laos. The going assumption is that they are trying to stop the Vietnamization process and stop the withdrawal of American troops in South Vietnam. Do you see any reason why they should want to stop the withdrawal of American forces in Vietnam?

Senator MANSFIELD. Quite the contrary. I should think they would want us to get out faster than we are.

Mr. HERMAN. To get us finally off the subject of Laos, let me just broaden it for a moment to the whole subject of Southeast Asia. Before you went on your trip for President Nixon last summer, you made a speech of considerable praise, which made some headlines, for the Nixon doctrine and Nixon's policies in the Southeast Asian area.

Senator MANSFIELD. Yes indeed.

Mr. HERMAN. When you came back, you had speeches which had some specifics. In your report, for example, you talked with considerable worry and not so much praise about our reinvolvement in Laos. Do you think that the Nixon doctrine has not been taking practical effect as well as you would like to see it? In other words, is it more a verbal doctrine than a practical actual fact in terms of troops being placed?

Senator MANSFIELD. Well, Laos was one of the places where I raised some question because of what was going on there and what might go on. That report still stands. I wouldn't back away from a word of it. And it was my belief they hadn't gotten the word, that President Nixon had enunciated a new doctrine at Guam, and——

Mr. HERMAN. Who is they?

Senator MANSFIELD. What? I misunderstand you. Who is they?

Mr. HERMAN. Who is they?

Senator MANSFIELD. The embassy staff there, the Ambassador and the others with whom I talked seem to have the idea that things were going to go along as usual and, in fact, be intensified. And at that time they were stepping up the sorties. Since that time, within the past several weeks, they have made one, only one B–52 strike on the Plaine des Jarres, which is indicative of a step up of the war, in my opinion, even though it was only one.

Mr. LISAGOR. Senator Mansfield, considering the state of domestic public opinion about the Vietnam war, and considering all the statements that President Nixon has been making about getting out of that situation, is it conceivable to you that he could or would get into Laos in a major way?

Senator MANSFIELD. No.

Mr. KALB. Why not?

Senator MANSFIELD. Because it would mean a broadening of the war, in my opinion, and it would go far beyond Vietnam. It would bring into play the Vietnamization of South Vietnam and perhaps the Americanization of South Vietnam and perhaps the Americanization of a war in which we should not really become involved in Laos. It would, I think, bring about a stop in the withdrawal of U.S. troops, which the President has his heart set on, from South Vietnam, and it would create a complete new set of factors.

Mr. LISAGOR. But in that event, Senator, if you don't think he would get involved, what is all this clamor all about? Why are you and the other Senators clamoring about what is going on in Laos?

Senator MANSFIELD. A stop, look, and listen warning, based on the national commitments resolution passed by the Senate last year, and on the basis of the Church-Cooper amendment to the Defense Appropriation Act last year, which forbids the use of U.S. combat troops in Laos and Thailand.

Mr. HERMAN. Do you think you have served your purpose now? Do you think that this debate has called something to the President's attention and that this phase is now going to end?

Senator MANSFIELD. I couldn't say—I couldn't answer that, but I am sure the President has been aware of it all of the time. I think he felt that his hands have been tied because of circumstances which he had inherited. Now he has made a report to the American people going so far as he thinks he can go without violating any security relative to the war in Laos.

Mr. LISAGOR. There is a disconcerting notion in what you say, Senator, that the President and the administration and the government is all somehow at the mercy of the "they" in Laos, some vague force. Is that what you intend to imply here?

Senator MANSFIELD. Oh, no, they are at the mercy of events. I am sorry about the use of the word "they," if you think if I am referring to some mythical group or some individuals. I am not. It is just a——

Mr. HERMAN. We were afraid you were referring to some real group.

Senator MANSFIELD. No. If I am referring to anybody, I will name them.

Mr. LISAGOR. You are not referring to the CIA, to be specific, and their——

Senator MANSFIELD. Only insofar as they are tied up with the Meo tribesmen, the army of Vang Pao, and their connections with Air Continental and Air America.

Mr. KALB. Senator Muskie has made a statement just this past week on Vietnamization of the whole war in Vietnam, and he may one day wish to be the President of the United States. Do you associate yourself with his comments and his criticisms?

Senator MANSFIELD. I can only associate myself with my own comments.

Mr. KALB. Well, do you believe that Vietnamization is a working proposition in Vietnam.

Senator MANSFIELD. Well, I have seen so many programs operate in Vietnam since 1954 that I have got my fingers crossed. I hope it works; I have doubts.

Mr. LISAGOR. One of the proposals that Senator Muskie made and described as crucial was that there ought to be a presidential representative appointed as a successor to Ambassador Lodge at the Paris peace negotiations.

Senator MANSFIELD. I agree.

Mr. LISAGOR. Do you agree?

Senator MANSFIELD. I agree.

Mr. LISAGOR. And why do you agree?

Senator MANSFIELD. Because I don't think you are going to get anywhere unless you put someone of stature heading that delegation in Paris. I think it is quite apparent, from the reaction of the North Vietnamese, that that will be the case.

Mr. KALB. Why doesn't the administration do that?

Senator MANSFIELD. You will have to ask the administration.

Mr. LISAGOR. But do you think Hanoi would deal with anyone else in Paris simply because he was a man of higher rank than the present negotiator there?

Senator MANSFIELD. Well, they won't deal with a man of lower rank. They have proved that. So what have we got to lose by sending a man of stature there?

Mr. KALB. Do you feel that any kind of solution in Vietnam can be a solution associated only with Vietnam or must it be a Southeast Asian solution?

Senator MANSFIELD. I think eventually it will have to take in all of Southeast Asia, including Thailand and the three Indochinese states, for now. I would hope that there would be a reconvening of the Geneva conferees, those of 1954 and '62, and that out of it would come a guaranteed neutrality for all of that part of the world.

Mr. HERMAN. Do you think that Vietnamization, which you say you hope will succeed, is a proper and successful way to end this war?

Senator MANSFIELD. It is an attempt in a direction which holds some promise, but whether or not it will fulfill that promise remains to be seen.

Mr. HERMAN. A number of critics of the war, including Senator McCarthy, say that the only way it can really be ended without a lengthy American presence there, without a lengthy period of strife and death along the line, is an actual diplomatic settlement, and that implies a coalition government, and sooner or later we are going to have to bite that bullet.

Senator MANSFIELD. Oh, yes. I have said for a long time that the only answer in South Vietnam is a coalition government because, as far as the Viet Cong are concerned, they are South Vietnamese and they are made up of different political complexions. And as far as the present Thieu-Ky government is concerned, they happen to be North Vietnamese.

Mr. HERMAN. Well, then the question comes down to is Vietnamization of the Saigon regime, is Vietnamization of the Thieu-Ky government going to give us an end to the war?

Senator MANSFIELD. If it will broaden its base, the prospects will be enhanced.

Mr. HERMAN. If it will broaden its base?

Senator MANSFIELD. Yes.

Mr. HERMAN. To what extent?

Senator MANSFIELD. To take in all South Vietnamese—Viet Cong, Buddhists, gao Dai, Hoa Hoa, all of them.

Mr. HERMAN. And what does it require apparently to make them do that? They don't seem to be—they seem to be narrowing it at the moment, throwing some liberals in jail.

Senator MANSFIELD. Well, how it can be done, I do not know, but I think it will have to be done before there will be peace in South Vietnam.

Mr. LISAGOR. Senator, isn't the thing that the critics of the Vietnamese process want is for America to get out of there and to get out of there as quickly as possible? And does it then not follow that the President would have to admit that we have failed in South Vietnam? And do you think he could do that?

Senator MANSFIELD. Yes, I think that he could, because there is a recognition that it is an area which is not vital to our security,

in my opinion. It was a mistake to get involved, in my opinion. It is a continuing tragedy, in my opinion. And I would like to see some sort of a reasonable, responsible settlement arrived at by means of which we could withdraw from all of Southeast Asia, lock, stock and barrel, including bases.

Mr. LISAGOR. You have been a great student of the area. Would you tell us briefly what you define as our interests in Southeast Asia, going back to an earlier time and today?

Senator MANSFIELD. In Southeast Asia, I would say that our interests are mainly economic, and even there they occupy a secondary position. I think our interests are far more concerned with the Western Pacific, including China, of Korea, Soviet Asia, Japan, and the island chain. But as far as Southeast Asia is concerned, I do not see where our vital interests are concerned in any way.

Mr. KALB. Senator, could I shift to another part of the world for a moment.

Senator MANSFIELD. Surely.

Mr. KALB. An issue that seems to be alive before the administration at this time is whether additional jet aircraft will be provided by this administration to Israel. Do you think Israel should get the jet aircraft it has asked for?

Senator MANSFIELD. That is something which the President has indicated he will arrive at a decision concerning within a matter of days now. My feeling is that, yes, it should get the jet aircraft if for no other reason than a counter reaction to the French sale of the 100-plus Mirages to Libya.

Mr. KALB. And do you think that the President, by going on up to New York, overreacted in any sense or did something that you approve of?

Senator MANSFIELD. No, I think he did the right thing, and I was delighted that Senator Scott, the minority leader, and I, as majority leader, had the opportunity to accompany him and to appear at that dinner.

Mr. LISAGOR. Senator, do you think that the supply of jets to Israel, if the President should decide to do that, will in any way affect the arms control talks with the Russians, that are about to resume in mid-April?

Senator MANSFIELD. I wouldn't think so. I would imagine that the ABM situation over here would have a more telling effect.

Mr. LISAGOR. I was trying to sneak into an ABM question, but you have raised it now. What will be the impact of going into a second stage of ABM on those talks, in your judgment?

Senator MANSFIELD. Well, I have very strong feelings on the ABM. As you know, the Congress last year agreed to go ahead with the two bases in Montana and North Dakota. Those are accomplished facts. They will proceed regardless. The administration this year is asking for an additional ABM system to be established at Whiteman Air Force Base, in Missouri. I don't think that is as much as they had in mind in the beginning—I don't know, I am just guessing—I don't believe that one more system will have too great an effect, and I would hope that, in the meantime, if the system is approved, that something definite could be accomplished at the SALT talks. May I say that if the ABMs are needed, I will be for them. But I want to be certain that, if they are built, that they are reliable. At the present time the radar screen is very vulnerable. If it is hit, the whole system is knocked out, and the computer system, which will direct the ABMs, is far from accurate, far from reliable.

Mr. KALB. Is that a question of which scientists you really wish to believe?

Senator MANSFIELD. Yes, I believe Panofsky and others like that, who are——

Mr. KALB. Who are critics of the system?

Senator MANSFIELD (continuing). In this thing pretty deep and who have no axes to grind. And Dr. Panofsky, for whom I have the highest respect and regard, would be for the system, I understand, if it was reliable and accurate. But why should we spend money and waste it and put in a system which will lull the American people into a sense of false security, if it won't work if called on?

Mr. LISAGOR. In other words, you wouldn't favor it, Senator, as a bargaining chip at all in these so-called SALT talks with the Russians?

Senator MANSFIELD. I don't think it is worth that much.

Mr. HERMAN. How much do we have to spend on the current system before we will get some realistic idea of what will work and what won't work?

Senator MANSFIELD. It is hard to say. The cost of the two systems in Montana and North Dakota have already increased tremendously from the initial estimates, and I would imagine that those costs would go up, especially in view of the fact that they lack reliability and accuracy.

Mr. KALB. If those costs go up, how does the administration take care of certain domestic needs, which I believe you have described as urgent?

Senator MANSFIELD. Well, that is the question. I think we ought to be very sure of what we are doing in the field of security and achieve a balance between our security needs, on the one hand, and our domestic needs, on the other. The question is not—the word is not priority but balance. We could have the best security system in the world, but if we have an uneasy, a concerned population at home, and problems multiplying, it won't do us much good.

Mr. KALB. Is the administration achieving that balance, in your view?

Senator MANSFIELD. I think it is endeavoring to, but not fast enough to suit me.

Mr. HERMAN. Which problems do you see as the chief multiplying problems to which you just referred?

Senator MANSFIELD. Oh, the problems of the ghettos, the problems of crime, drug addiction among the young, pollution, pornography, just to mention some.

Mr. HERMAN. That is a fairly good start. You said, when you saw the new budget, you thought you would be able to cut $10 billion from it. With all of these multiplying problems, with the ABM in the offing, do you still think you can cut $10 billion?

Senator MANSFIELD. Yes, indeed——

Mr. HERMAN. Where?

Senator MANSFIELD. And I am happy to note that the Congress last year did reduce the President's budget request by $5.6 billion, and for the next fiscal year already, last year we reduced the defense appropriation by approximately $1.3 billion more. I think that the Defense Department can be cut still more. I want to commend Secretary Laird and the President for the cuts which they have made themselves in the Defense Department since they assumed office. I think the space program can be cut considerably, and the objective still kept in sight.

Mr. LISAGOR. Do you see any of the domestic programs that can or should be cut, those that you referred to a moment ago, Senator?

Senator MANSFIELD. Oh, I think that in the field of farm subsidies, there are some people who are getting entirely too much, and we ought to arrive at a more reasonable amount of subsidies. We can't do away with them, but we shouldn't go hog wild on them.

Mr. LISAGOR. How about the family assistance program, if I may follow this up?

Senator MANSFIELD. That is something new.

Mr. LISAGOR. Do you see the Senate passing that, as the House seems——

Senator MANSFIELD. Well, that is something new. We haven't had a chance to even look at it. It has just been reported out of the Ways and Means Committee, to the House, and in that area, as you well know, the Senate can take no action until the House committee has acted and the House decided. I don't know too much about it yet, but we will face up to it when it comes.

Mr. HERMAN. I would like to take you back to the Defense Department for a moment.

Senator MANSFIELD. Surely.

Mr. HERMAN. If you are going to cut apparently many billions from the Defense Department budget, what weapons or what system or where is it going to come from?

Senator MANSFIELD. Well, give us a chance to go into what is requested and we will try to do this year what we did last year. I would point out that it was brought out last year that something—no, this year, Senator Proxmire has brought out that, on the basis of weapons systems, there has already been an overestimate of something—an over-cost of something on the order of $21.8 billion, on the basis of figures furnished by the General Accounting Office, a congressional arm, and this is supposed to be a conservative estimate. So I think we can cut down some places, do away with programs which are not living up to expectations. But give us a chance to look at the budget before you ask for too definite an answer.

Mr. KALB. Senator, the new Chairman of the Democratic National Committee, Mr. O'Brien, expressed great optimism about the elections this year. Was that party rhetoric or do you share that optimism?

Senator MANSFIELD. Well, we will see.

Mr. LISAGOR. Is the party in as bad a shape as we keeping reading it is?

Senator MANSFIELD. We are not in the best possible shape. We have a $9.5 million debt, I understand. As usual, we have frictions and factions within the party. The Democratic Party never lacks troubles. It seems like we were born with them and that they accumulate as we go along, but, somehow or other, we will get out of them. I am delighted that Mr. O'Brien has consented to take on the job, because it is a most difficult undertaking.

Mr. HERMAN. Senator, we only have a little over a minute left, but I have to ask you one question. I remember in about 1966, it seems to me, you criticized the Johnson administration for going too fast on desegregation of schools. Now President Nixon has suggested some desegregation slow-down. Mr. Moynihan has talked about benign neglect. In the approximately one minute that we have left, can you tell us how you feel about the current pace of desegregation?

Senator MANSFIELD. I don't think—I don't recall that I criticized President Johnson along the lines of your suggestion. But I would point out that, as far as the Stennis-Ribicoff amendment is concerned, that will not stop desegregation. It will make the question more applicable on a nationwide basis, and I think all parts of the country ought to be brought into this thing, because the idea of de jure segregation being applicable only to the South just isn't true. We have elements of it in various parts of the North, and I would hope that this policy statement would be effective in bringing about a better understanding and a better acceptance of the law laid down by the Supreme Court, or the dictum.

Mr. HERMAN. In the about 15 seconds we have left, are you content with the current rate of desegregation?

Senator MANSFIELD. Well, we will have to follow—I hate to avoid that question, but this is something which will have to be carried out according to the law of the land in all parts of the country. I am satisfied in some parts, in others I am not.

Mr. HERMAN. You have successfully avoided it. Thank you very much for being with us today on Face the Nation.

Senator MANSFIELD. Well, I want to assure you I didn't intend to avoid it.

ANNOUNCER. Today, on FACE THE NATION, Senate Majority Leader Mike Mansfield, Democrat, of Montana, was interviewed

by CBS News Diplomatic Correspondent Marvin Kalb, Peter Lisagor, Washington Chief of The Chicago Daily News, and CBS News Correspondent George Herman. Next week, another prominent figure in the news will Face the Nation. Face the Nation originated, in color, from CBS/Washington.

MAJ. ROBERT BECKEL AND COL. "BUZZ" ALDRIN RECEIVE BRONZE EAGLE AWARD

Mr. GOLDWATER. Mr. President, the Iron Gate Squadron of the Air Force Association held its annual ball on February 20 of this year in New York City. This function has become a tradition among supporters of the U.S. Air Force. Annually many of those dedicated to aviation gather to pay their respects to the individuals who have given so generously of their time and talent to assure the continuing leadership of our great Nation in aviation and space technology.

Walter Cronkite was the master of ceremonies, and he performed this task in his usual brilliant and competent manner. I ask unanimous consent that a portion of his remarks be printed in the RECORD.

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

Mr. CRONKITE. It's nice to be back at another National Air Force Salute, an event that over a few short years has acquired great status and prominence, primarily, because it is dedicated to such a worthwhile cause.

The Theme of this year's Salute is "The Men in the Machines." This theme was selected to underscore that the technological affluence of our automated age notwithstanding, man with all his frailities continues as the key factor in the aerospace equation.

Man's Technical ingenuity creates machines that rival his brilliance, that can repair themselves . . . that check themselves . . . and that perform in the manner he tells them to.

But the most sophisticated, microminiaturized airborne computer is no substitute for the judgment and flexibility and genius yes the guts of the fighter pilot . . . or the astronaut who overrides the congeries of black boxes on his space ship because . . . in that one emergency situation that's not in the program . . . he alone can take that action that spells the difference between disaster and success.

So this evening is devoted to the men of aerospace. We pay tribute to that special breed of professionals who untiringly stand that cold and lonely vigil at the aerospace frontiers of freedom.

But as we do so we also note with a heavy heart seats that are vacant . . . vacant because a combat pilot in Southeast Asia had to give that last full measure of devotion to his country . . . because another pilot on a test or training mission perished in a machine that, at times, was less perfect than he . . . and because others have joined what the Air Force Magazine last October, in an article needed writing, termed "The Forgotten Americans" . . . our Prisoners of War in Vietnam who can't communicate with us . . . and with whom we are not permitted to communicate . . . whose families live in a limbo of anguish . . . not knowing if their husbands, fathers, sons or brothers are alive or dead.

A noted philosopher said that life and death have their determined appointments and that riches and honors depend on the heavens.

Tonight we commit to mind and to heart the determined appointments filled in behalf of liberty. . . . We express a universal hope that the anguish we have just stated will be erased by liberty . . . and are grateful that it is the heavens where we have found new riches, new honors, new horizons and new hope.

As we all know, there are two sides . . . or halves . . . to aerospace, the one that belongs to the airplane and the one that belongs to spacecraft.

In honoring the men of aerospace, the Iron Gate Chapter of the Air Force Association allowed for the duality of aerospace by honoring a representative pilot and a representative astronaut.

Vietnam has driven home the point that limited war can only be fought by unlimited men . . . and not by missiles which can perform one kind of mission, no more and no less.

The pilot who represents the flying Air Force is a graduate of the Air Force Academy class of '59 which, incidentally, was the first class to graduate. He was the Academy's first cadet wing commander. Following his commissioning, he completed flight training at Luke Air Force Base and was named the outstanding graduate in his class.

Following a tour in Germany as an F–100 pilot he was chosen as a member of the United States Air Force's Air Demonstration Squadron, Thunderbirds, the world famous ambassadors in blue.

After two years with the Thunderbirds he volunteered for combat duty in Southeast Asia. He flew more than 313 combat missions and was awarded the Silver Star, five Distinguished Flying Crosses, the Bronze Star and sixteen Air Medals.

The formal presentation of this award tonight was to be made by the Air Force Chief of Staff . . . General John D. Ryan. Unfortunately, a last minute requirement prevented General Ryan from being with us. We are very sorry.

We are happy, however, that General Ryan is most ably represented. And now . . . to present the first award of the evening . . . I call on a fighter pilot's fighter pilot. The leading American Ace in Europe during World War II . . . with 37 and ½ victories . . . the holder of the Distinguished Service Cross with two Oak Leaf Clusters, and the Silver Star with Oak Leaf Cluster . . .

Ladies and Gentlemen . . .

The Vice Chief of Staff of the United States Air Force . . . General John C. Meyer.

Mr. GOLDWATER. The coveted Bronze Eagle Award of the Air Force Association, Iron Gate Chapter, was presented in duplicate for the first time this year. The duality of aerospace was recognized and the honor went to a representative pilot and a representative astronaut. Maj. Robert Beckel was the pilot recipient of the Bronze Eagle and Gen. John C. Meyer, Vice Chief of Staff of the U.S. Air Force made the presentation. Major Beckel thanked the assemblage for this honor.

I ask unanimous consent that his moving and outstanding statement be inserted at this point in my remarks.

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

Maj. ROBERT D. BECKEL. Distinguished Ladies and Gentlemen. It's an honor to have the privilege of expressing the gratitude of that unique collection of men—if I may borrow from Mr. John Magee and "High Flight"—men who by their dedication and desire must slip the surly bonds of earth.

For men who have wheeled and soared and swung high—not in the sunlit silence, but in the hostile windswept heights of Southeast Asia.

For men who have gallantly put out their hands and touched the face of God—only to fall—here in their homeland and in the rice paddies of Vietnam.

For men who must daily face the uncertainties of harsh captivity.

For men—like myself—who have been fortunate and have returned to our loved ones.

And I know with absolute certainty—should the roll once again be called to carry this Nation's colors—that the spirit of these men will rise and cause countless others to proudly hold aloft the red, white, and blue.

None asking for the recognition that you have so graciously given this evening. But in response to this recognition, I know each would want me to convey to you a simple but most sincere—Thank you.

Mr. GOLDWATER. Col. "Buzz" Aldrin was presented the Golden Eagle as the outstanding astronaut. Mr. Cronkite introduced Colonel Aldrin who, in turn, was presented the Bronze Eagle Award by Secretary of the Air Force Robert Seamans. I ask unanimous consent that Mr. Cronkite's introduction of Colonel Aldrin and Secretary Seamans be printed at this point in my remarks. Unfortunately, Colonel Aldrin did not speak from a prepared text, nor was there any recording made, so it will not be possible for me to offer what was said by this second man on the moon. I do ask unanimous consent, though, to put Mr. Cronkite's concluding remarks in the RECORD at this point.

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

Mr. CRONKITE. Thank you, General Meyer.

In the decade which has just passed America confronted and conquered the last, the greatest and the most dangerous frontier of all, space, man's new ocean without boundary. Sir Isaac Newton once said that if he saw further than other men, it was so because he stood on the shoulders of giants. Our reach for the moon, too, was only possible because we stood on the shoulders of giants, men like Copernicus, Galileo, Kepler, Newton and Goddard . . . and because of the cumulative genius, engineering know-how and meticulous devotion to detail that resulted from years of pioneering in Air Force, Navy, and NASA Laboratories and the superb pilot training without which our manned space program would not be possible.

The Air Force officer astronaut whom we honor this evening is a West Point Graduate who holds a doctorate from M.I.T. in science and astronautics—whose doctoral dissertation, fittingly and prophetically enough, was on manned orbital rendezvous.

Among his unique achievements which awed the world there was one particularly dear to my heart . . . he set up the first TV camera on the moon. For the presentation of this award I call on a scientist and aerospace leader who has been and is in the forefront of both space and Air Force Activities.

His last government assignment, before he assumed his present high office was that of Deputy Administrator of the National Aeronautics and Space Administration.

Ladies and Gentlemen . . . The Secretary of the Air Force . . . *the Honorable Robert C. Seamans, Jr.*

Thank you, Dr. Seamans.

As far as I am concerned the theme of this evening, "The Men in the Machines,"

has been most impressively documented by the two outstanding Air Force officers whom we have honored here this evening.

Ladies and Gentlemen . . . it has been a privilege to officiate at this brief ceremony and I turn the rostrum back to our good friend, Gil Nettleton.

THE OIL LOBBY IS NOT DEPLETED

Mr. PROXMIRE. Mr. President, we who had the audacity to ask whether the expensive subsidies received by the oil industry could be justified often felt we were fighting an octopus.

Erwin Knoll explains why in a brilliant article published in the Sunday New York Times Magazine of March 8, 1970. It is a thorough, clear exposition of the oil industry's political power. Anyone who expects to deal with oil should read the article.

I ask unanimous consent that it be printed in the RECORD.

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

THE OIL LOBBY IS NOT DEPLETED

(By Erwin Knoll)

WASHINGTON.—On Thursday evening, Nov. 6, 1969, the Governors of three states met over a quiet dinner at the Tavern Club in Washington with Frank N. Ikard, a former Texas Congressman who is now president of the American Petroleum Institute, the trade association of the nation's largest oil companies. There is no public record of what the four men discussed, although—by coincidence or otherwise—the same three Governors and a fourth were at the White House early the next morning to urge the Nixon Administration to retain the 11-year-old system of oil-import quotas, which costs consumers more than $5-billion a year in higher prices for petroleum products.

The Tavern Club tête-à-tête and the subsequent White House session are examples of the close and continuing contacts between oil and politics—an intimate relationship that has prompted some critics to describe the oil industry as "the fourth branch of government." In recent months those contacts have intensified, for the industry's privileged status is being attacked with unprecedented ferocity. Under the benign patronage of such influential figures as the late Senator Robert Kerr of Oklahoma, who rejoiced in being known as "the uncrowned king of the Senate"; the late House Speaker, Sam Rayburn of Texas; the late Senate Minority Leader, Everett McKinley Dirksen of Illinois, and former President Johnson—all of whom shared a profound and undisguised commitment to the industry's welfare—the petroleum producers enjoyed decades of virtually limitless power in Washington. Their strength probably still surpasses that of any other special-interest group. But with the departure of their most prominent and effective champions, their critics are for the first time emerging as a force to be reckoned with.

In one of the few genuine, although limited, reforms to survive the byzantine machinations that produced the final version of the Tax Reform Act of 1969, both houses of Congress voted decisively to reduce the sacrosanct oil-depletion allowance from 27.5 per cent to 22 per cent. The reduction—acquiesced in by a reluctant executive branch—constituted an acknowledgment that many Americans had come to regard depletion as the most flagrantly objectionable abuse in the loophole-riddled tax code.

In a statement that some of his colleagues thought was tinged with exaggeration, Senator Thomas J. McIntyre of New Hampshire declared that the vote to cut the depletion allowance signified that the Senate had "once and for all rejected its role as the bastion of the oil industry." The Senator was among those who had unsuccessfully sought a more drastic reduction to 20 per cent. "But the important thing," he said, "is that we have finally made a crack in oil's protection shield. If others develop in the days to come, American consumers and taxpayers may yet get a fair shake at the hands of this much-pampered industry."

The depletion allowance, which stood inviolate for more than four decades, has allowed an oil or gas company to deduct 27.5 per cent of its gross income from its taxable income, providing the deduction does not exceed 50 per cent of taxable income. With lesser depletion percentages provided for almost 100 other mineral products, depletion has cost the Treasury about $1.3-billion a year in lost revenues—a sum comparable to the "inflationary" spending increments that President Nixon cited as the reason for vetoing the Labor-H.E.W. appropriations bill for fiscal 1970. Special provisions in the tax laws also permit oil and gas producers to deduct many of their intangible costs for exploration, drilling and development, including off-shore drilling and production in many foreign countries. And oil companies are allowed to deduct against their United States taxes most of the royalties they pay to foreign powers—an arrangement cloaked in the convenient fiction that such royalty payments are "taxes."

The result of these privileges, according to Treasury Department calculations, is that oil and gas companies save in taxes 19 times their original investment for the average well. In 1968, American oil companies paid less than 8 per cent of their income in taxes, compared with more than 40 per cent for all corporations.

Clearly, the tax laws have played an important part in making the oil industry the formidable economic and political force it is. The industry's annual sales total more than $60-billion. Among the 2,250 largest American companies surveyed last April by the Economic Newsletter of the First National City Bank of New York, the 99 oil companies alone accounted for more than 25 per cent of the total profits. The industry's average profit of 9 per cent (based on net sales) is about double the average for all manufacturing companies; only one other industry—drugs—maintains a higher profit level. The 20 largest oil companies amassed profits of $8.1-billion in 1968 and paid 7.7 per cent of the net in taxes, according to U.S. Oil Week, an independent oil-marketing publication. Thanks to the generosity of the tax laws, one oil company—Atlantic-Richfield—avoided all Federal tax payments from 1964 to 1967, and actually managed to accumulate a Federal tax credit of $629,000 while earning profits of $465 million. Atlantic-Richfield's case is not unique.

A tax structure that lends itself to such egregious inequity is obviously worth defending. In Washington (and at state capitals across the country) the industry's interests are served by a costly and complex but closely coordinated lobbying apparatus. Among its principal components are these groups:

The American Petroleum Institute, whose membership roster of 400 companies and 8,000 individuals represents about 85 per cent of the total production, refining and marketing volume in the oil and gas industry. Despite its broad membership, A.P.I. is regarded as primarily the spokesman for the "Big Seven"—Standard Oil of New Jersey, Mobil, Shell, Standard Oil of Indiana, Texaco, Gulf and Standard Oil of California. Among these, Standard of New Jersey is the dominant force.

The institute's annual budget is a closely guarded secret, and its quarterly reports to the clerk of the House of Representatives on lobbying expenditures are incredibly modest—a total of $39,119 for 1968. Industry sources report that the institute spends between $5-million and $10-million a year, much of it for "research." It has a staff of more than 250 at offices in New York, Washington, Los Angeles and Dallas.

The chief A.P.I. lobbyist is former Congressman Ikard, who represented Wichita Falls, Tex., from 1952 to 1961 and was a protégé of the late Speaker Rayburn. When he resigned from the House to join the institute—a move that he said was "a question of economics"—Ikard was praised by Lyndon Johnson, then Vice President, as "a heavy thinker and a heavy doer." Under his direction, says a Congressional source, the institute has been "a pace and precedent setter . . . vigorously seeking to adapt its positions and attitudes to the wave of the future."

The Independent Petroleum Association of America, with some 5,000 members representing about 60 percent of the independent oil producers. Its "experts"—a professional staff of six operating out of an impressive Washington office suite—were highly visible among the oil men who flitted in and out of the back door to the Senate Finance Committee's offices while the committee, in sessions closed to the public; considered the oil provisions of the Tax Reform Act. The immediate past president of the association, Harold M. McClure, the Republican National Committeeman from Michigan, has acknowledged making "personal" campaign contributions totaling $90,000 in 1968. He recently testified before a Federal grand jury investigation allegations of political bribery.

The same Congressional source who admires the A.P.I. for its flexibility describes the Independent Petroleum Association as "sticking to the traditional line that the existing state of oil privileges is essential to the national defense and must remain sacrosanct."

The National Petroleum Refiners Association, composed of domestic refining companies and representing about 90 per cent of the refinery production in the United States. Donald O'Hara, the association's executive vice president, was formerly a registered lobbyist for the Petroleum Institute, with which he maintains close liaison.

The Independent Natural Gas Association of America, representing major pipeline companies. Its executive director is a former Texas Representative, Walter E. Rogers. He served in Congress as Chairman of the House Subcommittee on Communications and Power, which handles gas-pipeline legislation. He gave up his Congressional seat in 1966 and registered as a lobbyist in 1967 to represent 12 pipeline companies in a vigorous—and successful—effort to water down a pending bill that would have established strict Federal safety standards for the nation's 800,000 miles of gas pipelines.

A formidable array of regional and state groups—among them the Mid-Continent Oil and Gas Association, the Western Oil and Gas Association, the Texas Independent Producers and Royalty Owners Association and the Kansas Independent Oil and Gas Association—augments the national contingent. Executives of these organizations are frequent visitors to Washington, and they can draw on the talents of the capital's most prestigious law firms for missions of special delicacy. Individual companies also mount their own lobbying efforts; John Knodell, a genial and knowledgeable lawyer who worked the Congressional beat until recently for Humble Oil, was credited with establishing a new beach-head for the industry in the last year or two by opening lines of communication with liberal members of the House and Senate. He is now assigned to Humble's legal department in Houston.

By pooling their efforts, the companies are able to marshal formidable forces. In the

carefully orchestrated campaign against reducing the depletion rate, for instance, one concern urged all its stockholders to write to members of Congress; another focused on mobilizing its retired employes; a third concentrated on service-station operators; a fourth sent brochures to its credit-card holders. The companies claimed all these efforts as deductible business expenses, but the Internal Revenue Service is, at the request of Senator William Proxmire of Wisconsin, examining those claims.

Instances of disarray of the ranks of oil are relatively rare—and when they occur, the dominant companies usually manage to muffle the dissenters. Last year, the small independent producers in the Kansas Independent Oil and Gas Association broke ranks to support a proposal by Senator Proxmire that would have instituted a system of scaled depletion allowances—a plan emphatically resisted by the majors. The Kansas oilmen were unable to persuade even their own state's Senators to support the Proxmire plan. When two executives of the Kansas group flew to Washington to enlist one Senator's assistance, he kept them waiting in an outer office while a representative of Standard Oil of Indiana delivered the pitch for retaining full depletion. "The local boys just don't understand the situation," the Senator later said.

Depletion and tax preferences are hardly the only—or even the most significant—perquisites the industry is eager to protect. In fact, some Congressional critics suspect that the oilmen were not entirely displeased when Congress voted to reduce the depletion allowance, since they hope that this action will lease the pressures against other oil privileges now under attack.

Chief among such privileges is the import-quota system—the topic the four Governors took to the White House on Nov. 7. Their meeting took place in the office of Peter Flanigan, a Presidential assistant who has special responsibility for financial affairs and who serves as the President's staff expert on oil. The Governors present, representing the Interstate Oil Compact Commission,* were Preston Smith of Texas, Robert B. Docking of Kansas, Stanley K. Hathaway of Wyoming and Richard B. Ogilvie of Illinois; they brought with them telegrams of support from the chief executives of 13 other states. Among the Administration officials assembled to hear the Governors' views were Secretary of Labor George P. Shultz, who heads President Nixon's Task Force on Oil Import Control, and several key members of the task force—Secretary of the Treasury David M. Kennedy, Secretary of the Interior Walter J. Hickel and Secretary of Commerce Maurice H. Stans.

"This meeting," Senator Proxmire told the Senate on Nov. 17, "was clearly the result of a planned campaign of pressure by the oil industry through the Interstate Oil Compact Commission. Even a cursory examination of the telegrams from the Governors who could not attend the meeting shows they are almost all in identical language. . . .

"The pressure on the Governors must have been fierce. The most interesting example of this is a telegram sent [by the State Commissioner of Conservation and Natural Resources] on behalf of Gov. Nelson Rockefeller of New York. The telegram assures the White House that Governor Rockefeller supports oil-import quotas, though Mayor Lindsay has shown that the quotas cost New York City consumers a minimum of $95-million a year in increased prices and that the cost might go as high, just for New York City, as a quarter of a billion dollars."

Whether Governor Rockefeller was, in fact, subjected to "fierce pressure" is problematic; as a member of a family that founded its fortune in Standard Oil, he is presumably not entirely unsympathetic to the industry's point of view. But Senator Proxmire's reference to a "planned campaign of pressure" in behalf of the import-quota system was no exaggeration.

About the time the oil-state Governors were meeting at the White House with members of the President's task force, Michael L. Haider, the retired chairman of Standard Oil Company (New Jersey) and retiring chairman of the American Petroleum Institute, had a private audience with President Nixon. He emerged, according to the industry's trade journal, The Oil Daily, "feeling more optimistic about the handling of petroleum-industry problems in Washington." After a "very good conversation" with the President, the report said, Haider "believes Nixon has a good grasp of the problems surrounding oil-import controls and is more confident that the outcome will be favorable."

In the same interview, Haider offered a glimpse of the relative equanimity with which the industry viewed the reduction in the depletion allowance. "Of course we can live with new taxes," he said. "We obviously aren't going out of business." The Petroleum Institute has estimated that the Tax Reform Act will cost the industry $550-million to $600-million a year.

The import-quota system on the other hand, has been estimated by reputable economists to be worth between $5.2-billion and $7.2-billion a year. Using the more conservative projection of the quota system's cost, experts have calculated that the average family of four in New York State pays an excess of $102.32 a year for gasoline and heating oil. In Vermont, a family of four pays an additional $195.92. The comparable figure for Wyoming is $258.

President Eisenhower established the oil-import-quota system on March 10, 1959, as a "national security" measure designed to reduce American reliance on foreign petroleum production. In taking this step, Sherman Adams recalls in his memoirs of the Eisenhower Administration, "the President had to go against the principles that he had fought for in his foreign-trade policy." According to Adams, the departure was made necessary by "the unpredictable human factor . . . the men who headed two large oil-importing companies that refused to join in voluntary restraints and to heed the warning of the Government of what would happen if they failed to do so. Oil was coming into the United States from foreign fields at such a rate that the American oil-producing centers were being forced into desperate straits." Adams, who served as "deputy President" in the early Eisenhower years, candidly dismisses the notion that the national security was at stake: "The imposing of import quotas on oil was primarily an economic decision brought about by an economic emergency, but the acton . . . was based upon security considerations in accordance with the law."

The quota system restricts the entry of cheap foreign crude oil to 12.2 per cent of domestic production in states east of the Rockies (the quota does not apply in the Western states because even a maximum rate of domestic production there cannot meet the demand.) The system operates in tandem with state laws that closely regulate month-to-month oil production on the basis of demand estimates furnished by the major producers. The effect is to assure domestic companies of a demand for all production, and to push up the cost to American consumers. A barrel of Middle Eastern oil can be landed in New York harbor for about $1.50 less than a barrel of domestic oil of the same quality.

"Import quotas have been instituted in order to insulate the domestic oil market from the challenge of foreign competition," Prof. Walter J. Mead, an economist at the University of California at Santa Barbara, told the Senate Antitrust and Monopoly Subcommittee last spring. "Given this barrier of free entry into the United States market, the price of crude oil in the United States is approximately double the free-market world price." During the first half of 1968, Professor Mead said, Japan paid an average of $1.42 a barrel for Middle Eastern crude oil. The American price for a similar grade of crude was $3 a barrel.

A Department of the Interior study made public on Jan. 16, 1969—and challenged by some economists as too conservative—found that the removal of import quotas would cause a 95-cent-a-barrel decline in the price of crude oil east of the Rockies. John M. Blair, the Senate subcommittee's chief economist, estimates that the quotas "have cost the American public $40-billion to $70-billion in the last 10 years."

Among the quota system's bizarre by-products is a complex of exceptions and evasions designed to suit the oil industry. In the interests of "national security," for example, Canadian oil imports, which can be shipped overland to the United States, are curtailed, while no limitation is placed on tanker shipments from Texas and Louisiana. Senator Russell Long of Louisiana, who has inherited Senator Kerr's mantle as the Capitol's chief spokesman for oil, once defended the Canadian restriction by invoking the likelihood of war between the United States and its neighbor to the north.

Another odd and costly arrangement exacts about $14-million a year from Hawaiian consumers because oil shipped to their state from Indonesia and Venezuela is refined in Hawaii, but priced as though it had been refined from more expensive domestic crude on the West Coast, then shipped to Hawaii in American vessels, which traditionally collect a top dollar for their services. "It seems hard to understand," said Prof. Morris A. Adelman, an M.I.T. economist, during the Senate hearings last spring. "If I looked into it, maybe I would find it even harder to understand."

Consumers and their Congressional spokesmen, however—no matter how loud their complaints against the quota system—can claim only modest credit for the current assault. The Presidential task force whose work has worried the industry and preoccupied its lobbyists in recent months came into being as a result of competitive pressures among the companies themselves, which prompted some major producers to seek special Federal benefits under the quota system. The first important breach in the system came when the Johnson Administraton granted quotas to a Phillips Petroleum refinery in Puerto Rico and a Hess Oil refinery in the Virgin Islands. Then Occidental Petroleum, a relatively small but aggressive company, discovered vast oil pools in Libya and decided to seek increased access to the restricted American market by requesting a 100,000-barrel-a-day quota for a refinery to be built in a proposed foreign-trade zone at Machiasport, Me. To New Englanders, Occidental promised a reduction of at least 10 per cent in the swollen cost of home heating oil. To the major producers, however, Occidental's request raised the threat of a series of "Machiasports" around the country, dissolution of the import-quota system and substantial reductions in profits.

Confronted with strong and conflicting pressures, the Johnson Administration fumbled indecisively with the Machiasport application during its last year in office, then passed the problem on to its successor. On Feb. 5, 1969, Chairman Haider and President

*The Interstate Oil Compact Commission is supposedly charged with one responsibility, conserving oil and gas within the continental United States. In theory it has nothing to do with the oil-import program, but it has engaged in heavy lobbying for retention of the quota system.

Ikard of the American Petroleum Institute proposed to Dr. Arthur F. Burns, the President's principal economic adviser, that a Presidential task force be appointed to review the quota system. Their intent, it seems clear, was to block the Machiasport project, but surprisingly the task force took on some aspects of a runaway grand jury. The industry has not recovered from the shock.

In a forceful submission to the task force, the Antitrust Division of the Department of Justice challenged the major rationale for the quota system, arguing that "the import quotas themselves do nothing to preserve this nation's domestic oil reserves. Reserve productive capacity is maintained, if at all, by state regulatory action aimed primarily at other objectives, such as conservation. The resulting hodge-podge of Federal and state regulation seems ill-adapted for achievement of a coherent program designed to provide this country with sufficient emergency oil reserves." The import program, the Antitrust Division also noted, "is a keystone in preserving a dual price system as between the United States and the rest of the free world. By insulating the domestic market from the competitive pressures of world oil prices, the program intensifies the effects of the existing lack of competitive vigor in various domestic oil markets."

Under the direction of Prof. Philip Areeda, a Harvard economist, the task-force staff compiled what is generally regarded as a full, fair and thorough record (although some industry sources passed the word that the staff was dominated by a most dangerous element—"theoretical economists"). In assembling detailed position papers and rebuttals, the staff shunned *ex parte* contacts with the ubiquitous oil lobbyists and withstood formidable pressures, including a telegram from Representative Wilbur Mills of Arkansas, the Chairman of the powerful House Ways and Means Committee, who warned Professor Areeda against "tinkering with the matter of oil imports."

In its final report, the task-force staff found that the quota system has serious disadvantages, including "the hazards of fallible judgment, combined with the ever-present risks of corruption." These factors, the staff concluded, "counsel strongly in favor of getting the Government out of the allocation business as rapidly and as completely as possible." The staff recommended scrapping quotas in favor of a preferential tariff system for oil that would produce about $700-million a year in new Federal revenues and reduce prices by about 30 cents a barrel—a quarter to a third of the price reduction that might be realized by the total elimination of oil-import controls. Under a probable tariff schedule, consumers might save a cent or two on a gallon of gasoline and about a cent on a gallon of heating oil.

Such a reduction would have a measurable counterinflationary effect. According to Paul W. McCracken, the chairman of President Nixon's Council of Economic Advisers, "with annual consumption on the order of 80 billion gallons, a 2-cent cut at retail would translate into a reduction of about $1.6-billion in the total national bill for gasoline. Such a cut would be equivalent to a reduction of approximately 6 per cent in the average retail price."

The task force held its last full meeting in December, and a majority—five of the seven members, led by Secretary of Labor Shultz—was prepared to accept the staff's conclusions. The two dissenters were Secretary of the Interior Hickel and Secretary of Commerce Stans, who insisted, in what several participants have described as an angry confrontation, on retention of the quota system.

Present for the first time at a meeting of the task force was Attorney General John N. Mitchell, who emphatically told Secretary Shultz, "Don't box the President in." Some of those present interpreted the remark as a Presidential request for the retention of quotas. Following Mitchell's appeal, the task force tempered its recommendations, though it reached the basic conclusion that quotas should be scrapped in favor of a tariff schedule.

The broad conclusions of the task-force report leaked out long before it was officially made public, and the oil industry lost no time in stepping up its efforts to win friends and influence people. For many weeks it bombarded Congress and the White House with demands that the quota system be retained.

A retired oil executive who maintains close contact with the industry reported in a confidential memorandum early in February that representatives of the Independent Petroleum Association had made "quite an impression" in a meeting with Flanigan and Bryce Harlow, another Presidential aide. The memo continued: "Theme was—oil revenues are key to the prosperity and state budgets, such as schools (over 90 per cent in Louisiana), of the oil-producing states. Stall any decision until after the election and in this way the Republican party can capture the Senate. This policy will assure Republican Senators' election in questionable states of Alaska, California, Wyoming, New Mexico and Texas. Harlow assured the group that the President is well aware of all the facts and will act to the best interests of the country."

Even more reassuring to the industry was a report published Feb. 6 by Platt's Oilgram News Service, an "inside" newsletter for the industry, based on an interview with a "high Administration official known to be opposed" to the task-force majority's tariff recommendation. The official, who industry sources identify as Interior Secretary Hickel, said he was convinced that the Administration would not permit "anything drastic" to happen to oil imports.

Secretary Hickel's prediction proved accurate. When the 400-page task-force report, with its recommendation that the quota system be abolished was released by the White House on Feb. 20, it was accompanied by a Presidential announcement that no "major" change would be ordered now.

The President thanked the task-force members and staff for their "devoted and discerning effort," then announced the formation of a new Oil Policy Committee to conduct further studies. The only task-force member missing from the new group is Secretary Shultz, the original body's most vigorous critic of the quota system. He was replaced by Attorney General Mitchell who presumably will see to it that the President is not boxed in.

Understandably, the Petroleum Institute thought the President's action was "encouraging," while the Independent Petroleum Association declared that the move should "reassure consumers as to future supplies of both oil and natural gas at reasonable prices."

Meanwhile, the industry is reappraising its pressure tactics, assessing its past mistakes and preparing for such future battles as the developing national crusade against automotive pollution. Former Congressman Ikard predicts "a pretty substantial change" in the industry's expensive image-building program. "We aren't dedicated to anything we are doing simply because we have been doing it," he says. An industry committee headed by Howard Hardesty, senior vice president of Continental Oil, has been conducting an intensive study of oil's public-relations efforts.

In a speech last fall that attracted sympathetic attention in the industry—it was reprinted in full in The Oil Daily—Michel T. Halbouty, a Houston oil producer, engineer, banker and former president of the American Association of Petroleum Geologists, complained that the industry's trade associations had "simply failed to inform and educate the public properly."

"Frankly," Halbouty said, "all of us took it for granted that our little red house would never be blown down by those howling wolves. So we find ourselves behind the eight ball. We now see depletion being hammered down. We see serious attacks being made on other incentives. The mandatory import program is in trouble. . . . The shortcoming in our own case has been a lack of communication with the people who really count in this country—the people who vote.

"We have done little to tell the history of oil and gas or the industry or the men who have made it. We have said little about how this industry ignited and sustained the age of liquid fuel and thereby helped lift the shackles of toil from labor. . . . We simply haven't put this information out properly, without wrapping it in a package which had the sign 'support depletion' on the outside. The people would automatically support depletion if they knew what our industry means to them."

From a Washington perspective, Halbouty's apprehensions seem overblown, or at least premature. While the industry's critics are increasingly outspoken and have tasted a few small victories, they have also been subjected to large defeats. Though some of oil's most stalwart champions have been removed by the process of attrition, others remain, steadfast and loyal, in Congress and in the executive branch. Despite a few cracks in the solid front the industry was long able to maintain in its lobbying effort, it remains a potent force in the capital.

When the American Petroleum Institute convened in Houston in November, Administration officials on hand to deliver speeches included Treasury Secretary Kennedy, Interior Under Secretary Russell E. Train and John N. Nassikas, the new chairman of the Federal Power Commission. A few days later Interior Secretary Hickel, whose department has broad jurisdiction over matters of importance to the oil industry, was in Houston to inspect offshore drilling rigs and hold private conversation with industry leaders.

Hickel, the former Governor of Alaska whose intimate ties to oil were the subject of stormy confirmation hearings when he was named to the Cabinet, seemed for a time to fall short of the industry's glowing expectations. Mindful of his vulnerability to conflict-of-interest allegations, he appeared determined to stress his independence of the industry. When an offshore oil blowout in the Santa Barbara channel became a national pollution scandal, the Secretary issued relatively stringent controls on drilling procedures, and oilmen complained of official "overkill." Such industry complaints are no longer heard in Washington, however, and Mr. Hickel seems to have dropped his guard. It was reported recently that an Alaska investment firm owned by the Secretary and his wife and managed by his brother, Vernon, had received a $1-billion contract to build an addition to the building in which Atlantic-Richfield maintains its Anchorage headquarters.

President Nixon, too, was well acquainted with leading oil producers long before Michael Haider paid his cordial call at the White House in November. California oilmen were prominent contributors to the Nixon personal-expense fund that erupted into headlines during the 1952 Presidential campaign. In Congress, Mr. Nixon was a reliable supporter of such oil measures as the tidelands bill, which divested the Federal Government of the offshore petroleum reserves. As Vice President, Nixon worked closely with Senate Majority Leader Lyndon Johnson in 1956 to block a sweeping inquiry into disclosures by the late Senator Francis Case of South Dakota that he had been offered a $2,500 bribe for his vote in behalf of a bill to exempt natural-gas producers from Fed-

eral regulation. The law firm with which Nixon was associated before his 1968 candidacy had its share of oil clients, and oilmen—including president Robert O. Anderson of rapidly growing Atlantic-Richfield—ranked high among contributors to Nixon's Presidential campaign.

No one knows precisely—or even approximately—how much money oil pours into politics, though experts on campaign financing agree that the industry outspends all others. Official reporting requirements, which divulge only the tip of the iceberg, indicate that executives of oil companies and trade associations can be counted on for hundreds of thousands of dollars in contributions during Presidential campaigns—the bulk of it (except in 1964) to Republican candidates. The role of oil money in House and Senate campaigns is even more obscure, although occasional disclosures such as the 1956 charge of a bribe attempt and the more recent investigations of Former Senate Majority Secretary Robert G. Baker indicate that money is easily—and bipartisanly—available to legislators who can be counted on to vote the industry's way. Baker whose Senate mentors were Robert Kerr of Oklahoma and Lyndon Johnson of Texas, served as both collector and distributor of oil contributions funneled through the Democratic Senatorial Campaign Committee in the late nineteen-fifties and early sixties.

Periodic disclosures of political bribery, which have remarkably transitory effect on public opinion and political morality, are probably less significant than the day-in, day-out "legitimate" relations between Congress and the powerful oil industry. As Robert Engler observed in "The Politics of Oil," a classic study: "The spotlight here belongs more on lawmakers and respectable men with bulging brown briefcases entering the portals of government than on lawbreakers and furtive men with little black bags using side entrances of hotels. Government policy on oil has increasingly become indistinguishable from the private policies of oil. . . ."

For some lawmakers, of course, the wheel of self-interest need not be oiled, even by political contributions. The late Senator Kerr, who held a ranking position on the Finance Committee in the nineteen-fifties and early sixties and was always available to the oil industry, was simply advancing his own cause as a substantial shareholder in Kerr-McGee Oil Industries, Inc. "Why, hell," he said, "if everyone abstained from voting on grounds of personal interest, I doubt if you could get a quorum in the United States Senate on any subject."

Senator Long, who now presides over the Finance Committee and the loyal oil contingent on Capitol Hill, shares his illustrious predecessor's view. "Most of my income is from oil and gas," he says. "I don't regard it as any conflict of interest. My state produces more oil and gas per acre than any state in the Union. If I didn't represent the oil and gas industry, I wouldn't represent the state of Louisiana."

According to the records of the Louisiana Mineral Board, Senator Long has received income of $1,196,915 since 1964 from his interest in four state oil and gas leases, and almost $330,000 of that income has been exempt from Federal income taxes because of the oil-depletion allowance. The Senator is also a trustee of family trusts that have collected $961,443 from holdings in state leases since 1964; and he has an interest in at least seven private leases whose royalty reports are not available for public scrutiny.

Few of his colleagues can match Senator Long's oil holdings, but many share his solicitous concern for the industry's welfare. Among those on whom the oil moguls can generally count for unstinting support are Senators John G. Tower of Texas, Gordon Allott of Colorado, Clifford P. Hansen of Wyoming, Henry L. Bellmon of Oklahoma, Roman L. Hruska of Nebraska, Robert J. Dole of Kansas, Peter H. Dominick of Colorado, Allen J. Ellender of Louisiana, Theodore F. Stevens of Alaska, George Murphy of California and Karl E. Mundt, of South Dakota.

Most—but not all—of oil's fast friends in the Senate are stanch conservatives. Nonetheless, such liberals heroes as J. William Fulbright of Arkansas and Eugene J. McCarthy of Minnesota can usually be counted on to see oil's side. When a crucial vote on depletion came up in the Senate Finance Committee last fall and resulted in an eight-to-eight tie, Senator McCarthy, a member of the committee, was in a New York restaurant autographing copies of his book on the 1968 campaign, which includes a stern rebuttal of charges that he has favored the oil interests.

McCarthy, who voted consistently against oil privileges during most of his first Senate term, cast his first vote in favor of depletion in 1964 and has generally favored the industry's positions since. There were published reports in 1968 that he had raised about $40,000 for his Presidential campaign in one day at the Petroleum Club in Houston.

Senator Fulbright's unswerving loyalty to his state's oil and gas interests is perhaps more understandable, but he has occasionally carried it beyond mere routine support. When Senator Case of South Dakota disclosed the attempt to buy votes for the 1956 natural-gas bill, Fulbright accused him of being "irresponsible"; to jeopardize passage of the bill was "inexcusable," Fulbright explained.

In the House, the Ways and Means Committee, which writes the nation's tax laws, still has the essential make-up decreed for it by the late Speaker Rayburn, whose policy was to interview all candidates for assignment to the committee on issues relating to oil. (Former President Johnson exercised the same kind of control over the Senate Finance Committee in his days as Majority Leader.) Among those who passed Mr. Rayburn's test was former Congressman Ikard, who now serves as the industry's lobbyist in chief. With rare exceptions, the full House delegations from Texas, Oklahoma and Louisiana serve as the hard core of the oil bloc.

Those legislators who are not irrevocably committed to oil's interests can count on frequent, cordial contacts with the army of lobbyists the industry maintains in the capital. One aide to a Senator who is active in legislative matters affecting oil reports that he receives about 20 calls and several visits a day from industry spokesmen. Written communication is rare.

And the oil lobbyists are doing more than socializing during those visits on Capitol Hill. As soon as the thrust of the task-force report on import quotas became clear, they moved decisively to protect the quota system. Already scheduled are two Congressional committee inquiries designed to attack the task force's recommendations. In the House, the Interior Subcommittee on Mines and Mining plans an investigation of the "national security aspects" of the quota system under the direction of Representative Ed Edmondson of Oklahoma. "He is a Congressman representing an oil-producing and refining state," one of Edmondson's aides explains. "He feels the smaller independent operator gets squeezed first in this kind of issue." In the Senate, a planned investigation will, from the industry's point of view, be in equally reliable hands—those of Senator Long.

In his announcement that he would not immediately implement the task-force report, President Nixon said he expected that such Congressional hearings would produce "much additional valuable information."

As they make their cordial way through the corridors of the Capitol, the oil lobbyists complain that things just haven't been going right lately. Some predict the most drastic consequences—not just for the industry but for the nation—if the quota system is scrapped.

But they don't really look very worried. The well is not about to run dry.

THE LATE SENATOR KENNETH S. WHERRY AND THE ESTABLISHMENT OF THE SENATE SELECT COMMITTEE ON SMALL BUSINESS

Mr. HRUSKA. Mr. President, last week marked the 20th anniversary of the signing of a resolution which established the Senate Select Committee on Small Business. Although not a member of that committee, I am certainly appreciative of place and meaning of this committee. It has served well the interests of America's small businesses since its creation.

The 20th anniversary of the creation of the Small Business Committee also gives me an opportunity to make tribute to the late Senator Kenneth S. Wherry, from Nebraska, who has been credited with igniting support throughout the Nation for establishing a permanent body to hear and review the complexing problems of small business. Early in his first term as Senator from Nebraska, he championed the cause of the small businessman by participating in the drive to establish a temporary Special Committee on Small Business which specialized on small business problems created by postwar demands. Senator Wherry felt it was necessary to retain the committee on a permanent basis and to direct its efforts toward protecting the interests of smaller business in a war economy so as to maintain the American system of free competitive enterprise.

Senator Wherry stated on the Senate floor:

> I have made the statement that I would not seek the continuation or revival of a Special Senate Small Business Committee whenever a Standing Committee was able to take over its functions. I have become convinced, however, in my two years as Chairman of the Special Senate Small Business Committee, that no existing Standing Committee can take over these functions effectively . . . I intend to introduce a resolution seeking to set up a permanent Small Business Committee in order to cover adequately the urgent needs of American independent small business.

That resolution establishing the Senate Select Committee on Small Business was submitted and agreed to on February 20, 1950.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from "The Making of a Political Leader," written by Marvin E. Stromer, explaining in more detail Senator Wherry's role in the creation of the select committee.

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

SENATE SMALL BUSINESS COMMITTEE: ESTABLISHMENT

Ken Wherry expended a large portion of his energy in assisting the small businessmen of the United States.[34]

Wherry's crusade for the small businessman, as a member of the Senate's special small-business committee during the war,

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kept bureaucratic Washington on edge. He once went to bat for the Police Gazette and proved that it was not receiving its proper share of paper from the War Production Board (WPB).

Another time he escorted to the WPB offices a North Carolina furniture manufacturer who had complained that he was not being allotted fiber board necessary to packing his products. A WPB official kept the pair cooling their heels for about ten minutes as he shuffled through some papers. When Wherry approached him and emphasized that he was a senator and was eager to get back to the Capitol for an important vote, the bureaucrat retorted that he was busy studying some blueprints for outhouses. Wherry sat down and smoldered for another ten minutes. Then he demanded action. The official arose and remarked that he was tired of Senators asking for favors.

Sputtering, Wherry seized the bureaucrat by the throat and yelled, "You'll talk, and you'll talk right now!" The fellow turned red and then white, but remained speechless, so Wherry flung him into his chair and stormed back to the Senate. Later in the afternoon he telephoned the WPB that he had subpoenas ready for Charles E. Wilson, vice-chairman of the WPB; A. D. Whiteside, chief of the civilian supply division, and their obstinate underling. The WPB apologized immediately, and Wilson and Whiteside ironed out the fiberboard trouble with the North Carolina manufacturer.

One of the proudest moments of his political life came when the Senate agreed to the creation of a Standing Committee on Small Business. As in many of the other features of Wherry's career, the establishment of the committee came only after a vigorous and tiring struggle. Early in his first Senate term, he championed the cause of the small businessman by participating in the drive to establish a temporary Special Committee on Small Business which specialized on small-business problems created by postwar demands—taxation and finance; interstate and foreign commerce; growth of concentration and industry; antitrust legislation; education and labor; government and armed service procurement; and trade inspired by foreign economic programs and policies. The former special committee existed until January 31, 1949; its function then were assumed by subcommittees of the various standing committees of the Senate. Wherry felt, and so argued, that "the number and importance of the problems peculiar to small business warrants the establishment of a standing committee which will give full time and attention to the solution of these problems and which has authority to recommend remedial legislation to the Senate." [35] He believed that small business was a specialized field which required special talent to deal with its problems. He drew on his experience as a member of the Special Committee on Small Business when outlining his plans for a succeeding committee: "[T]he efforts have been consistently aimed toward maintaining the American system of free competitive enterprise. Established to protect the interests of smaller business in a war economy, in recent years its work has not diminished." [36]

He traced the services to small business which the committee had rendered:

Relief was obtained for those caught by the conversion from a peacetime to war economy, securing assistance in carrying interest charges, and regulating disposal of goods for wholesalers and retailers whose stocks and funds were frozen. This committee secured passage of legislation setting up the Smaller War Plants Corporation, which channeled war contracts into small business establishments. This committee policed the regulatory machinery set up by the control agencies, War Production Board, Office of Price Administration. It obtained passage of the Federal Reports Act, setting up a control mechanism, which cut Government red tape by two-thirds in dealing with the Nation's business. An active part was taken in framing the surplus-property legislation, assuring priorities which made possible a fair share of surplus commodities for small business.[37]

He listed for the Senate the pending investigations which the committee had at its expiration: steel exports (concern over exports during a time when American business was suffering from lack of steel); soft drinks (general concern over the many failures in the business); aluminum conductor rod (complaints from officials in the rural-electrification program indicating that the supply of aluminum electric conductor rod was not sufficient). Future programs enumerated were these: basic metals—steel capacity and production (needs relating to the whole field of supply and resources of iron and steel, aluminum, copper, magnesium); basic chemicals; textiles (integration of production and distribution of textiles industries); petroleum; government procurement programs (furnishing of raw materials to large industries); financing (available capital and general tax structure).

Working from this background, Wherry introduced, with Senator Spessard L. Holland of Florida, legislation calling for a Special Standing Committee on Small Business. The proposal was originally referred by Vice-President Alben Barkley to the Senate Committee on Banking and Currency—this move precipitated the first conflict. Wherry believed the Senate Rules and Administration Committee, of which he was the ranking Republican member, should consider the legislation. He appealed the ruling made by Barkley, "It is with regret that the very first action I take as Minority Leader is in opposition to the former Majority Leader, and now our Vice-President, by appealing from the decision that he has made." [38]

He cited the precedent in the Eightieth Congress of a resolution creating another committee being referred to the rules committee for consideration. He argued that because his proposed committee covered such a wide range of problems and reached into the jurisdiction of nearly every standing committee of the Senate the rules committee should evaluate it. "All recommendations by the committee for legislation will be considered by the Standing Committee having jurisdiction over the particular subject matter. This makes the Senate Small Business Committee a valuable adjunct to the work of the Senate. It does not duplicate or take away from the work of the standing committees, but supplements them by pinpointing the problems of small business and calling them to the attention of the proper Standing Committees for inclusion in their overall considerations."

The outline for the direction of activity of the committee was as explained by Wherry:

(1) Supply and distribution of basic materials with particular reference to whether or not independent small business is obtaining its fair share of such materials under existing or future distribution methods and patterns.

(2) Policies of Federal Government departments, agencies, and corporations with respect to inclusion of independent small business in their present programs and future planning with particular reference to the procurement activities of such departments, agencies and corporations.

(3) Prices charged for materials needed and utilized by independent small business to determine whether they are fair and equitable to prices charged their larger competitors.

(4) Pressures by vertically and horizontally integrated combinations to eliminate independent small business in the American industrial and distributive systems.

(5) Inability of both new and old independent small businesses to adequately finance themselves from their own earnings due to tax structures and effect of such tax structures on the merger movement.

(6) Participation of independent American small business in Foreign Aid Programs and adequacy of representation of independent American Small Business by diplomatic and consular officials abroad.

(7) Development of programs to assure independent small business a fair share of raw and finished materials and services produced on and from publicly owned mineral resources, forest reservations, and irrigation and reclamation projects.

(8) Development of a sound program to safeguard the place of independent small business in the American economy.[39]

Wherry closed his appeal for reversal of the chair's ruling thus:

I have made the statement that I would not seek the continuation or the revival of a Special Senate Small Business Committee whenever a Standing Committee was able to take over its functions. I have become convinced, however, in my two years as Chairman of the Special Senate Small Business Committee, that no existing Standing Committee *can* take over these functions effectively. . . . I refuse to stand by idly and see this Committee fumbled out of existence! . . . If this Resolution is not referred to the Rules Committee, to which it should go by already established precedent, as well as for the reasons advanced here today, then I intend to introduce a Resolution seeking to set up a permanent Small Business Committee in order to cover adequately the urgent needs of American independent small business.

Wherry lost this first round; the resolution was heard by the Banking and Currency Committee and was killed. He and Senator Holland then introduced legislation to establish a permanent standing committee—its language was much simpler than the first resolution: "[A committee] to study and survey by means of research all the problems of American small-business enterprises and to obtain all facts possible in relation thereto which would not only be of public interest, but would aid the Congress in enacting remedial legislation." This resolution was referred to the Rules and Administration Committee and was favorably reported to the Senate by a 6-2 vote. The committee recommended to the Senate that possible areas of work for the new standing committee should parallel those outlined by Wherry in this previous resolution. Wherry had lost a battle, but he was to win the "war."

On February 20, 1950, the Senate moved into full debate over the question. Wherry triggered the discussion: "[T]he special Senate Small Business Committee was permitted to expire by default on January 31, 1949. . . . When I came to the Senate in 1943, I was assigned to membership on the Small Business Committee, and was actively engaged in working on that committee until it was terminated by the majority party at the beginning of the Eighty-first Congress. They have refused to revise it until the election, which will occur next November, has come closer to hand." [40]

He explained why he introduced the second legislation after his first proposition was turned down:

I think, once and for all, the Senate should decide whether it wishes to have a special committee on small business, with or without legislative authority. . . . I think the committee should be a permanent one. I do not believe that at each and every session of the Senate we should be confronted with the question of whether we shall have a special committee on small business at that particular session. . . . To authorize a temporary

Footnotes at end of article.

small-business committee this late in the Eighty-first Congress, would be a make-shift arrangement, which could not be organized to take effective action before it expired.

Wherry turned his stiletto on those who criticized the past committees as little more than a paper organization:

[W]hile I am glad to admit that the Senate Small Business Committee during the Eightieth Congress was more distinguished for direct action against monopolistic-trade practices in industry, which were throttling small business, it also made specific legislative proposals, which were enacted into law.

The committee helped in the matter of newsprint distribution. It helped, and helped tremendously, in the field of petroleum distribution. We persuaded major oil companies to continue distribution to smaller, independent dealers on the basis of the same quotas as those in effect in prior years.

Time and again the Small Business Committee secured help that was entirely outside the field of legislative authority. It is my plea that we support a proposal which will result in a continued service of that kind. If all we are going to do is set up an academic board to consider matters affecting small business, a board which will go into the field and conduct hearings in the four corners of the United States, with the idea of introducing legislation which will impose upon the backs of small business further controls and impositions, then I am decidedly against it. . . . I think the principal purpose is to have a place to which small-businessmen may come, register their complaints, and have them considered.[41]

Senator James Murray (Democrat-Montana) firmly supported Wherry, and he also provides a lighter view of Wherry:

One of Wherry's favorite stories of his Senate career is the junket of the Small Business Committee to the West Coast for hearings. Under the chairmanship of Senator James Murray, of Montana, the committee traveled for three weeks, making speeches and listening to small businessmen. By the time they reached Seattle, the committeemen's speeches were well fixed. Wherry, who was named master of ceremonies to introduce his colleagues, always first introduced Senator Murray, who explained what the committee was doing.

"Old Jim," Wherry recalls, "he always put an Administration twist on his speech. So in Seattle, I got up and I just gave his entire speech from memory, slanting it my way. *Then* I introduced him." Senator Murray, caught flat-footed, sat down in confusion.[42]

Murray agreed with Wherry's contention that it would be better to establish a permanent committee on small business rather than have a subcommittee of the Banking and Currency Committee handle small-business problems. He favored a permanent committee without legislative authority, which Wherry had offered in the form of an amendment to his original resolution.

The attack on the Wherry-Holland proposal was led by Senator Burnet R. Maybank (Democrat-South Carolina), chairman of the Banking and Currency Committee. He charged, "I would not question the sincerity of any Senator who makes an honest effort in behalf of small-businessmen. I would protest their motives, however, should they prove to be nothing more than a cloak of do-goodism enshoulding base political ambitions. My feeling would be the same regardless of the Senator's party affiliation. . . . The vote here this afternoon will not be a record of either political party. It will be a record of politics. The pending proposal is not an attempt to help small business."[43] Maybank was true to his attack-without-regard-for-politics statement:

The majority leadership is flip-flopping to the support of a group of well-organized and highly vocal lobbyists who are clamoring for the creation of a special small-business committee. . . . And what will we get from this mess of pottage? We will get the same crop we reaped before the passage of the Reorganization Act. We will get inefficiency, waste, and duplication and confusion. The committee will issue reams of reports that will be read by but few Senators . . . let us not weep when there again breaks out a rash of special committees for wool, for mines, for liquor, for gold, and for $3 bills. . . .

Senator Holland split with Wherry on the question of whether or not the committee should have full legislative authority—Holland favored it whereas Wherry had offered the amendment making the Small Business Committee a standing one but without legislative authority. Here we see a faint criticism of Wherry:

[H]e was a lovable chap, but at times he had a tendency to be rather impulsive and would jump from position to position. I introduced a resolution calling for a permanent Small Business Committee with complete legislative power—Wherry asked to join me and then changed his mind and offered legislation to strip it of its authority. I opposed him because I didn't want it to be toothless. . . . Maybe Wherry sensed the tone of the Senate, he was successful and I couldn't have gotten my idea through.[44]

Holland, during his appeal for the committee with full legislative power, had some cutting words for his own majority leader:

If the Senator (Mr. Lucas) was so determined last year to eliminate special committees, which he was, and he voted to do so—and he did—and he played a part in doing so by his vote here in the Senate, which is a matter of record, it is difficult for the Senator from Florida to understand the change of heart and mind overnight of the able Senator from Illinois . . . I am not guilty of the type of inconsistency displayed by my friend from Illinois, who, after twitting the Senator from Michigan (Mr. Ferguson) with being inconsistent in having adopted an entirely different position from the one he had taken the year before, now finds that the question he leveled at the Senator from Michigan is when addressed to him now impossible of being answered, because it clearly shows the complete inconsistency of the present position of the Senator from Illinois as measured against his position in 1947, 1948, and 1949.[45]

Wherry's resolution was approved by a final vote of 55–27. No particular party lines were respected in the total vote—leading Democrats were found on both sides (voting for the resolution: Senators Douglas of Illinois, Green, Hayden, Lyndon B. Johnson of Texas, Lucas, and O'Mahoney; voting against the resolution: Senators Holland, Johnson of Colorado, Russell, and Maybank); key Republicans also were divided (in support of the proposal: Senators Ferguson, Knowland, Lodge, Saltonstall and Taft; in opposition: Senators Bricker of Ohio, Martin of Pennsylvania, and Tobey of New Hampshire.)

Wherry was involved in one final foray concerning his resolution—the appointment of members to the committee. Vice-President Barkley delayed the appointment of the group for nearly two months, Lucas sat quiet; pressure was applied by the small-business community:

It goes without saying that when Senate Resolution 58 was on deadcenter it took the constructive leadership of Scott Lucas to give it a push, resulting in a vote of 55–27 favoring the resolution. The appointment of the committee is now stymied. Nearly two months have passed since the splendid action taken by the Senate and no appointments have been made. I am sure that if you give the same splendid push as you did in early February on the resolution to the Vice President, and insist this long overdue recognition be given to independent business your action again will be of untold value to the future of independent business of this nation.[46]

Barkley was requested to act:

Under date of March 27, I wired you for information as to when you will designate the appointees on the Senate Small Business Committee which was voted for by the Senate on February 20th with the magnificent vote of 55–27. You believe me Mr. Vice President, we are being constantly quizzed by independent businessmen, members of the press and many others why there is delay in the appointment of the committee. We cannot answer the queries as that power rests with the Vice President. At this very moment independent business establishments throughout the nation need all possible moral support to their problems, and particularly the help of the United States Senate. Independent business has felt over the years that when it came to government help they have been the real forgotten man. We trust that you will take immediate action to make appointments on the committee.[47]

The next day Wherry took the floor and pleasantly chided the Vice-President for "goin' fishing" on the appointments; Barkley replied he would "take the bait." The following week the committee was appointed.

By the approving vote, the Senate constructed the machinery for giving assistance to American small business; the legislation provided for broad research and investigative powers, it could not have legislative jurisdiction, but could recommend legislative action to the Senate. Later, after Wherry's death, the Senate was to give the standing committee on small business, quasi-legislative powers—Holland was the leader in this action and, during the discussion, credited Wherry with igniting support throughout the nation for a permanent body to hear and review the complexing problems of small business.

FOOTNOTES

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[34] Healy, "Big Noise from Nebraska," p. 76.

[35] U.S., Congress, Senate Report 598, 81st Congress., 1st Sess., p. 2.

[36] U.S., Congress, Senate, *Report of Problems Facing American Small Business by the Chairman of the Special Committee to Study Problems of American Small Business*, 81st Cong., 1st Sess., Senate Doc. 7, pp. 1 ff.

[37] *Ibid.*, pp. 7 ff.

[38] Statement by Senator Kenneth S. Wherry on his Appeal from the Ruling of the Chair on referral of the Wherry Resolution, creating a Special Senate Small Business Committee, February 7, 1949, in the Wherry Papers.

[39] *Ibid.*, pp. 7–15.

[40] U.S. *Congressional Record*, 81st Cong., 2nd Sess., Senate Proceedings, February 20, 1950, Vol. 96, No. 35, 2013 ff.

[41] *Ibid., pp.* 2016–2017.

[42] See Milton Lehman, "Salesman in the Senate," in *Collier's* CXVIII (December 14, 1946), 56 ff.

[43] U.S. *Congressional Record*, 81st Cong., 2nd Sess., Senate Proceedings, February 20, 1950, Vol. 96, No. 35, 2020.

[44] Personal interview with Senator Spessard L. Holland, June 5, 1965, Washington, D.C.

[45] U.S. *Congressional Record*, 81st Cong., 2nd Sess., Senate Proceedings, February 20, 1950, Vol. 96, No. 35, 2024.

[46] Day letter from George J. Burger, Vice-President, National Federation of Independent Business, Washington, D.C., to Senator Lucas, April 4, 1950, in Wherry Papers.

[47] Day letter from Burger to Vice-President Barkley, April 4, 1950, in Wherry Papers.

COMMONWEAL RECOGNIZES OIL LOBBY'S HIDDEN POWER

Mr. McINTYRE. Mr. President, the testimony of Secretary of Labor George Schultz last week before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary underscored

the duplicity of the administration's oil import policy.

Commonweal, a journal well known for its incisive views, has, in an editorial entitled "Government of Oil," recognized this duplicity and the fact that the consumers of the Nation have again been sacrificed for the profits of the oil industry.

Commonweal correctly points out that the administration is on one hand cutting education funds while at the same time granting billion-dollar benefits to the government of oil.

I ask unanimous consent that the editorial published March 13, 1970, be printed in the RECORD.

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

GOVERNMENT OF OIL

Teapot Domes are out of style—which is too bad in a way. People could get excited about Teapot Domes, but it is hard to arouse much interest in the recent Nixon decision to retain existing oil import quotas. How much does it amount to, after all? A penny or two on a gallon of fuel oil to heat your house, a penny perhaps on a gallon of gasoline for your car. Maybe it's not worth fighting about.

But there's another way of putting it. When President Nixon turned down the recommendation of the majority of his Cabinet-level task force on oil import control, he opted for retaining a system that presently costs the United States consumer $5 billion a year. The industry was happy—why wouldn't it be? One-third of the industry's $6 billion domestic profit for 1968 derived directly from the protection afforded by the Nixon-approved quota system. According to the task force report, the quota system will cost $8.4 billion a year in 1980. Thus an Administration that finds a few million for education inflationary does not hesitate to let the consumer pay the piper for the next decade to the tune of $60 billion in extra oil costs. Talk about the Biblical mote and beam.

Five members of the task force recommended a major change in the present import-control system, with a switch to an ordinary tariff instead of the company-by-company import system which has been in effect for ten years—a switch, it should be noted, that would not have taken place overnight but which would have been gradual in order to prevent any possible disruption to the industry. The majority on the task force urged a tariff at a level that would have reduced the domestic price for a barrel of crude oil by only 30 cents, with a corresponding saving to the consumer. Three members favored change only after consultation with other nations, with only two members flatly opposing change, including Secretary of the Interior Walter J. Hickel, not famous for his enmity to oil interests.

Oil-state Senators not unnaturally hailed the Nixon decision, and those who looked for oil company campaign donations were less than downcast. More to the point, we think, were the comments of two Senators from vitally affected New England states, Senator Edward M. Kennedy of Massachusetts and Senator Thomas J. McIntyre of New Hampshire. The oil decision, Senator Kennedy said, was "astounding," or, as Senator McIntyre expressed it, "a crushing blow to those of us who hoped that relief was near at hand" and "another major victory for the government of oil." "Government of oil" is right, in more ways than one, and the moral is obvious: things are done more subtly now than in the days of Teapot Dome.

THE EXCELLENCE OF COLORADO SKIERS

Mr. ALLOTT. Mr. President, over the years a few teams have become synonomous with excellence in various sports. In recent years Notre Dame and Texas have symbolized collegiate football excellence. Kentucky and UCLA have been successful in collegiate basketball.

But none of these teams can match the record of Denver University's ski team. As the New York Times reported Saturday from Franconia, N.H.:

Denver University's ski squad did today what it seems to do naturally. It won the National Collegiate Athletic Association championship for the ninth time in ten years.

Mr. President, this is an astonishing record of accomplishment. But it is an accurate reflection of the excellence of Colorado skiers.

In fact, the University of Colorado finished a strong third in the overall team standings, just one and a half points behind Dartmouth. Jay Rand, from the University of Colorado, won the jumping competition. He had a lot of home State company in that event: Four of the top five jumpers were from the University of Colorado and Denver University.

Mr. President, I join with other Coloradoans in saluting Coach Willy Schaeffler's Denver team and all the fine Colorado skiers who did so well in the NCAA competition.

THE COAST GUARD RESERVE

Mr. PELL. Mr. President, the decision of the administration to abolish the Reserve of our Coast Guard concerns me greatly.

I myself have been a member of the Coast Guard Reserve for 29 years, and my oldest son is at present serving in a Coast Guard cutter. So, I have a certain familiarity with the subject. I realize, too, that because of my love and respect for the Coast Guard, I may not be as objective as Senators who have not had the experience that I have had.

However, on balance, and after mulling over the executive branch's decision to eliminate the Coast Guard Reserve, I cannot help believe that this step is against our national interest.

I realize that it will be said that there still will be a Coast Guard Reserve, and the so-called Ready Reserve or unpaid members of the Active Reserve will not be affected. I must add parenthetically here that I have never been a member of a paid Reserve unit, but have always secured my promotions in the service by means of correspondence courses, equivalent duty, and, before I was in the Senate, training duty. But while I have always been in a fortunate enough position that I did not worry about the financial side of being in the Coast Guard Reserve, I do realize that most of the individuals in the present Select Reserve would have a hard time continuing their Coast Guard activities without their present proper and fair reimbursement.

The administration defends this decision on the general grounds of national priorities. It is said that a value judgment has been made, in which the relatively small cost of the Reserve was weighed against its worth as a part of the national defense.

When it comes to national priorities, it is the Coast Guard which really has to take the leading role in times of disaster or war. The Select Reserve of the Coast Guard has a definite mission assigned to it should there be a national emergency. This mission has not been changed. No evidence has been presented to us that this mission is any less essential today than when it was assigned. Should this decision be allowed to stand, however, the Coast Guard will not be able to carry it out.

No one denies that the role of the Coast Guard is just as important as any of the other armed services. Why, then, is it being singled out for this treatment? One cannot help feeling that this decision reflects less a judgment about national priorities than one about political realities. It is a fact that the Coast Guard Reserve is the smallest of the reserve components. It perhaps has few friends in high places. It does not take a large stretch of imagination to envision the storm of protest that would occur if the Army, the Navy, the Marine Corps, or the Air Force Reserves were to receive similar cavalier treatment.

What, then, is to be done? Personally, I believe this decision of the administration should be rescinded and that we should keep the Coast Guard Reserve as it is. In addition, we should consider funding the selected reserve through the Department of Defense budget, rather than that of the Department of Transportation, of which the Coast Guard is a part. Otherwise, I believe, we can expect future attacks on the reserve during the budgetary process.

The reality of the situation is simply that the Secretary of Transportation cannot be expected to defend the Coast Guard Reserve as vigorously as he should. In peacetime, the reserve is of no use to his Department; in wartime, it would, along with the rest of the Coast Guard, come under the Navy. The Navy, then, is the real beneficiary of the money spent on the Coast Guard Reserve. It is more reasonable, then, for the Department of Defense budget to reflect this fact.

Mr. President, I urge the administration to think again about this decision, which will disband a valuable, proud, and dedicated group of men. They do not deserve this.

A FORWARD LOOK IN URBAN DEVELOPMENT IN NEW YORK CITY

Mr. JAVITS. Mr. President, I invite the attention of the Senate to a new housing project that has great potential for the future.

In the Arden Heights section of Staten Island, in New York City, Mayor Lindsay announced last week, a community of 2,000 townhouses will soon be built. The community is to consist of nine vil-

lages arranged around green spaces. There will be no through roads in the entire 160-acre tract. This means that no child will have to cross a street on the way to school or to a play area. The developers have tried to leave the land in its natural condition as much as possible.

Mr. President, for everyone who is concerned with providing more housing and also with environmental problems, this development represents a most important advance in this area, especially since it involves such a large tract of land. I ask unanimous consent that a news story, describing the project, published in the New York Times of March 5, 1970, be printed in the RECORD.

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

A VILLAGE OF 2,000 TOWNHOUSES WILL RISE IN STATEN ISLAND'S ARDEN HEIGHTS

(By Glenn Fowler)

A community of 2,000 town houses, the largest single-family home development ever to be built within the city limits, will soon begin to rise in the Arden Heights section of Staten Island.

Mayor Lindsay, announcing the start of work on the $100-million private venture yesterday, hailed it as the first large-scale example in the city of a "planned-unit development" of the kind that his administration has been advocating for residential areas in the outer boroughs.

Village Greens, as the project is called, will consist of nine "villages," each containing 225 attached town houses in rows of 7 to 12 arranged around green spaces. There will be no through-roads in the entire 160-acre tract, and no child will have to cross a street to reach a school or play areas.

The site is bounded by Arden Avenue on the north, Arthur Kill Road on the west, Huguenot Avenue on the south and Rosedale and Vespa Avenues on the east. It is on the west side of the island, about nine miles south of St. George at the northern tip and four and a half miles north of Tottenville at the southern end.

The development, in which prices will range from $30,000 for a three-bedroom house to $38,000 for the largest four-bedroom house, is a joint venture of Loew's Corporation, the hotel and theater chain, and the J. H. Snyder Company, a Los Angeles construction concern.

Loew's and Snyder are engaged in $300-million worth of residential buildings in California. Loew's has built high-rise luxury apartments in New York, but this is its first local venture in single-family housing.

Jerome H. Snyder, the 41-year-old head of the construction company, is a Brooklyn native who is returning to New York after two decades on the West Coast.

The developers said yesterday that Village Greens owed a great debt to the New York City Planning Commission, and particularly to its Urban Design Group, which has fought for controlled-environment planning on sizable tracts such as the one in Arden Heights.

In a planned-unit development, the conventional building lot is discarded in favor of clusters of dwellings. The individual homeowner gives up the typical 40-by-100-foot lot, retaining a modest-sized front yard and back yard. But he gains the use of commonly owned green space and facilities such as a park, playground, swimming pool, tennis courts and teen-age and adult meeting center administered by . . .

"Because we're abandoning the conventional street grid, we can plan an environment for living close to nature," Laurence A. Tisch, chairman of Loew's Corporation, said yesterday at a luncheon at the Regency Hotel announcing the start of Village Greens. "Until now this hasn't been thought possible in an urban setting."

SLICED BY GREEN BELT

A green belt will run through the center of Village Greens, with the nine Villages ranged around it in a style reminiscent of small New England towns. The architecture of the houses will reflect this feeling, with tone and clapboard to be the most prominent exterior materials.

The planned-unit development concept presupposes that all necessary services will be supplied when residents move into the house they buy.

Richmond Borough President Robert T. Connor said yesterday that a public school would be built on land set aside in Village Greens. Sewage-treatment arrangements are being made by the developers. Mayor Lindsay noted that in some other parts of Staten Island homeowners had complained bitterly about a lack of connections needed to link into the city sewerage system.

A shopping center will be started soon by another developer on an adjacent 6.5-acre site.

Plans for the project have already been approved by the Planning Commission and the Board of Estimate. The developers acquired the land for $9.5-million. Preston R. Tisch, president of Loew's and brother of the chairman, said that the developers would finance construction themselves and would not have to seek costly bank loans or backing from a large lending institution.

For buyers of the homes, financing will be available from local banks with mortgages insured by the Federal Housing Administration. The project is also approved for G.I. loans guaranteed by the Veterans Administration.

Norman Jaffe, who heads the New York architectural and planning firm that designed Village Greens, explained yesterday that the project's origins would be traced to changes in the city's zoning resolution, accomplished in 1967, making planned-unit development possible.

Village Greens will have 13 dwelling units to the acre. Conventional house-and-lot development, offering no common open space, could not accommodate as many families on the same tract. This is because the cluster arrangement of attached town houses omits the comparatively useless side-yard space.

Mr. Jaffe and Courtland Paul, a California landscape architect, planned the site with what they described as "meticulous care" for its natural qualities.

The site is one of rolling woodland, and the planners sought above all to preserve its natural character.

"We walked the site and we listened to it," Mr. Jaffe said. "We tried to relate its development to the surroundings, to the area's past history, and to the experience of new life styles that are influencing what people want in their communities."

The town houses will be of contemporary design, but Mr. Jaffe intends for them to be natural and "comfortable" in feeling—hence the predominance of wood and stone for the exteriors.

Mr Paul said his theory in landscaping was "to try tinkering as little as possible" with the natural attributes of the site. Where trees had to be removed, he said, the planners would see that they were shifted elsewhere in the tract or that other trees were planted to compensate for those that had to be destroyed.

The developers said that they hope that Village Greens would contribute toward preventing middle-income families from forsaking the city for the suburbs. Commuting to lower Manhattan by way of the Verrazano-Narrows Bridge should involve an automobile ride of no more than 45 minutes, they said. The trip by bus or Staten Island Rapid Transit, plus the ferryboat ride to the Battery would take about an hour.

Laurence A. Tisch, asked whether Loew's and its building partner would consider ventures in other parts of the city, said he felt that Staten Island offered a rare opportunity because of the vacant land, making possible development without uprooting existing homes.

"Frankly, we haven't any answer to the relocation problem," he said. "If we did, we might build in more crowded parts of town."

Staten Island, the city's third largest borough, is 57 square miles but has only 4 percent of the city's population.

THE GENOCIDE CONVENTION DOES NOT USURP CONSTITUTIONAL GUARANTEES

Mr. PROXMIRE. Mr. President, two of the principal objections raised against the Genocide Convention are that it would be self-executing and that it might infringe upon the first amendment guarantee of free speech and press. The American Bar Association's Standing Committee on World Order Through Law, in its recent report, completely dismisses both of these objections.

With regard to the self-executing argument, the standing committee ably points out that this convention itself requires the participating nations to enact enabling legislation. Under our Constitution, no treaty could support criminal prosecution without congressional action.

In the area of first amendment guarantees of free speech, in spite of the fact that the convention makes incitement to commit genocide a crime, it must be remembered that only Congress can make a crime punishable under U.S. law. Moreover, there is an important distinction between advocacy, which is protected by the first amendment, and incitement, which is not so protected.

In the words of the standing committee's report:

Another objection to the ratification asserted is that the treaty would be self-executing. The result, it is claimed, would be to impose a law upon the citizens of this country without the Congress having enacted any implementing legislation. Article I does designate Genocide as "a crime under international law." But Article V requires the parties "to enact, in accordance with their . . . Convention and . . . to provide effective penalties . . ." Could anything be clearer?

Even in the absence of the requirement of Article V, a treaty cannot support a criminal prosecution in the absence of Congressional action.

"It is not the function of treaties to enact the fiscal or criminal law of a nation. For this purpose no treaty is self-executing . . ." The Over The Top, S F. 2d, 838 (1925).

Because Article III makes "direct and public incitement to commit Genocide" a crime, it is claimed the treaty would constitute an infringement of 1st Amendment Constitutional guarantees of free speech and press. It should be noted again that the convention is not self-executing and does not make any act punishable under U.S. law. Only Congress can do this.

There is a distinction between advocacy and incitement. The Convention seeks to prevent "incitement" to commit a crime.

As the Court said in Giboney v. Empire Storage Co., 333 U.S. 490 (1949) at 498:

"It has rarely been suggested that the constitutional freedom for speech and press ex-

tends to speech or writing as an integral part of conduct in violation of a valid criminal Statute."

More recently, in Brandenburg v. Ohio 395 U.S. 444 (1969) at 447 (89 S. Ct. at 1831) the Court said:

"The constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

POLLUTION CONTROL

Mr. DOLE. Mr. President, on February 10, 1970, the President of the United States summoned the Nation to act now to preserve and protect our environment. In his message, President Nixon emphasized that we could succeed in restoring our environment only through the cooperation of government at all levels and "with the aid of industry and private groups."

The successful efforts of the Campbell Soup Co., to design and build a water pollution control system has been called to my attention. For their efforts, the Campbell Soup Co., was awarded the Gold Medal Award by The Sports Foundation, Inc. This kind of constructive activity must be encouraged if we are to reach the goal outlined by President Nixon:

The rescue of our natural habitat as a place both habitable and hospitable to man.

Mr. President, I ask unanimous consent that a release concerning Campbell Soup Co.'s efforts be printed in the RECORD.

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

RESEARCH STUDY OF AWARD-WINNING WATER POLLUTION CONTROL SYSTEM MADE PUBLIC BY CAMPBELL

PARIS, TEX., February 6.—Based on a year-long scientific evaluation of its unique industrial waste disposal system, the top award in a national competition for effective water pollution control was presented this week to Campbell Soup Company's Paris, Texas, plant.

Presented annually by The Sports Foundation, Inc., for corporate achievement in the control of water pollution, the top Gold Medal Award this year was accepted by W. B. Murphy, Campbell President, and Louis C. Gilde, Director of Environmental Engineering. A panel of water conservation experts served as judges in the competition.

According to Mr. Gilde, the exhaustive research study conducted during the past year was undertaken in order to obtain a scientific analysis of the treatment facilities which were conceived, designed and installed by Campbell at its Paris, Texas, plant. "This was a corporate effort to document the basic principles and key design factors necessary for effective handling of large volumes or organic waste water utilizing the overland flow method of BOD removal," Mr. Gilde said.

A major advance in land conservation practice as well, Campbell's overland flow spray irrigation system at Paris, Texas, is unusual in that it features surface filtration rather than infiltration or percolation of all water into the ground. It has the capacity to treat 3.6 million gallons per day of food company waste water with an efficiency which surpasses a tertiary treatment system as measured by biochemical oxygen demand (BOD).

The BOD index is used by sanitation engineers to describe the amount of oxygen that bacteria require to decompose organic material in waste water. A low BOD level, expressed in parts per million (ppm) is most desirable because the less oxygen consumed by bacteria, the more oxygen there will be to support fish life, for example.

Campbell's system is 99% efficient in removing BOD while bringing about a 90% reduction in nitrogen and phosphorus. It converts wastes originally 750–850 ppm BOD to a final 2½–10 ppm BOD, far below the minimum standards established by Texas laws and regulations.

In 1960, Campbell decided to build a soup processing plant in Paris, Texas, and a key factor in the plant site selection was its suitability for installation of an industrial waste disposal system.

Erosion gullies on the newly purchased plant site, a former cotton field, were often deep enough to hide a tractor. After extensive grading and terracing, a special grass necessary for the treatment of waste material, was sown. The plant, containing 22 acres under roof, began operations in October, 1964.

"We spent several years preparing the site for the spray irrigation system and we estimate that careful pre-planning has resulted in conservation of almost 500 acres of land, together with the release of high quality water in a semi-arid area," Mr. Gilde reported.

The process also reclaims a high percentage of plant nutrients. These nutrients fertilize the grasses, which are harvested as a by-product hay crop. An analysis of the grass grown on the disposal tract showed the mineral content to be nearly double that found in other good-quality hay with a high nutritional value ranging up to 23% crude protein. When feeding tests were conducted, cattle exhibited a definite preference for hay grown on the disposal sites.

An invaluable attribute of the surface filtration method of water treatment is its ability to function in all types of severe weather conditions without reduction in efficiency. At the Paris plant, as much as two feet of ice has accumulated under sprinklers in winter months with continued 99% efficiency.

Campbell's water pollution control system proved so successful that the Federal Water Pollution Control Administration's Robert S. Kerr Research Center in Ada, Oklahoma, requested scientific documentation of its performance. A cooperative study was undertaken in which the Kerr studies evaluated primarily hydrological data and chemical efficiencies. Campbell Soup Company also sponsored biological and bacteriological research by North Texas State University and climatological and agricultural investigations by C. W. Thornthwaite Associates in order to provide a comprehensive and objective research program.

GIVING EARTH A CHANCE: THEME OF MICHIGAN TEACH-IN ON THE ENVIRONMENT

Mr. HART. Mr. President, it is a great personal pleasure for me to call attention today to an event of national significance which will occur in a few days in Ann Arbor, Mich. There a massive teach-in on the environment is to be staged by a remarkable coalition of university students and faculty, community members, church groups, and high school and elementary school students.

A great deal is being heard from many forums these days about the crisis of our environment, about pollution, about overpopulation, and about the overall quality of American life. I believe no one has stated the issue more clearly or urgently than the sponsors of this teach-in, who have adopted as their theme the urgent plea: Give Earth a Chance.

In that simple request are hidden the great implications that must follow from any decision to seriously confront the crisis of environmental deterioration. To overcome that crisis and to reverse the frightful trends that ecologists and population experts predict will require changes of a fundamental kind in our lives as individuals, in our ways of doing business, and in our total life as a society and a species on this fragile planet.

Around the theme of "giving earth a chance," a small group of students at the University of Michigan began last September to plan for an environmental teach-in this spring. Their goal has been well expressed in the concluding statement in the planning prospectus which they established late last year:

The basis planning philosophy for all activities affiliated with the Teach-In—before, during, after—is to contribute to the building of informed and action-oriented public concern for the human environment. This subject matter, effectively programmed in the Teach-In and follow-through activities, is an ideal vehicle to open communications between campuses and the general citizenry. Resolving in essence to the question of human survival and the quality of human life on a planet of fragile hospitality, this is an issue which must become of far more immediate concern to all sectors of society. Only in this way will effective action be motivated through the numerous channels—economic, political, and social—which contribute to environmental mis-use, and which are the necessary means to environmental improvement and protection.

The University of Michigan 1970 Teach-In on the Environment, culminating a staged effort to inform and mobilize concern, can focus public attention on constructive action. Its planned follow-through can broaden and deepen the impact, carrying this urgent issue of environmental quality, with all of its implications for human life, far closer to the concerns and self-interests of all whom it touches.

The University of Michigan students who provided the leadership in this planning have formed a new group to organize and sponsor the teach-in on the environment. They chose the name Enact—Environmental Action for Survival—and established themselves as a broadly inclusive coalition of students and community members. Thus their movement has been unusually successful in bridging the sometimes broad chasm between college students and the communities within which their compuses are located. Clearly, concern for our deterioriating environment and demands for effective action are not limited to any one part of our population.

The University of Michigan Enact teach-in on the environment will be held during the week of March 9 through 14, 1970. The program includes a wide variety of events and a schedule of participation by the Nation's leading environmentalists. I think it is especially worthy of note that the teach-in organizers have defined the issue very broadly. While they will not neglect the traditional concerns of the conservation movement, they will seek also to broaden

the conception of environmental concern to include the intimately related issues of urban environments, housing, poverty, civil rights, war and defoliation, and national priorities.

Mr. President, during the next few days I will be calling attention here to the details of this program and the activities of Enact. It is my hope that this will not only be of interest to my colleagues, but will provide a useful service in offering suggestions and directions for those planning similar events for the nationwide environmental teach-in on April 11.

Today I ask unanimous consent to have printed in the RECORD the full schedule for the program, the excellent environmental bibliography being distributed by Enact, and several relevant newspaper reports.

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

PROGRAM FOR THE TEACH-IN ON THE ENVIRONMENT

(NOTE.—The information presented here does not include every event planned for the Teach-In period. Additional schedules will be distributed during the week and published in the local newspapers.)

TUESDAY, MARCH 10

Evening

Symposium on "Using Law to Protect the Environment." Sponsored by the U. of M. Environmental Law Society. 7:30 p.m., Room 100, Hutchins Hall.

Participants: Victor Yannacone, Jr. (formerly with the Environmental Defense Fund); Donald Harris (Lawyer with the Sierra Club); David Dominick (Federal Water Pollution Control Administration).

WEDNESDAY, MARCH 11

Evening

Teach-In Kick-Off Rally. 8:00 p.m. University of Michigan Events Building. Master of Ceremonies: University President Robben Fleming Participants:

Welcoming remarks: Governor William G. Milliken.

Keynote Addresses: Arthur Godfrey (CBS Radio entertainer and conservationist); Senator Gaylord Nelson (Wisconsin Democrat); James Shapiro; Barry Commoner (leading environmentalist).

Eco-Entertainment: Folksinger Gordon Lightfoot. The Cast of "HAIR" (Chicago Production).

THURSDAY, MARCH 12

Morning

1. High School assemblies—featuring Eddie Albert and Arthur Godfrey.

2. Meeting of Michigan Natural Resources Commission. 9:30, Union Ballroom.

3. Other events are planned by individual groups working in various departments and schools. There are also events sponsored by the ENACT Steering Committee and community groups. These will involve nationally known experts, as well as representatives of local industries, university faculty, students, and other members of the community. These events will occur throughout the day.

Afternoon

1. Symposium: "The Future of the Great Lakes," keynote addresses by an ecologist, limnologist, and an engineer. The talks will be followed by a panel discussion involving a legislator, a Water Resources Commission member, a regional planner, a representative of the power industry, and a Sea Grant representative.

2. Workshop: "The Bridge Between Ideals and Action."

1:30 PM—Union Ballroom. Participants will include:

Marvin Durning—Seattle Attorney.

Roger Hansen—Director, Rocky Mt. Center on the Environment.

Mrs. Barnard Flood—Environmental specialist for the League of Women Voters.

Murray Bookchin—author of "Crisis in the City."

Dr. Allan Guskin (moderator)—University of Michigan Institute of Social Research.

Bob Ross—University of Michigan Institute of Social Research.

Donald Jensen—Ford Motor Company.

Symposium on Pesticides: Participants:

Charles Wurster—Environmental Defense Fund.

Dr. Robert Reinhart—U.S. Bureau of Commercial Fisheries.

Dr. Bender—School of Public Health.

Dr. Hartung—School of Public Health.

Dr. Matson—School of Public Health.

3. Workshops are planned by several departments and groups throughout campus.

Evening

1. Environmental Town Meeting.

8 PM: Pioneer High School Auditorium (closed circuit TV to other rooms in the building will be provided).

Program: Keynote Addresses:

Eddie Albert—actor and conservationist.

C. C. Johnson—head of Consumer Protection, H.E.W.

Ralph MacMullan—Director, Michigan Department of Natural Resources.

Respondents:

Robert Harris—Mayor of Ann Arbor.

Marvin Esch—Congressional Representative from Ann Arbor.

Gilbert Bursley—State Senator from Ann Arbor.

Raymond Smit—State Representative from Ann Arbor.

Theodore Rokicki—Principal, Pioneer High School.

2. The Urban Condition: Individual and Community Perspectives. Leonard Duhl M.D.—psychiatrist from Berkeley, editor of *The Urban Condition*. Bertram Gross PhD.—Chairman of Dept. of Urban Studies, Wayne St. Univ.

FRIDAY, MARCH 13

Morning

Congressional Hearing. Topic: student attiudes toward environmental issues.

Afternoon

1. Eco-Rally.

12:00 noon—Diag (will be held indoors in event of bad weather).

Program:

Entertainment—Local Rock Band.

Keynote Addresses: Philip Hart—U.S. Senator, Michigan; Mr. Hugh Iltis—ecologist, University of Wisconsin.

Raising of the Ecology Banner.

2. Speeches, workshops and panels will be held throughout the community.

Evening

1. Panel Discussion: "Root Causes of the Environmental Crisis."

7:30 PM—Pioneer High School Auditorium (closed circuit TV to other rooms will be available).

Program: Each member of the panel will deliver a 10 minute talk followed by a panel discussion.

Participants:

Morton Darrow (moderator)—Vice President, Planning and Analysis, Prudential Life Insurance.

LaMont Cole—ecologist, Cornell University.

Walter Reuther—President, United Auto Workers.

Ted Doan—President, Dow Chemical Co.

Murray Bookchin—Urban Analyst, author of "Crisis in the City."

Ansley Coale—population expert, Princeton University.

Rene Dubos—microbiologist, humanist, Rockefeller University.

2. The panel discussion will be followed by a special address by Senator Edmund Muskie of Maine.

3. Workshops will follow the formal program.

SATURDAY, MARCH 14

Morning

Huron River Walk—9:00–12:00—begins at Huron High School.

Pollution Tours—Car Caravan leaving early morning.

Afternoon

1. Keynote speeches on citizens and political action.

1:30 PM—Hill Auditorium.

Ralph Nader—consumer protection expert.

2. Workshops and displays.

Evening

Panel discussion: "Man's Future: Struggle for Survival?"

7:30 PM—Hill Auditorium.

Program: Each member of the panel will give a 10 minute talk followed by a panel discussion and questions from the floor.

Participants:

Dr. Lawrence Slobodkin (moderator)—ecologist, Stoney Brook.

Dr. Charles Boulding—economist, University of Colorado.

Charles Luce—Chairman of the Board Consolidated Edison Company.

David Brower—President, Friends of the Earth, formerly with Sierra Club.

Dr. Richard Levins—ecologist, University of Chicago.

Rep. John Dingell—Congressman from Michigan.

Closing remarks: Mayor Richard Hatcher of Gary, Indiana.

TEACH-IN ON THE ENVIRONMENTAL—BOOK LIST

This is by no means an exhaustive listing, but it does suggest places to begin learning more about environmental problems. Suggestions for additions to later lists will be appreciated. This list is being distributed to libraries and to local bookstores. Further individual suggestions for in-depth readings are available through the Teach-In office.

ENVIRONMENTAL ROOTS OF ENVIRONMENTAL CONSERVATION

The Quiet Crisis. Stewart Udall 1963, Holt, Rinehart and Winston (also in paperback).

The American Environment, Readings in the History of Conservation. Roderick Nash (ed.) 1968 Addison-Wesley (paperback).

ECOLOGY, NATURAL HISTORY

The Nature of Natural History. Marston Bates 1950 (revised ed.) Scribner's (paperback).

Concepts of Ecology. Edward J. Kormondy 1968 Prentice-Hall (paperback).

The Great Chain of Life. Joseph Wood Krutch 1966 Pyramid Books.

Ecology. Eugene P. Odum 1963 Holt, Rinehart and Winston.

Downstream. John Bardach 1964 Harper and Row.

Harvest of the Sea. John Bardach 1968 Harper and Row.

The Subversive Science: Essays Toward an Ecology of Man. Paul Shepard and Daniel McKinley (eds.) 1969 Houghton-Mifflin, (paperback).

Readings in Conservation Ecology. George W. Cox (ed.) 1969 Appleton-Century-Crofts (paperback).

ENVIRONMENTAL OVERVIEW

America The Raped. Gene Marine 1969 Simon and Schuster.

Silent Spring. Rachel Carson 1962 Houghton-Mfflin (also in paperback).

Night Comes to the Cumberlands. Harry Caudill 1962 Little, Brown & Co. (paperback).

The Destruction of California. Raymond Dasmann 1965 Macmillan (also in paperback).

A Different Kind of Country. Raymond Dasmann 1968 Macmillan.

Environmental Conservation. Raymond Dasmann 1959 John Wiley and Sons.

The Population Bomb. Paul Ehrlich 1968 Ballantine Books, (paperback).

Troubled Waters. Daniel P. Mannix 1969 Dutton Press.

The Frail Ocean. Wesley Marx 1967 Coward-McCann (also in a new, Ballantine/Sierra Club paperback).

Moment in the Sun. Robert Rienow and Leonora Train 1967 Dial Press (available soon in Ballantine/Sierra Club paperback).

1967: Agenda for Tomorrow. Stewart Udall 1969 Holt, Rinehart and Winston.

The View from the Road. Donald Appleyard, Kevin Lynch, and John Myer 1963 M.I.T. Press.

PHILOSOPHICAL BASIS

The Sand County Almanac. Aldo Leopold 1949 Oxford University Press. (There is also a newer edition including essays from *Round River*).

So Human An Animal. Rene Dubos 1969 Doubleday or Charles Scribner's Sons.

The Next Generation. Donald Michael 1963 Vintage Press (paperback).

The Unprepared Society. Donald Michael 1969 Vintage Press.

The Future as History. Robert Heilbroner 1959 Evergreen Press. (paperback).

The Public Happiness. August Heckscher 1962 Antheneum.

Science and Survival. Barry Commoner 1963 A Viking Compass Paperback.

URBAN ENVIRONMENTS AND DESIGN

The Last Landscape. William Whyte 1967; Doubleday.

Cities. A *Scientific American* Book 1966 Knopf (paperback).

Who Designs America?. Laurence B. Holland (ed.) 1966 Anchor Books.

The Death and Life of Great American Cities. Jane Jacobs 1961 Vintage (paperback).

Design and Nature. Ian McHarg 1969 Natural History Press.

The Urban Condition. Leonard Duhl 1963 Basic Books.

Ghetto Crisis. Henry Etzkowitz and Gerald M. Schaflander 1969 Little, Brown and Co.

Controlling Pollution: The Economics of a Cleaner Environment. Marshall I. Goldman 1967 Prentice-Hall (paperback). (BONUS: Tom Lehrer's lyrical ballad, "Pollution" is reprinted in full on the flyleaf!)

SYMPOSIA, PROCEEDINGS, ESSAY COLLECTIONS

American Academy of Arts and Sciences, "America's Changing Environment," *Daedalus* (Fall, 1967).

Smithsonian Institution, *The Fitness of Man's Environment.* 1967 Smithsonian Institution Press.

Environment for Man: The Next Fifty Years. 1968 Indiana University Press. American Institute of Planners 50th Anniv. Conference (paperback). William Ewald (ed.)

Environment and Change: The Next Fifty Years. William Ewald (ed.) 1968 Indiana University Press, AIP (paperback).

Environment and Policy: The Next Fifty Years. William Ewald (ed.) Indiana University Press 1968 AIP (paperback).

GOVERNMENT DOCUMENTS

Task Force on Environmental Health and Related Problems. *A Strategy for a Livable Environment* 1967 U.S. Department of Health, Education, and Welfare. (paperback, GPO 60¢).

Environmental Pollution Panel, President's Science Advisory Committee. *Restoring the Quality of our Environment* 1965 (The White House) (paperback, GPO $1.25).

National Academy of Sciences (*ad hoc* Panel on Technology Assessment). *Technology: Processes of Assessment and Choice* 1969 (prepared for Committee on Science and Astronautics, U.S. House of Representatives) (paperback, GPO 75¢).

Environmental Quality. Hearings Before the Subcommittee on Science, Research, and Development of the Committee on Science and Astronautics, U.S. House of Representatives, 90th Cong., 2nd sess. (Request from Committee Chairman, address U.S. House of Representatives, Washington, D.C. 20515).

Joint House-Senate Colloquim To Discuss A National Policy For The Environment. Hearing before the Committee on Interior and Insular Affairs, U.S. Senate and Committee on Science and Astronautics, House. 90th Cong., 2nd sess. July 17, 1968 (Request from either Committee Chairman).

A National Policy for the Environment. A Special Report to the Committee on Interior and Insular Affairs, U.S. Senate, July 11, 1968 (Request from Committee Chairman, U.S. Senate, Washington, D.C. 20510).

Managing the Environment. Report of the Subcommittee on Science, Research, and Development to the Committee on Science and Astronautics, U.S. House of Rep. 1968.

Items marked GPO are available at the price indicated from Superintendent of Documents, Government Printing Office, Washington D.C. Simply list items wanted by title. Valuable informational documents may also be available from Senators or Congressmen having committee chairmanships in this field (e.g. Senator Muskie, Senator Hart, Senator Jackson, Congressman Henry Reuss, Congressman Emilio Q. Daddario.

[From the Ann Arbor News, Jan. 6, 1970]

FROM OUR POINT OF VIEW: OUTDOOR TEACH-IN HERE NEEDS CITIZEN BACKING

A chance for the entire Ann Arbor community to speak out on something that affects every last one of us is waiting to be seized, right now.

A new organization called ENACT (Environmental Action for Survival), Ann Arbor-born, is dedicated to a program of action and education to save the natural environment from the pollution peril. ENACT has scheduled a major Teach-In on the environment for March 11–14.

Here's what you the citizen—whether activisit student or member of the Silent Majority, whether in the professions or in the kitchen, no matter what—come in.

If this Teach-In, which may be the prototype of similar gatherings all across the country, is to be a success, it will need the ideas and support of many people from all walks of life. ENACT hopes to involve the entire Ann Arbor community in the scheduled lectures, workshops and local action projects.

So while the Teach-In is being set up as to format, participants and the topics of discussion, ENACT needs money, information on environemntal issues, ideas on priorities in environmental control and whether the aims of ENACT are best achieved through politics or the courts.

The purpose of the Teach-in is to educate adults and students in Ann Arbor about environmental issues. But it also seeks to unite the community for action on local and regional problems.

It is an opportunity for young and old activist and those who pick their targets infrequently if at all, to come together. We all breathe the same air. All of us share space on this increasingly crowded planet. All of us have a stake in making it more habitable.

Those interested in making Ann Arbor and this region an area of environmental quality and wishing to share ideas about what can be done locally are urged to contact the ENACT office, 764–4410, or the School of Natural Resources. If enough people care, the Teach-In will be a rousing success.

[From the Detroit Free Press, Jan. 4, 1970]

ACTIVISTS TURN TO POLLUTION PROBLEM

(By Roberta Mackey)

The industries which contribute to pollution of natural resources soon are to feel the kind of pressure which University of Michigan activists once reserved for the war in Vietnam and the Ann Arbor police.

The big new cause on the university campus is the quality of the environment. Radical veterans of past causes and demonstrations and conservatives who have never carried a picket sign, are rallying in impressive numbers to a new organization called ENACT (Environmental Action for Survival). ENACT is dedicated to a program of action and education to save the natural environment from pollution and destruction.

ENACT grew out of plans for a teach-in March 11–14, at which nationally known authorities will discuss threats to the quality of life in this country.

Once again, university students appear to be in the vanguard of the new movement and this time they will have the blessing of nearly everybody. The university's president, Robben Fleming, granted the teach-in committee seed money.

ENACT is to be the forerunner of a national effort. An organization called Environmental Teach-In Inc., headed by Sen. Gaylord Nelson, D-Wis., is encouraging similar seminars on campuses all over the country on April 22, but because of the trimester system, U–M will be on vacation then.

The Ann Arbor group is working closely with Environmental Teach-In, Inc. "They feel that ours will be the prototype," says Art Hanson, a doctoral candidate in the School of Natural Resources and a member of the organizing committee.

The four-day meeting in Ann Arbor will include names from the fields of ecology that promise to become household words as environment grows in importance as a national issue.

On the schedule already are Barry Commoner of Washington University, one of the country's outstanding environmental scientists; Rene DuBos of Rockefeller University; Kenneth Boulding, an economist formerly at the U–M and now at the University of Colorado; LaMont Cole, ecologist, of Cornell University, and David Brower, former president of the Sierra Club, one of the oldest conservation organizations, and now president of Friends of the Earth, a similar society.

President Fleming has promised to participate, perhaps as moderator of a panel, and the program will include industrialists, governmental officials and entertainers.

"The idea didn't even originate in the school of Natural Resources," Hanson said. "Somebody in the School of Japanese Studies suggested the possibility, and about six guys got interested.

"The six grew up to 40, and the end of October we held a mass meeting—which is the way to attract attention on this campus. We were absolutely amazed when 300 people showed up."

Since then, he said, "The response has been phenomenal." And because it seemed too bad to let the effort and enthusiasm die with the end of the teach-in, ENACT was born.

The movement has attracted many campus radicals, Hanson concedes, but the committee hopes to keep all factions working together.

"It is a very unifying issue. Everybody is agreed on the problems, even though there may be divergence on the solutions," he said.

"We are pledged to constructive action. There is little to be gained by calling off classes, for instance," he said.

But some of their actions may shake the status quo.

"We plan a fairly radical examination of national goals and policies—the concept of growth, including population growth, and the idea that everything revolves around the dollar," Hanson said.

Because of the involvement of the Schools of Medicine, Public Health, Law, Architecture and Design and Engineering, as well as specialized departments within the various schools, many members of ENACT are specialists.

As specialists they perceive some more subtle, less publicized dangers to the environment—Hanson cited pesticides as one, but many other participants have only a layman's knowledge.

During January, the group will choose some specific targets. "We can do some things on the national level, such as circulate petitions and work for candidates, but we can be most effective on the local level," Hanson said.

"We may even do something like getting an injunction against the city or the university for breaking anti-pollution laws."

Faculty members and community leaders have joined up, and both Michigan senators have endorsed the movement.

The co-chairmen of ENACT are David Allan of Vancouver, B.C., a graduate zoology student, and Doug Scott of Ann Arbor, a graduate student in the School of Natural Resources.

Hanson is in charge of raising money for the teach-in. "We need lots of money because it is essential to approach this in a big-time way," he declared.

He has no doubt that the environment is "the next big cause."

"The Vietnam war could be ended in a day, theoretically," he says, "but we will be living with the environment 50 years from now."

[From Science, Jan. 16, 1970]

ENVIRONMENTAL TEACH-IN: A NEW ROUND OF STUDENT ACTIVISM?

Growing student concern about pollution and other forms of environmental degradation shows signs of becoming institutionalized, though just what forms of expression this concern ultimately may take is not clear. Last September, Senator Gaylord Nelson (D–Wis.), who successfully campaigned for reelection in 1968 primarily on the environmental protection issue, called for an environmental "teach-in" to be held this spring on every university campus in the United States. The teach-in, he said, could take the form of symposiums, convocations, panel discussions or whatever the students decided upon. "The same concern [that students] took in changing this nation's priorities on the war in Vietnam and on civil rights can be shown for the problems of the environment," Senator Nelson said.

An environmental teach-in movement has in fact developed, with Nelson helping to organize it. That the teach-in idea has caught on seems due in part to the circumstance that, even before Nelson made his proposal, significant numbers of students felt strongly about environmental problems, as evident from the student conservation and environmental study groups springing up at various universities. And the idea of students turning next to the environmental problem as a major area of their concern has gained currency partly from the publicity accorded it by the news media, which are themselves taking up the environmental issue with fervor.

One of the first of the larger environmental teach-ins this year will be held at Northwestern University on 23 January. This is billed as an all-night affair (actually called a "teach-out" because it is meant to be directed outward to the community) that is to begin with speeches by environmental evangelists such as biologists Paul Ehrlich of Stanford and Barry Commoner of Washington University and by politicians such as Adlai Stevenson III, state treasurer of Illinois and candidate for the U.S. Senate.

Then there is to be a songfest, followed by a smorgasbord of group discussions (among which students will circulate) on topics such as environmental law, the politics of conservations, and pollution control technology. The discussions are expected to continue until dawn. The teach-out is being organized by Northwestern Students for a Better Environment, a nonradical group set up last October to investigate and take positions on environmental questions and to stimulate wider public interest in these issues.

From 8 to 11 February, Dickinson College, a liberal arts institution at Carlisle, Pennsylvania, will hold a 4-day symposium on environmental pollution, with classes to be suspended the last day. Senator Nelson, Commoner, and Stewart L. Udall (former Secretary of the Interior) will be among the speakers, who will also include specialists from science, industry, and volunteer groups on problems such as overpopulation and air pollution. Participants in the symposium, which was conceived last spring a student-faculty committee, will prepare workshop reports to be sent to major polluting industries and governmental bodies.

A nationwide teach-in is set for 22 April. According to Senator Nelson's office and the national teach-in headquarters in Washington, efforts to organize teach-ins are under way at at least a dozen major universities, and inquiries have been received from individuals or groups at well over 200 institutions. It is now believed virtually certain that teach-ins will be held by students at institutions in the Boston, St. Louis, and San Francisco Bay areas (with students from two or more universities making joint plans in some cases) and at a number of other schools (such as Indiana University, Minnesota, Wisconsin, Yale, Columbia, Southern California, and the University of Florida).

The movement is being promoted nationally by a newly chartered tax-exempt organization called Environmental Teach-In, Inc., of which Senator Nelson and Representative Paul N. McCloskey (R–Calif.) are the co-chairmen. Others on the governing board include Sydney Howe (president of the Conservation Foundation), Ehrlich, and five other members, including three students. The student coordinator of the movement is Denis Hayes, a former president of the Stanford student body and now a law student at Harvard. Hayes and a half dozen other students are taking off a half year from their studies to work for the teach-in movement. Environmental Teach-In, Inc., will appeal to the public for funds to cover its expenses, which are not expected to be large.

Because of a problem of academic scheduling, the teach-in at the University of Michigan will be held from 11 to 14 March, more than a month earlier than the national teach-in. Michigan students have prepared an ambitious set of plans and goals for their event, and this prospectus is being sent by Environmental Teach-In, Inc., to students at other institutions to help them plan their own activities. Organizing the Michigan teach-in is a group called Environmental Action for Survival (ENACT), which includes some faculty members and people from Ann Arbor as well as students.

ENACT is to be a continuing organization that will carry on educational and action-oriented activities long after the teach-in itself has been held. The teach-in, which is reported to have strong support from Michigan's President Robben Fleming, will be an effort to promote programs of interdisciplinary study of environmental problems, draw public attention to those problems, encourage environmental educational education activities in the public schools of Ann Arbor, and discuss and carry out action projects.

According to the teach-in prospectus, action projects which might be undertaken before, during, or after the teach-in include the drafting and promoting of legislation, the reporting of pollution-law violators, the filing of environmental lawsuits, and active campaigning for elective officials who have sound positions on environmental issues.

If one may judge from the prospectus for the Michigan events, the teach-in movement will have a distinctly activist ring. And past experience with student activist movements has made it clear that these are dynamic and upredictable and tend to acquire a will of their own.

[From the Ann Arbor News]

YOUNGER GENERATION STIRS COMMISSIONERS

LANSING.—Massive involvement of Michigan college students in "Environmental Action for Survival" (EnAct) was explained to the State Natural Resources Commission here Thursday in a stirring presentation by Douglas Scott, graduate student at the University of Michigan.

He thereupon invited the commission and the Department of Natural Resources "in" and urged them to demonstrate their leadership in a youth-led campaign to "make the world fit to live in."

Scott explained plans for a March 11–14 teach-in at the U of M and invited the commission to hold its March 12–13 monthly meeting on campus as part of it.

"This is a student and community action group and we enlist your support," Scott said. "This is more than just conservation. It's a movement to make the environment livable. The young are not interested in inheriting the earth only to find it's unfit to live in. We're not going to wait to see the world torn down for somebody's gain. The youth of America is taking up this campaign."

The U of M teach-in would precede, by timing necessity rather than design, he said, a national teach-in on environmental destruction and improvement set for Ann Arbor April 22.

Rupert Cutler, now at Michigan State University but a former assistant executive director of the Wilderness Society, echoed Scott's appeal and said MSU also will take part in the national movement and the April 22 teach-in with a teach-in of its own at East Lansing, to which national, state and university authorities on the subjects of water and air pollution are invited to speak.

When the young men were through, Commission Chairman August Scholle of Detroit remarked, "It's really heartening to a senior citizen like me to see you young people take up this issue that we have been involved in. Believe me, we need you!"

Added E. M. Laitala of Hancock, slated to become commission chairman at Friday's formal meeting: "After hearing these young men, I haven't as much fear any more as to what we're passing on to our grandchildren."

James L. Rouman, executive director of Michigan United Conservation clubs, said he had been consulting with Scott and Cutler and promised all possible assistance of the 360-club conservation organization on both state and local levels. "We're very much enthused," he said.

Scholle promised the commission would try to rearrange its meeting plans to accept Scott's invitation.

The ENACT presentation followed and was related by Scott to an earlier presentation (for population control as a necessary adjunct of environmental improvement) by Dr. David Bingham, an Ann Arbor obstetrician and spokesman for the Mackinac (Michigan) chapter of the national Sierra Club.

The American population is growing 50 percent with each generation and will add another 100 million people to the present 205 million by the turn of the century, he said.

"With our high standard of living, this will impose tremendous stresses on our resources and upon the environment in forms of pollution. The breaking point is now," Dr. Bingham said, urging the commission to press

for population control as important to conservation of the natural resources.

CAMPUS DISORDERS

Mr. PERCY. Mr. President, campus unrest, which has all too often led to campus disorders, constitutes a grave problem for America. Just last week, we witnessed a series of disturbances at the University of Illinois at Champaign-Urbana, which caused thousands of dollars of damage to university property and led to scores of arrests.

The reasons behind the wave of campus violence associated with a new generation of young Americans are deep and complex. More than before, today's students seem to be focusing their protests and discontent on political issues. The war in Vietnam, the threat to our environment posed by pollution, and the question of civil liberties occupy tremendous interest on the campus, along with such issues as curriculum, formalism, faculty hiring, tenure, and "student rights."

As a member of the Committee on Government Operations, which has investigated various radical student movements, I have consistently denounced violence on campus as counter-productive and as an anathema to U.S. academic traditions. Great centers of learning and scholarship in both the East and West have literally been torn apart by such violent confrontations and by disrespect for law.

Edward H. Levi, the president of the University of Chicago, works with great determination, action and intelligence to do everything within his power to see that such a destructive explosion shall not occur on the campus that he heads. As one of the leading academic centers in America, the University of Chicago has not been free of student unrest.

A year ago, a series of sit-ins, precipitated by a decision not to retain a professor, created great tensions and severe strains on that campus. As a trustee of that institution, I kept in close touch with the situation as it evolved. I can attest to the fact that President Levi's masterful handling of that crisis prevented a serious disruption on campus from developing into a situation that could well have split the administration, the faculty, and the students for years to come and have pointed to his effective procedures and administration on the Senate floor on previous occasions.

Of particular interest was President Levi's ability to restore order without resorting to intervention by the Chicago police department, which is, for better or worse, a focal point of anger to some and whose presence on campus could well have led to widespread sympathy and support for the minority of student radicals who were active in the confrontation.

President Levi maintains a policy of meeting with student leaders at his home on a regular basis. I attended one of these sessions and I can report that such direct exchanges have done much to promote a spirit of mutual understanding at the University of Chicago.

On a recent visit to Chicago, Robert Novak, the syndicated Washington columnist and partner of Rowland Evans, surveyed the scene at my alma mater. For the benefit of Senators who did not see this interesting report, I ask unanimous consent that the Evans-Novak column of March 4, 1970, entitled, "Chicago Campus Is Like a Paradise With Confident, No-Nonsense Faculty," as published in the Washington Post and the Chicago Sun Times, be printed in the RECORD.

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

CHICAGO CAMPUS IS LIKE A PARADISE, WITH CONFIDENT, NO-NONSENSE FACULTY

(By Rowland Evans and Robert Novak)

CHICAGO.—At one of his regular breakfast conversations with students recently, president Edward H. Levi of the University of Chicago listened to a law student's vigorous demand that students be given a voice in determining tenure for professors—that is, who shall have permanent faculty status.

The student argued that ceding such powers to students would form an escape hatch for the university administration in touchy cases. At the large Midwestern state university where he was an undergraduate, the law student explained, students had been valuable allies siding with the administration against the board of trustees over tenure for a faculty member so controversial that he had become a "political" question.

Levi's reply was calm but firm. The trustees at Chicago, he explained, have no voice whatever in questions of hiring or firing professors. Furthermore, if any faculty member's tenure hinged on "political" considerations, Levi would walk out as president. In brief, the faculty will continue to judge itself without help from students.

That single encounter between president and student helps explain why Chicago, with a traditionally radical student body and surrounded by Chicago's black slums, has so far escaped the worst of the campus insurrection. Even more remarkable in an era when the academic community nationwide despairs for the future of liberal education, the administration and faculty here are in a state of self confident, high morale.

The basic reason is that the men who run the University of Chicago have decided that the business of higher education is much too important to be entrusted to post-adolescents. Although Levi breakfasts regularly with students and has formed student-faculty committees, he is dubious about the value of student participation. In three years as president, the former law professor has made it clear that students will not make academic decisions.

The dramatic testing of this policy came last spring when 400 student radicals, challenging the heart of faculty control, staged a 15 day sit-in at the administration building protesting the decision not to grant tenure to a radical professor. Resisting pressure, Levi refused to call the police. But in contrast to the permissiveness displayed that spring at Cornell and Harvard, the Chicago faculty expelled 37 students—and made it stick.

Only once since then has Chicago's firmness been tested. When students picketing a university cafeteria as a protest against working conditions there tried to forcibly prevent anybody from entering the building, the reaction was swift. Without fanfare, 14 more students were expelled.

Even so, the faculty still faces threats of academic freedom from student militants. In the last quarter, Maynard Krueger, a left-of-center economics professor, was harassed to the point of humiliation by radical students (and nonstudents, as well) in and out of class. Investigation failed to fix a basis for disciplinary action.

Moreover, there remain scattered threats of force to influence the content of courses. The classes of one Negro professor, himself a militant, are today being monitored by two Black Panther members (nonstudents) to guard against ideological deviation. The professor is furious at this challenge to his authority but can take no action until there is overt classroom disturbance.

Compared to often outrageous classroom intimidation practiced by student radicals across the country, however, the cool Chicago campus is paradise. Indeed, there have been recent signs that the students here are turning away from attempts to take over the university and concentrating on whatever national issue is in the headlines—Vietnam, the environment, ABM or, most recently, the Chicago conspiracy trial.

This is not because the Chicago students are particularly unusual. Faculty members confided to us that Chicago students, probably brighter and more alert than their predecessors, dislike contemplation and vastly prefer bull sessions to study. Had they been granted the concessions of the Santa Barbara or MIT students, they might now be rampaging here on the midway.

The secret of Chicago seems to lie in the fact that the faculty and Levi (deeply admired by faculty, though not by students) believe in themselves, unlike many educators across the country. With distinguished academicians ranging from political scientist Henry Morgenthau on the left to economist Milton Friedman on the right, the Chicago faculty believes it has an invaluable product that should not be denatured by student whims.

In an era of rampant student-worship on the nation's campuses, teachers and administrators here are unique in one vital respect. Unlike almost every college we have visited lately, nobody here told us: "You have to listen to the students; they have something important to say." Such academic self-confidence may be the starting point for the preservation of the university.

RURAL JOB DEVELOPMENT

Mr. HARRIS. Mr. President, since first coming to the U.S. Senate, one of my primary concerns has been the migration of our population from the small towns and rural communities of America into the already overcrowded metropolitan centers. More and more we are coming to realize that Government policies, consciously and unconsciously, have contributed to this movement. Fortunately, public officials at the local, State and Federal levels are coming to realize that it is unhealthy, both socially and economically, for 70 percent of our population to live on less than 3 percent of our land. Therefore, in the past few years, efforts have been undertaken to reverse the flow of this population migration and to encourage some people to return to the smaller cities, small towns and rural communities.

The pressing need in these areas is for private jobs. The availability of private jobs would give people already living there a chance to stay, and would provide incentive for others to return. In order to encourage industry to locate in small towns and rural communities I joined with the distinguished Senator from Kansas (Mr. PEARSON) in introducing S. 15, the Rural Job Development Act, which provides for tax incentives to those industries which are willing to locate in such areas. On May 21 and 22 of last year the Committee on Finance, of which I am a member, held hearings on S. 15. At that

time we received testimony from representatives of State and local governments and private industry endorsing its provisions and the overall concept of tax incentives for private job development.

I am happy to see that the distinguished majority leader (Mr. MANSFIELD) on March 4 requested that his name be added as a cosponsor of the Rural Job Development Act. I express my appreciation for the majority leader's support of this proposed legislation and say I am hopeful that his cosponsorship of the bill will help underscore the need for the legislation and will assist in obtaining favorable action on it by the committee and the Senate soon.

BLUEBONNET LITERARY CLUB OF GILMER, TEX., ENDORSES 100,000-ACRE BIG THICKET NATIONAL PARK BILL

Mr. YARBOROUGH. Mr. President, the Bluebonnet Literary Club of Gilmer, Tex., has joined with the ever-growing number of civic and conservation organizations throughout the country that have endorsed my bill, S. 4, that would create a 100,000-acre Big Thicket National Park in the southeast part of Texas.

This beautiful and unique area has long been the home of many forms of wildlife and plantlife. Among other species of birds that are found in the Big Thicket, this area is the last known refuge for the legendary ivory-billed woodpecker. This rare and beautiful bird was the largest known variety of woodpecker in America. For many years, the ivory-billed woodpecker was thought to be extinct; however, in recent years this bird was sighted in the Big Thicket area. Unless immediate action is taken to preserve the Big Thicket, the ivory-billed woodpecker and the many other forms of rare wildlife that are found there will be destroyed. With every day that goes by, another 50 acres of the Big Thicket disappears under the heartless blade of the bulldozer.

My bill, S. 4, would preserve forever at least 100,000 acres of this scenic wonderland. I urge Congress to take action immediately on S. 4 so that at least a portion of the Big Thicket can be preserved for future generations.

Mr. President, I ask unanimous consent that the resolution of the Bluebonnet Literary Club of Gilmer, Tex., be printed in the RECORD.

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

RESOLUTION

Whereas, the Big Thicket of Texas is a remarkable wilderness area where eastern, western, and northern ecological elements meet; and

Whereas, this area contains the last stand of the near extinct Ivory-billed Woodpecker; and

Whereas, this area of pristine beauty is being destroyed by chain saw and bulldozer; therefore

Be it resolved that Bluebonnet Literary Club of Gilmer, Texas urges the preservation of at least 100,000 acres containing the most unique areas of the Big Thicket, these areas to be connected by environmental corridors; and

Be it further resolved that the Interior and Insular Affairs Committee of the Senate of the United States be requested to set immediate hearings on S4 which would create a Big Thicket National Area.

Mrs. JOHN R. CALLOWAY,
President.

December 5, 1969.

ANN CUNINGHAM: BEST OF A KIND

Mr. BROOKE. Mr. President, I have been blessed with a staff of which I can be very proud.

Ordinarily, persons who serve on Senate staffs remain nameless, hidden from public view. But once in a while a member of such a staff does something so spectacular, performs a deed so great, that individual recognition is overwhelmingly deserved.

Ann Cuningham is such a person. Primarily through her efforts, a human life has been saved, and the lives of countless others have been affected for the good.

Dick Stewart, of the Boston Globe, has captured her contribution, and her unexcelled dedication, in unforgettable terms. I ask unanimous consent that his article, published in the Boston Globe of Friday, March 6, 1970, be printed in the RECORD.

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

ANN CUNINGHAM: BEST OF A KIND

WASHINGTON.—Eddie Harrison is black, a convicted murderer and a product of the ghetto of the District of Columbia.

Ann Cuningham is white, a college graduate and the product of the affluence of Bronxville, N.Y.

Through a whim of fate their lives have crossed despite their totally different backgrounds.

And largely through the efforts of Ann Cuningham, Eddie Harrison no longer has to face the desolation of life in a prison cell. He is a free man because she cared what happened to him and saw to it that others cared, too.

Ann is a clerk in the office of Sen. Edward Brooke of Massachusetts, one of the more than 10,000 unknown Senate and House employees who are the anonymous backbone of the United States Congress.

Harrison, now 27, was convicted in 1960 of the shotgun slaying of a Washington gambler. His counsel turned out to be a phony, a man who posed as a lawyer and was appointed by the court to defend Harrison.

On this evidence a mistrial was declared but in the second trial Harrison was again convicted. He was sentenced to life in prison.

From 1960 until 1968 Harrison was in prison, part of that time on death row. In a rare exercise of judicial discretion, Harrison's exemplary prison record won his release from prison in 1968 on order of two Circuit Court judges while he was preparing his fourth and final appeal.

Harrison's record was so impressive that he was released without bond, the first time such a right had ever been given to a lifer.

On the day that Chief Justice Warren Burger was being sworn into office, June 27, 1969, one of his last opinions was being released by the Court of Appeals.

It rejected Harrison's appeal on grounds that there was no other alternative under the law.

But Appeals Judge Burger noted that Harrison had obviously benefitted from the rehabilitation processes of imprisonment.

He added a suggestion that the Harrison case be considered for Executive clemency. In the meantime Harrison continued to remain free, waiting only the appearance of the sheriff to return him to prison.

Ann Cuningham was attracted to Harrison's case by a story she read in the Washington Post. She called Harrison and then sought the aid of her boss, Sen. Brooke.

Brooke reviewed the case and at Ann's behest wrote a letter to Attorney General John Mitchell supporting the commutation petition filed in Harrison's behalf.

Ann was relentless. She enlisted the aid of Sen. Marlo Cook (R-Ky.) and Sen. Charles Mathias (R-Md.) who also intervened for Harrison with the administration.

In her spare time, on Saturdays, she would go to the White House to urge support for Harrison from her friends on the White House staff.

Last Monday President Nixon announced that Harrison's sentence had been commuted. He would not have to return to prison.

There was no mention of the selfless efforts of Ann Cuningham in the newspaper reports the next day. She didn't care. She was so happy that she cried.

But Eddie Harrison will remember her.

"Ann really, really pushed the whole effort on Capitol Hill," he said. "Dedication. That's the word. She was more concerned about this thing than I was. I've learned to live with it. Sen. Brooke is really fortunate to have her."

Ann Cuningham is not really unique on Capitol Hill. There are a lot of Ann Cuninghams among the more than 10,000 congressional aides here.

They are the ones that make sure your veterans pension check get taken care of or a Chinese citizen's immigration papers are handled properly.

They write the speeches, answer the mail, come up with the ideas and protect their big-name bosses from public harassment. They work in the backrooms huddled over typewriters and stacks of mail. They are unknown.

But as long as there are people like Ann Cuningham among them and people who benefit from their work, like Eddie Harrison, they will not go unrewarded.

A BURNABLE BOTTLE DEVELOPED

Mr. MOSS. Mr. President, one of the serious aspects of the mounting environmental pollution problem facing mankind is the rapidly growing amount of man-produced waste products. Our municipal garbage dumps threaten to engulf the very cities they were created to serve.

An encouraging note in the attempts to reverse this trend was published in the Washington Post this morning. A small but significant article mentioned that the Pepsi-Cola Co. has developed a burnable bottle suitable for use in the soft-drink market.

The problem of disposing of glass bottles and nonrusting cans is a part of the growing waste problem. I compliment the Pepsi-Cola Co. and 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:

NEW DRINK BOTTLE CAN BE BURNED UP

A burnable bottle has been developed which could help solve highway litter and

solid waste problems, a top Pepsi-Cola executive said yesterday.

Pepsico president Donald M. Kendall explained to a National Press Club luncheon that plastic was an oil derivative, causing difficulty in that carbonation tended to leak from the bottle. If left on a shelf for two or three weeks there would be nothing left but sugar and water and no taste, Kendall said.

"This has been solved," he added, "and (the new) bottle can be destroyed in a normal incinerator."

EASIER RULES ON PRESIDENTIAL VOTING

Mr. FANNIN. Mr. President, last week I joined with my colleague from Arizona (Mr. GOLDWATER) in sponsoring legislation which would standardize the rules for voting in presidential elections.

It has been estimated that the benefits from this legislation might affect the voting rights of some 10 million voters. Certainly it is not a measure to be considered lightly.

Last Friday, the Wall Street Journal printed a lengthy article about this legislation, which I believe serves to help place its importance in the proper perspective. 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:

EASIER VOTING RULES IN PRESIDENTIAL RACES FOR NEW RESIDENTS MAY BE PASSED IN 1970

(By Arlen J. Large)

WASHINGTON.—This finally may be the year that Congress re-enfranchises people who lose the right to vote when the boss transfers them from place to place.

President Johnson in 1967 asked for a national law relaxing residency requirements for newly moved citizens wanting to vote for President and Vice President. But the proposal was blocked by Southern conservatives, who believed it would encroach on the Constitutional prerogative of states to set voting qualifications.

Now, odds have sharply improved that a national residency law for Presidential voters will be in force for the 1972 election. The idea is strongly backed by President Nixon. It has become caught up in the maneuvering over the much more controversial question of extending Federal protection of Negro voting rights. But instead of being trampled under in this fight, as often happens in such cases, the liberalized residency-requirement proposal is benefiting from the battle.

The House has already approved an easy test for newly moved Presidential voters as part of its version of the voting-rights bill. Chances are good that the Senate shortly will approve a still easier test, thus making it certain that some national residency standard will be included in the final version of the voting rights measure.

CHAMPIONED BY GOLDWATER

In part, the proposal's Senate chances are bright because it has a new champion. Barry Goldwater, who has taken keen interest in the plight of five million citizens he estimates are barred from Presidential voting because they have new addresses.

Sen. Goldwater last year followed conservative orthodoxy by sponsoring a Constitutional amendment to provide for a uniform residency requirement for Presidential voters. Nothing happened, and this year the Senator has decided the same thing can be accomplished by simple statute. While conceding the Constitution gives states power to set voter eligibility standards, he argues Congress can act under the 14th Amendment's "equal protection of the laws" clause. He also says Congress has power "to secure the rights inherent in national citizenship."

Opponents of a statute covering residency requirements don't quarrel with the argument that U.S. citizens anywhere should be able to vote for candidates for the two national offices, as distinct from state and local elections where residents should have time to learn state and local issues. But such Constitutional conservatives as Sen Ervin (D., N.C.) contend a national standard can be adopted only by Constitutional amendment.

Many state legislatures already have recognized the rights of mobile Presidential voters by permitting special registration deadlines for new residents. Currently, 31 states have such provisions, and more than half of these permit newcomers to register for a Presidential ballot as late as 15 days before Election Day. But 16 states still require everyone to have at least one year's residence before becoming eligible to register. All told, Sen. Goldwater calculates that four million citizens are prevented from voting in Presidential elections because they've moved to a new state, and another million can't get ballots because they have a new address within their home states.

The House-passed voting-rights bill contains President Nixon's proposal to permit anyone to vote in a November Presidential election who had established residence by the previous Sept. 1. The bill also would make it easier for people who have just moved to get absentee ballots from their former home states.

The Administration is pushing the relaxed residency rules as a sweetener to attract support for the more controversial parts of its voting-rights package. The bill would abolish literacy tests nationwide, beyond the six Southern states where such tests were outlawed by the 1965 voting rights law. It also would let lapse the 1965 requirement that these six Southern states get permission from the Justice Department before changing their election laws. The Administration's plan instead would authorize the Justice Department to challenge any new state election law in court, if the change was suspected of being designed to discourage Negro voters.

Civil-rights liberals in the Senate originally planned to oppose the President's bill outright, and to insist on a simple five-year extension of the 1965 law with its coverage limited to Dixie. But a bipartisan liberal group headed by GOP Leader Scott of Pennsylvania and Democrat Hart of Michigan has swung behind a broader plan. Part of their bill would reenact for five years the 1965 law, with its key provision for Federal clearance of election-law changes in the six Southern states. And the bill additionally picks up the two Nixon "sweeteners"; Abolition of literacy tests everywhere, and creation of a national residency standard for Presidential voters.

CURRENT SENATE DEBATE

The Senate currently is debating the voting-rights bill, with Southerners doing most of the talking. But earlier this week Sens. Scott and Hart junked their residency plan patterned after the House version and embraced Sen. Goldwater's much more liberal tests. His language thus is incorporated in the Scott-Hart measure, which at this point appears to have the best chance of Senate passage. On the first test vote, the Senate last evening refused 47 to 32 to table the Scott-Hart package. (Sen. Goldwater, who opposed the tabling motion, hasn't yet spelled out his position on the civil-rights aspects of the voting bill.)

Mr. Goldwater proposes letting anyone—newcomer or not—register for a Presidential ballot as late as 30 days before Election Day. This wouldn't benefit only citizens newly moved to a state, or to a new address within a state, but also stay-put residents who have missed the regular registration deadline. In Texas, for example, voters must register by Jan. 31 to be eligible to vote the following November. The Goldwater proposal would override this rule for Presidential voting, while leaving it intact for elections for other offices.

Sen. Goldwater also would let newcomers who miss his 30-day deadline get absentee Presidential ballots from their home states, no matter what a state's absentee rule is for other elections. The Senator estimates that besides the five million people currently disenfranchised by residency requirements, another three million to five million are barred from Presidential voting because of difficulty in getting absentee ballots.

DENTAL CARE FOR CHILDREN

Mr. EAGLETON. Mr. President, last week Congress passed and the President signed a bill making appropriations for the Department of Health, Education, and Welfare. As Senators know, the bill contained a provision limiting expenditures to 98 percent of appropriated funds while prohibiting the reduction of expenditures for any single item in the bill by more than 15 percent.

On March 4, prior to the Senate's vote on the conference report, I pointed out that the Department of Health, Education, and Welfare was planning to cut by more than 15 percent eight or nine items which were not line items in the bill but were items for which funds had been earmarked by the Senate Appropriations Committee. While these reductions would not violate the letter of the Cotton amendment as modified by the Eagleton amendment, I suggested then and I still believe that such reductions are contrary to the intent of the Senate in accepting my amendment.

One of the items which HEW plans to reduce by 100 percent is the $200,000 earmarked by the Senate Appropriations Committee for the dental health of children. This modest sum would have funded for the first time a program of pilot dental care projects for needy children authorized by Congress in the Social Security Amendments of 1967. This is the only Federal dental program specifically and solely authorized for preventive dental care for children, and the money earmarked for it by the Appropriations Committee would have made possible the beginning of comprehensive dental services for some 6,000 children of low-income families.

I commend the chairman of the Appropriations Subcommittee, the Senator from Washington (Mr. MAGNUSON), for his interest in the dental health of children and for his leadership in earmarking funds for this pilot program.

I regret that this administration, which has not revised its plans to spend $400,000 to plan a White House Conference on Children and Youth, has found it impossible to spend $200,000 for preventive dental care for children.

FREEDOM FOR THE BALTIC STATES

Mr. BROOKE. The people of the United States have always supported the

people of Latvia, Lithuania, and Estonia in their determination to be free. I believe that continued support of this goal by the Government and the people of America can contribute greatly to its eventual achievement.

The people of the Baltic States are not only determined, but justified, in their struggle, and I heartily commend them for their efforts. Culturally and historically there are many ties which bind our lands together. It is with great pleasure, therefore, that I recognize the respective anniversary celebrations of independence for these nations, and extend to them my hopes and encouragement for success.

BLOW FOR THE SMALL INVESTOR

Mr. MOSS. Mr. President, I protest the action taken the other day by the Treasury Department in setting the minimum denomination on Tuesday bills at $10,000. This discriminates against the small investor, and is a body blow to his investment plans at a time when the money market is as uncertain as it has been in a long time.

With short-term Treasury bills paying from 7 to 8 percent, the small investor has found them a sound and inviting alternative to putting his money into a gyrating stock market. Now he has lost this alternative. But the wealthy American—the American who has $10,000 to invest at one time—can still continue to turn over his Treasury notes at a good profit.

Both the small and the large investor are suffering from an inflation-reduced dollar, but it is the small investor who is denied buying Treasury notes at a good and sound rate of profit to help him in his personal battle against inflation.

The Journal of Commerce on March 2, published an excellent editorial which discusses this Treasury move, and punches holes in the arguments which the Department offered as to why the action was necessary. I ask unanimous consent that the editorial, entitled "Small Investors: Unwelcome," be printed in the RECORD.

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

[From the Journal of Commerce, Mar. 2, 1970]

SMALL INVESTORS: UNWELCOME

It is sad that the Treasury has now done what so many advised it not to do: set the minimum denomination on Treasury bills at $10,000. Thereby the highly attractive Treasury bill market is reserved, if not to the wealthy, then to those people affluent enough to have $10,000 they can invest at one time. If there is 7 to 8 per cent to be had in these short-term government securities, the small investor henceforth can't get it, even though up to now, the Treasury has considered the individual buyer of its securities the most welcome and the least inflationary source of its money.

The Treasury has two reasons for the action is has now taken. One reason, which it seems to put first, is that the cost of handling a multiplicity of small investor orders has become too great now that the small fry investors have shown up at the Treasury gates in great numbers. This is a specious reason, for the bulk of the expense of servicing the small investor falls upon the Federal Reserve banks, which are making the most fabulous profits in their history.

At most, servicing small investors would only slightly reduce those profits, most of which are paid to the Treasury. If it is so costly to handle small investors the Treasury could drop its savings bond program for the same reason. The other reason is that by making attractive investments available to the small investor the Treasury is encouraging him to raid savings institutions.

Savings institutions can pay depositors from 5 to 6 per cent, the high rate being reserved for two-year deposits, and they can't compete with bonds which pay 8 to 10 per cent. The reason why they can't compete is that they invest mostly in single family home mortgages for 20- to 30-year terms and have to await maturity of the mortgages, or their amortization, before they can reinvest at higher money rates and earn enough to pay depositors more.

Savings and loan associations, it has been announced, lost a record $1.4 billion of deposits in January while their borrowings from the Federal Home Loan Banks also rose to a new record. Mutual savings banks also experienced net "disintermediation" of funds into the bond market. In the course of time mortgage financing will be more and more done through the sale of bonds backed by pools of mortgages, eliminating the savings institution's handicap of borrowing short and lending long, but that time has not yet come and the immediate problem is to protect the savings institutions.

We don't see how this can be done by raising the size of the chips the small investor has to buy in order to stay in the game. For there will be many borrowers of money who will provide small chips. The most desirable and safest investments may be, in time, closed to the small investor, but there will always be something in which he can invest, including those facilities offered by the less scrupulous.

The Treasury, of course, is only one, although the most recent one, among the doors which are closing on the small investor. Two government sponsored agencies, the Federal Home Loan Bank system and the Federal National Mortgage Association, previously had raised to $10,000 the minimum denomination on their security offerings.

Parenthetically, it is certainly strange that the Home Loan banks, and Fannie Mae, had to make their security offerings so lucrative to investors that they encouraged raids upon the savings and loans that the Home Loan banks were trying to aid while at the same time helping to dry up the supply of funds available for mortgage lending.

On another front the state superintendent of banks of New York, Frank Wille, announced that the State Banking Board had approved of a new ruling which sets a $20,000 minimum on short-term capital notes issued by banks. This is another unwelcome mat set out before the small investor and is destined to prevent actions such as that recently undertaken by a Philadelphia bank in selling small denomination capital notes to savers.

Meanwhile, the stock exchanges are planning to raise the cost of commissions paid by small investors in stocks while making stock trading less expensive for the big institutional stock investors who are, of course, the most lucrative customers of stock brokers. As Ralph S. Saul, president of the American Stock Exchange, said the other day, anent a proposed membership for institutions, the small investor may eventually be forced out of the stock market when the big boys take over.

They say one can't fight progress, but one wonders whether this is true when the progress appears to be one of moving backwards instead of forwards. In all countries of the world it has always been recognized that savings are the chief source of money for investment and also that the small saver, because of his numbers, is a keystone of the saving arch. Is it constructive progressively to bar him out of the game by raising the stakes which are the price of his participation? We are putting the question and, at this stage, not attempting to answer it.

BALANCE-OF-PAYMENTS DEFICIT

Mr. HARTKE. Mr. President, I address myself today to a most deplorable situation. In 1969, the United States suffered the worst balance-of-payments deficit in history. The stability of the dollar and the freedom of action of our Government in international affairs is being affected. We are a debtor nation in the world today and as such, we can be subjected to the wishes of our creditors. If the high deficits continue, we will be unable to maintain our position of strength in the world. Without foreign exchange we cannot maintain the present level of economic aid and security expenditures. I wish here to give a clearly defined position on what has happened, what may happen and what can be done with regard to our deficits.

BACKGROUND

From 1950 through 1956 inclusive, the U.S. balance-of-payments deficits had been running at a yearly rate of $1.5 billion. In 1957, the United States had a small surplus of $578 million and from 1958 through 1964 the deficits were running at a yearly rate of $3 billion. But from 1965 through 1968, the yearly deficits again fell back to an average $1.5 billion. Now, in 1969, the Commerce Department has recorded a $6.985-billion deficit—see table 1.

METHODS OF MEASUREMENT

There are two popular ways to measure the deficits. Before I go any further, these should be outlined. The official reserve transactions basis—The "official settlements" method—consist of any increase in U.S. official reserve assets and any decrease in liquid and certain nonliquid liabilities to foreign official agencies and central banks. The liquidity balance consists of any increase in U.S. official reserve assets and any decrease in liquid liabilities to all foreigners.

The liquidity balance is closer to the actual flow of funds between the United States and the world. This balance gives us a full view of the imbalance between our foreign exchange earnings and our expenditures. It is true that some adverse short-term flows, especially within the banking sector, are not an indication of major structural difficulties, but rather an indication of interest rate disparities between countries. Nevertheless, dollars that flows into Europe, even on a short-term basis, are claims against the reserves of the U.S. Government. Remember that it was volatile short-term flows which created extreme pressure on French reserves. When such short-term flows take on an air of permanency, then they do signal major structural difficulties whether psychological or actual.

The official settlements balance tends to understate the actual flow of money

since it counts liquid and nonliquid liabilities to foreign official agencies only.

A switch of liquid liabilities to a nonliquid form—that is special bonds sold to foreign governments—will benefit the U.S. liquidity balance since there is a decrease in liquid liabilities. This action will not affect the official settlements basis if the shift from liquid to nonliquid remains in the official sector. But if the shift is into nonliquid liabilities in the private sector or certain offical sectors, the official settlements balance will look favorable also.

In 1968 and again in 1969, the official settlements balance has been in surplus. The Under Secretary of the Treasury for Monetary Affairs, Mr. Paul Volcker, seemed to stress this surplus in his appearance before the Subcommittee on International Finance of the House Banking and Currency Committee on August 6, 1969. What has actually taken place, both in 1968 and 1969, is a substantial shift from liabilities to foreign official agencies to liabilities to accounts other than foreign official agencies. This shift benefits the official settlements balance. Further, during 1968, some of the shift was from liquid to nonliquid liabilities. This benefits the liquidity balance as well.

Funds have been shifting back and forth from liquid to nonliquid, from private to official and vice versa. It would take long balance sheets to point out here all of the transactions. But one thing is certain, the U.S. Government spends more abroad than it earns. It is true that in 1969 there were large flows from the United States into the Eurodollar market which were precipitated by the high European interest rates. These flows can reverse quickly with an economic change in the United States or abroad. But even if we net out of the $6.985 billion deficit, these quick flows, the basic deficit, excluding any illusory and cosmetic "special transactions," would be about $4 billion. In fact, if we were to exclude the special transactions of years past, our basic deficit would average about $3.5 to $4 billion.

THE PRIVATE ACCOUNT

The net private sector in our balance of payments accounts have been in balance or surplus in every year since at least 1960. To blame this sector which includes U.S. direct foreign private investment for our deficits is a very grave mistake. The attached table 2 shows that direct investment alone has returned more to the United States than it has taken out. The Johnson administration controls were designed as a short-term palliative. As such they did their job mainly by getting U.S. industry to finance their foreign investments by borrowing overseas. This worked in 1968 but a borrowing limit will soon be reached. In addition, the interest payments to foreigners on an estimated $2.6 billion in borrowings through security issues alone during 1967, 1968, and 1969 can be expected to total roughly $182 million per year. There will come a time when the advantages in savings will diminish because borrowing capacity will be reached and interest payments to foreigners will continue at a high rate.

The controls on the private sector were indeed to be short term, but a new administration took over in 1969. The American public was treated to many promises of elimination of these controls. In a position paper released on October 3, 1968, Mr. Nixon stated:

> The gold-flow and the balance of payments deficit are but symptoms of the Administration's economic mismanagement.

It is hard to believe that in 1968 the President could so aptly describe our present situation in 1970. There is, indeed, "economic mismanagement" now under the present administration. Mr. Nixon indicates that the Johnson administration had "tried to hoodwink the American people" by the direct investment controls. I ask: Who is doing the hoodwinking now?

This policy paper is so unusual in its clairvoyance that I have attached a copy at the conclusion of my speech.

WHAT ACCOUNTS FOR THE BASIC DEFICITS

Government expenditures account for our basic deficits. The annual net foreign exchange cost of our U.S. military expenditures has been $3 billion and over since 1967. Even before 1967, these net costs ranged from $2.1 to $2.9 billion. The net foreign exchange cost of all U.S. Government grants for all foreign aid has been between $641 million and $753 million per year since 1904. Together, therefore, these two accounts have adversely affected our payments balance by about $3.6 billion annually.

REMEDIES

We, as a nation, must earn more foreign exchange. There are only two ways to do this: by selling more abroad or by buying less abroad. Since we live in a world where free trade is a worthy ideal, the latter approach, in trade, is not desirable. Several accounts on our balance of payments can be adjusted, however, so that we can earn more foreign exchange.

First, our trade account has slipped from a $6.6-billion surplus in 1964 to a $674-million surplus in 1969. What is happening is that we are losing markets all over the world. While our gross amount of exports is rising, our share of world trade is falling. In 1964, U.S. exports accounted for 16.6 percent of all world exports, but in 1969, U.S. exports accounted for 14.6 percent of all world exports. Combined with this loss of markets, we have had an unusual rise in our imports due, in part, to inflation. But when price differentials between foreign products and U.S. products are 25 percent or more, as is the case in some consumer products, inflation alone is not the culprit.

The United States has been fooled by the European talk of tariff cuts and free trade. While we here have been earnestly seeking free trade and reduced tariffs in the Dillon and Kennedy round GATT negotiations, the Europeans were busy devising ways to nullify their concessions. As soon as the Kennedy round was over, the border taxes and rebates began to creep up. Generally speaking about 10 to 12 percent of the price of a U.S. exported article is added at the border in Europe and 10 to 12 percent of the price of a European export is rebated to the local manufacturer at the border. This in itself can lead to a price differential of 12 percent.

I would urge that the United States take the necessary steps, to achieve a more equitable deal in achieving free trade with the European Common Market.

Second, it is possible to close the travel gap by bringing more foreign visitors to our shores. We can earn more foreign exchange with positive steps by strengthening the U.S. Travel Service. At present, there are two bills before the Senate Committee on Commerce which would help the U.S. Travel Service to encourage more inbound tourism.

Third, we should eliminate the direct investment controls. As President Nixon stated in his position paper:

> Every dollar of investment which is blocked by Administration edict costs us more than one and one-half dollars of future earnings.

Fourth, we should establish a mutual funding arrangement to cover the foreign exchange costs to our NATO Forces. This amounts to almost $1.5 billion annually in Western Europe. If our presence there is so important to their own defense, let us share the cost. In addition, there are troops stationed in the Pacific whose purpose is to defend Japan. It is about time for Japan to chip in and help pay the exchange costs of these forces. After all, they can afford the cost because the Japanese spend only 1 to 2 percent of their GNP on their defense budget, whereas we spend over 8 persent.

WHAT MAY HAPPEN

If we do not take decisive steps to attack the root of our payments deficits, the United States will be mortgaging the future to pay for the present. England, as you will remember, sustained heavy foreign exchange debts because of two world wars. To pay these debts, England was forced to put up her overseas private investments as collateral. After World War II, the United Kingdom retained its military presence around the world, aspecially in the Mideast. As foreign exchange debts mounted because of the past wars and her present commitments Britain found herself unable to solve her balance-of-payments deficits.

For years, direct overseas British private investments had provided enough repatriated foreign exchange to pay for the enormous Government expenditures abroad. But as old debts came due, the Government was forced to liquidate or pull in private foreign investments. As she did this, England earned less and less foreign exchange to pay present bills. The process snowballed. Now we in the United States have seen what has happened. The United Kingdom has had to pull back from active involvement around the world.

I am not predicting that tomorrow this series of events will happen to the United States, but I am scared for our Nation. Twenty or thirty years from now, we may be faced with the same situation.

I urge, therefore, Mr. President, that what we need now are solutions not options.

I ask unanimous consent that Presi-

dent Nixon's statement and two tables be printed in the RECORD.

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

(Statement by Richard M. Nixon, Oct. 3, 1968)

THE CASE FOR REMOVAL OF FOREIGN INVESTMENT RESTRICTIONS

The economy of our nation has suffered from the glaring mismanagement of fiscal and monetary affairs by this administration. Accelerating inflation caused by uncontrolled spending has eroded the living standards of millions of Americans, and undermined the integrity of the American dollar.

The "gold flow" and the balance of payments deficit are but symptoms of the administration's economic mismanagement.

Inflation makes it harder for us to sell American goods abroad and easier for imports to penetrate our markets.

Lack of confidence in the dollar makes foreign central banks reluctant to hold dollars and anxious to trade them in for our gold.

Because of inflation, inadequate stimulation of exports, and burgeoning overseas spending by the Federal Government, our "balance of payments" has been in chronic deficit and world acceptance of the dollar is diminishing along with American economic prestige.

This Administration has played statistical gamesmanship with the balance of payments crisis. It resisted attacking the basic causes because to do so only exposes the inadequacy of its economic policies.

Last January this Administration proposed new and severe restraints on overseas investments by American businessmen and attempted to impose travel restraints on the American people. At the same time, the administration created a new federal bureaucracy to tell American businessmen where and when they could invest their money abroad and what they had to do with their overseas earnings. All this was done without Congressional approval and was based on questionable legal authority.

The Administration has tried to hoodwink the American people into believing that it has solved the balance of payments problem by trading the short-term statistical advantages of investment limitation for the long-run advantages of free economic decisions and the future favorable Balance of Payments consequences resulting from American investment.

In 1967, before compulsory bureaucratic restrictions were imposed, returns of $4.5 billion on American investment abroad exceeded new investments by $1.5 billion. Much of the $3 billion which did flow abroad was used to stimulate American exports via credit sales and investments in overseas selling affiliates.

Thus, every dollar of investment which is blocked by Administration edict costs us more than one and one-half dollars of future earnings.

Tragically, the Administration's program is hurting for the most part the smaller companies and those who complied with the earlier voluntary program.

My Administration will be dedicated to solving the real causes of our balance of payments deficit, reestablishing the integrity of our fiscal and monetary policies, stimulating exports and encouraging travel to the United States. We will bring to an end self-defeating controls on investment at the earliest possible time. We will reestablish the spirit of cooperation with other nations which our investment curbs have damaged and we will encourage investments which stimulate U.S. exports and a healthy return flow of capital. For the greatest nation in the world to draw into its own shell and to stifle American commerce abroad is economic isolationism at its worst.

TABLE 1.—DIRECT INVESTMENT OUTFLOWS, INCOME AND NET BALANCE 1945-69

[In millions of dollars]

Year	Outflows[1] (1)	Income (2)	Royalties and fees (3)	Balance (col. 2 plus 3 minus col. 1) (4)
1945	−100	426	(2)	326
1946	−230	589	(2)	359
1947	−749	869	(2)	120
1948	−721	1,064	(2)	343
1949	−660	1,112	(2)	452
1950	−621	1,294	126	799
1951	−508	1,492	130	1,114
1952	−852	1,419	130	697
1953	−735	1,442	128	835
1954	−667	1,725	136	1,194
1955	−823	1,912	258	1,347
1956	−1,951	2,171	229	449
1957	−2,442	2,249	238	45
1958	−1,181	2,121	245	1,185
1959	−1,372	2,228	349	1,205
1960	−1,694	2,335	344	1,005
1961	−1,598	2,672	448	1,522
1962	−1,557	3,050	548	2,041
1963	−1,976	3,134	660	1,818
1964	−2,328	3,674	756	2,102
1965	−3,468	3,963	924	1,419
1966	−3,523	4,045	1,030	1,452
1967	−3,020	4,517	1,140	2,637
1968	−3,025	4,085	1,179	3,239
1969[3]	−3,080	4,259	984	1,163
Totals	−38,981	58,767	10,082	29,686

[1] Includes funds borrowed abroad and actually used abroad to finance direct investment.
[2] Not available.
[3] First three quarters not on an annual basis.

Source: U.S. Department of Commerce, Balance of Payments Statistical Supplement and the Survey of Current Business, September, 1966, 1967, October 1968, and December 1969.

TABLE 2.—U.S. BALANCE OF PAYMENTS 1958-69[1]

	Liquidity basis	Official reserve transactions basis
1958	−3,365	(2)
1959	−3,870	(2)
1960	−3,901	−3,403
1961	−2,371	−1,347
1962	−2,204	−2,702
1963	−2,670	−2,011
1964	−2,800	−1,564
1965	−1,335	−1,289
1966	−1,357	+266
1967	−3,544	−3,418
1968	+93	+1,639
1969	−6,985	+2,777

[1] 1969 preliminary.
[2] Not available.

Sources: Survey of Current Business, U.S. Department of Commerce, Washington, D.C., June 1969, and release number OBE 70-7, February 1970.

VIEWS OF YOUTH OF TODAY

Mr. MONDALE. Mr. President, a number of adults have expressed reservations about the youth of today. They contend that young people are not responsible, that they are too selfish and self-serving, that they have withdrawn into their own culture and are not aware of what really is happening. They say that these signs portend ominously for our Nation's future.

In answer to these claims I offer for the Senate's attention three letters I recently received from two 11-year-olds and a 10-year-old from Coon Rapids, Minn. These students may be young, but they have a better understanding of what a nation's priorities should be than many of their elders in political life. When a 10-year-old can see the foolishness of spending millions on a supersonic transport plane when Indians go hungry and uneducated, I think we can be optimistic about the future of America.

Mr. President, I ask unanimous consent that these three letters, which are most articulate statements of one of the basic problems in our Nation today, be printed in the RECORD.

There being no objection the letters were ordered to be printed in the RECORD,

COON RAPIDS, MINN.,
February 5, 1970.

DEAR SENATOR MONDALE: As a right of being a citizen of the United States, I would like to express my opinion on what should be done with the tax money. The billions of dollars that are spent on the building of the supersonic transport plane, in my opinion is, needless and wasteful. I think that if this money was transferred to the building of schools for the Indians. We could educate every Indian in every reservation in the United States. And then their still be enough money to clothe, feed and shelter them in which they need desperately. Then too the Indians would know this is a free country. Thank you very much.

Sincerely,

SHARON KOLP,
10 yr. old, Epiphaney School, grade 5.

COON RAPIDS, MINN.,
February 6, 1970.

DEAR SENATOR MONDALE: I feel I should have the right, even though I am a young citizen, to express my feelings. I think it is good that you have an education program. But I think that before anything else is done that more should be done for the Indians in Minnesota. I have not seen them but have found out that they have little education and not enough food. Not so much should be sent for the space program but for the Indians in Minnesota.

Thank you.

Sincerely yours,

JODY KOEP.

P.S.—In school we had a debate in school about space. I was against it. Although I did not win I'm still against it and always will be.

COON RAPIDS, MINN.,
February 6, 1970.

DEAR SENATOR MONDALE: Even though I am young, I feel I have the right as a citizen to express my feelings. I am glad you are going to add to our education, but before you do that I would very much like you to do something about the education for the Indians in Minnesota. I have seen their reservation and they are treated like wild animals. We are spending to much money on needless things.

I know you are aware how much money goes to moon trips. And we would have many less poor people than what we do now. Please do something about the Indians and poor people. I would appreciate that.

Yours truly,

ROBIN BEAGER.

NOMINATION OF JUDGE CARSWELL TO THE SUPREME COURT

Mr. KENNEDY. Mr. President, Mr. Anthony Lewis of the New York Times has for many years been one of the most distinguished members of the fourth estate. As Supreme Court reporter for the Times, he brought to his readers an insight and a sensitivity which gave the cases and the Justice new fullness and new meaning. He showed his deep understanding of the law and its institutions in his landmark book "Gideon's Trumpet." And he astounded the professors at the Harvard Law School with his keen intel-

ligence and his broad perspective during his year there as a Nieman Fellow.

Tony Lewis is now chief of the Times London Bureau, but his editors have wisely allowed him to continue to comment on U.S. affairs from that vantage point. During the past week he has used the platform of the Times editorial page to apply his knowledge and experience to the nomination of Judge G. Harrold Carswell to the Supreme Court. In his column last Saturday, Mr. Lewis provided a most concise and compelling summary of the undisputed proof that the nominee has displayed a consistent record of insensitivity to human rights and race relations throughout his adult life. He concludes as follows:

Judge Carswell's record on race was obviously not known to President Nixon when he made the appointment. It is never easy for a political leader to admit a mistake, but in this instance the President could do so with grace and for the most urgent of reasons: the country's interest and his own.

Withdrawal of the nomination now would not even, necessarily, do permanent damage to Mr. Nixon's relations with the South. It would be demeaning—and untrue—for any Southerner to suggest that there are no Southern lawyers better qualified to sit on the Supreme Court than G. Harrold Carswell.

In today's Times Mr. Lewis provides a careful and distressing contrast between the great demands on a Supreme Court Justice and the deficient professional qualifications of the nominee. He states his feeling that in view of the stature and responsibility of the Supreme Court—

The nomination of Judge G. Harrold Carswell is an unusually depressing business. For even to think of having on the Supreme Court a man so utterly undistinguished a lawyer or thinker is to show disregard for the institution.

He concludes by agreeing that perhaps the Supreme Court needs some change.

I read from the Lewis article:

But the tragedy is that the appointment of narrow men, men of limited capacity, will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed.

The Supreme Court today needs more reason, more understanding, more wisdom. If it has strayed too far from the true vision of American life, as the President believes, those are the qualities that will bring it back. There is nothing wrong with the Supreme Court that G. Harrold Carswell can cure.

Mr. President I believe that these two columns should be extremely persuasive to the Members of the Senate, and I ask unanimous consent that they be printed in the RECORD.

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

[From the New York Times, Mar. 7, 1970]

THE SIGNIFICANCE OF JUDGE CARSWELL

(By Anthony Lewis)

LONDON, March 6.—The dilemma that President Nixon confronts on the racial issue is plain enough. Many white Americans have come to resent black demands, and the President wants to take account of their feelings. That is not inappropriate, for resentment and alienation among white people are a serious social danger.

But it hardly needs to be said that there are deep resentments on the other side as well. The intensity of black feelings at even an intimation of retreat from civil rights progress has been shown in the angry reaction to the memorandum by Daniel Patrick Moynihan, the President's counselor. Mr. Nixon knows how easily bitterness in the black community could destroy the racial peace he desires.

SYMBOL OF INDIFFERENCE

The nomination of G. Harrold Carswell to the Supreme Court has to be considered in this light among others. For it is becoming a symbol of indifference to racial justice.

When Judge Carswell was nominated two months ago, he appeared to be undistinguished but harmless, a Federal judge from Florida who would meet quietly the President's wish for a Southern appointment. But Senate hearings and newspaper explorations since then have changed that picture. Judge Carswell has a record in the racial field that cannot be overlooked.

In 1948, Harrold Carswell said in a political speech that he would yield to no one in his "belief in the principles of white supremacy." This year he termed that view "obnoxious" and said he no longer holds it.

ON THE RECORD

In 1953 he drafted a charter for a Florida State University boosters club that opened membership to "any white person interested in the purposes . . ."

In 1956, while he was a United States Attorney, he joined in a scheme to lease Tallahassee's municipal golf course, built with $35,000 in Federal funds, to a private segregated club for $1 a year. Although the local papers prominently displayed the racist purpose of the scheme, and the document he signed stated it, Judge Carswell said this year that he had been unaware of it.

In 1966, Judge Carswell sold land with a covenant attached that restricted its occupancy to "members of the Caucasian race."

Between 1962 and 1968 he was, according to Prof. Leroy D. Clark of the New York University Law School, "the most hostile Federal district judge I have ever appeared before with respect to civil rights matters." Professor Clark said Judge Carswell was "insulting" and "would shout at a black lawyer who appeared before him while extending every courtesy to white lawyers."

A young lawyer now working for the Justice Department, Norman C. Knopf, said that while acting as a civil rights attorney he had heard Judge Carswell express his disapproval of Negro voter registration projects. Another lawyer testified that he had heard Judge Carswell advise a city prosecutor how to "circumvent" a civil rights decision of the United States Court of Appeals for the Fifth Circuit. Judge Carswell denied any discourtesy or prejudice toward civil rights lawyers.

EVIDENCE OF INSENSITIVITY

In December, 1969, Judge Carswell reportedly told the following joke to a meeting of the Georgia Bar Association:

"I was out in the Far East a little while ago, and I ran into a dark-skinned fella. I asked him if he was from Indochina, and he said, "Naw, suh, I'se from Outdo' Gawja.'"

In a written statement last month, Judge Carswell denied that there were any racial overtones in that joke.

That record displays at the very least extraordinary insensitivity. It must raise questions about Judge Carswell's fitness for a lifetime position on a court that must decide some of the most sensitive and most important racial questions before the country. For the black community, the idea of Judge Carswell on the Supreme Court bench must now be a provocation.

ALTERNATIVE PROPOSED

Judge Carswell's record on race was obviously not known to President Nixon when he made the appointment. It is never easy for a political leader to admit a mistake, but in this instance the President could do so with grace and for the most urgent of reasons: the country's interest and his own.

Withdrawal of the nomination now would not even, necessarily, do permanent damage to Mr. Nixon's relations with the South. It would be demeaning—and untrue—for any Southerner to suggest that there are no Southern lawyers better qualified to sit on the Supreme Court than G. Harrold Carswell.

[From the New York Times, Mar. 9, 1970]

DOES ANYONE CARE ABOUT THE SUPREME COURT?

(By Anthony Lewis)

LONDON.—The Supreme Court of the United States has long been regarded as the unique American contribution to the art of democratic government. It has held a diverse continental country together by nourishing the gradual change in institutions needed for survival. No other court anywhere has had its power or its responsibility. Winston Churchill was stating the obvious when he called it "the most esteemed judicial tribunal in the world."

It is not just romantic, therefore, to feel a special reverence for that Court—and to expect greatness of its members. They are, after all, deciding the fundamental law of a nation.

DISREGARD FOR THE COURT

Considered in those terms, the nomination of Judge G. Harrold Carswell is an unusually depressing business. For even to think of having on the Supreme Court a man so utterly undistinguished as lawyer or thinker is to show disregard for the institution.

Judge Carswell has made literally no impression as a legal craftsman, much less philosopher. Reports from Washington and from his home state of Florida mention no opinions that his supporters can cite with pride. His record as a lower Federal judge has been marked by an unusual number of reversals on appeal. He has displayed no visible breadth of vision or scholarship.

INTELLECTUAL QUALIFICATIONS

Intellectual qualifications are not mere embroidery for the Supreme Court. A justice is faced, day after day, with questions of the most immense difficulty. There is no simple place to find the right answer, because the case would not be there unless there were conflicting rights, each with strong claims.

And more than any other Government official, a Supreme Court justice is on his own, without a cushioning bureaucracy. He has to draw on his own resources, moral and analytical, to find the answers. Not so long ago one member of the Court gave up the job after only a few years because he found the burden of decision so great.

The classic view, stated by Judge Learned Hand, is that a man who passes on questions of constitutional law should be as acquainted with history and philosophy and poetry as with the law.

"For in such matters," Judge Hand wrote, "everything turns upon the spirit in which he approaches the question before him. The words he must construe are empty vessels into which he can pour nearly anything he will. Men do not gather figs off thistles, nor supple institutions from judges whose outlook is limited by parish or class."

The worst of a bad Supreme Court appointment is that it is like a piece of bad architecture: we may be stuck with it for a long time. Presidents have very few decisions as important as their choice of men for the Court.

How, then, have we arrived at a point where a man with as minimal qualifications as Judge Carswell can be appointed? He was chosen, evidently, as an earnest of President

Nixon's declared intention to roll back Supreme Court decisions that he thinks have gone too far in a libertarian direction.

Criticism of the Court is not misplaced. Men with no political interest think its performance in recent years has too often been doctrinaire, infatuated with the joy of doing good, insufficiently conscious of the modesty due from appointed judges and to casual in the analysis whose persuasiveness alone can justify judicial power.

WHAT THE COURT NEEDS

But the tragedy is that the appointment of narrow men, men of limited capacity, will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed.

The Supreme Court today needs more reason, more understanding, more wisdom. If it has strayed too far from the true vision of American life, as the President believes, those are the qualities that will bring it back. There is nothing wrong with the Supreme Court that G. Harrold Carswell can cure.

THE SITUATION IN LAOS

Mr. MONDALE. Mr. President, from the recent pages of the CONGRESSIONAL RECORD, from literally hundreds of articles, and from a flood of mail in probably every Senate office, I hear a strong and virtually unanimous declaration.

The American people are frightened by recent revelations of our increasing involvement in Laos. They are determined to know the full truth behind this involvement. And they will not tolerate another horrible Asian war "in spite of ourselves."

What has been happening in Laos has been happening for a long time. But thankfully, recent events seem to have stirred the American people to a point where a decision may still be made in time to halt another Vietnam.

The President has made a small step toward affirmation of his November 3 pledge that:

> The American people cannot and should not be asked to support a policy which involves the overriding issues of war and peace unless they know the truth about this policy.

He has told us that we are "involved" and that we have some 650 men engaged in military activities of some sort.

He has admitted that we are flying combat air operations at the request of the Laotian Government.

And he has admitted that such assistance has recently "risen in response to the growth of North Vietnamese combat activities."

These official admissions, however, tell us nothing new. We already know that and much more:

We know that these "noncombat troops" in Laos are largely CIA, who are, in turn, comprised to some degree of ex-Green Berets from Vietnam.

We know that we are flying F–4 Phantoms, F–105 Thunderchiefs, and B–52's in actual combat support deep in the interior of Laos. The level of air support has been estimated at from 200 to 400 sorties a day.

We know there is one of the least secret "secret bases" at Long Chien, generally run and equipped by Americans, from which Gen. Van Peo's irregular forces operate.

We know we are spending at least $250 to $300 million a year in these operations.

And we know that we are deeply immersed in a war involving some 70,000 Laotians, about 15,000 to 20,000 Pathet Lao Communist guerrillas, and about 60,000 North Vietnamese.

I readily acknowledge that this situation was inherited by the current administration. I also acknowledge that the North Vietnamese are clear aggressors in this Nation. But the administration's recent message, in dwelling almost entirely on these two points, completely misses the central issue.

That issue is this: Does the executive branch have the right to involve U.S. forces—whether Army, CIA, or in any other guise—in a war with neither the knowledge nor the consent of either Congress or the American people? I say very clearly that the administration has no such right.

I am not speaking of "aid," or "advisers," or of the bombing of the Ho Chi Minh Trail in Laos. I am referring to Americans directly involved in combat—whether air or ground—in the Laotian war.

The Geneva Accords forbid this involvement.

We have no defense treaties with Laos, such as the SEATO pact we have with South Vietnam, and Laos is not within any established defense perimeter.

There has been no Executive directive or resolution, such as the controversial Tonkin Gulf Resolution, and nothing about the current situation in Laos could be construed as the type of international emergency which could justify unilateral Executive action.

Congress made its views on ground action in Laos absolutely clear last session by passing a law prohibiting the use of any funds for the support of combat troops there or in Thailand. Now it appears that this law is being violated simply by a change of uniforms—from Green Beret to CIA.

But most important, the right to declare war belongs, by the Constitution of the United States, to Congress, and Congress alone. I had hoped that the National Commitments Resolution passed last spring reinforced that fact. But clearly, we are once again getting drawn into a war in spite of our best intentions, in spite of our disastrous experience in Vietnam, and in spite of the Constitution of this country.

I do not think that our national interest can possibly justify the introduction of ground troops in Laos. But if there are national interests which are somehow at stake, I have every confidence in the ability of Congress and the American people to decide upon the proper course of action.

And I have no confidence in the CIA, the Pentagon, or any other branch of Government which is not directly answerable to the American people to make that decision.

The Congress must regain control over this situation. We need to know what the CIA is doing in support of Gen. Van Peo's secret army and how this involvement can be justified in the light of clear prohibitions against ground involvement in Laos.

We need to know about the bombing sorties being flown in support of the Laotian Army.

We need to know what the administration plans to do if the North Vietnamese and the Pathet Lao move southward. Will "honor" and "commitments" again escalate our involvement from a handfull of advisers to a half million men?

And we need to know, above all, how long we must wait until we can recall our secret army and restore to Congress its constitutional responsibility for making such vital decisions.

DEPLORABLE CONDITIONS OF THE AMERICAN INDIAN

Mr. MONDALE. Mr. President, in recent months the Senate has clearly documented the deplorable conditions of the American Indian. First, the Special Subcommittee on Indian Education issued its report entitled, "Indian Education: A National Tragedy—A National Challenge." That monumental study of the manner in which we educate—noneducate may be a better word—Indian children made it very clear that Indians do not receive equal educational opportunities.

That report was followed in January by the release of the Joint Economic Committee's compendium, "Toward Economic Development for Native American Communities," which revealed some of the reasons why Indians are always first—in sickness, unemployment, suicides, and a host of other statistical categories.

Today, I offer for your attention another study. This was not performed by the Federal Government, but by the Minneapolis Star & Tribune Co.'s metropoll. In a 600-person sampling in the Minneapolis-St. Paul metropolitan area, the poll, published in the Minneapolis Star of January 27, 1970, showed almost half of those interviewed believe the Indian is treated unfairly today. They pointed out that inferior jobs, job discrimination, and unequal education are some of the ways in which Indians are treated unfairly.

An overwhelming percentage—82 percent—said that special efforts should be made to train Indians and find jobs for them. This percentage would seem to indicate a willingness of a number of people to assist Indians in seeking employment and to support Federal endeavors to train and employ Indians. I hope that the information from polls such as this, as well as the documented materials in the two committee reports mentioned earlier, will assist us in planning and implementing programs for Indians.

Mr. President, I ask unanimous consent that the results of this poll be printed in the RECORD.

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

BIG MAJORITY IN AREA SUPPORTS GIVING INDIANS JOB ADVANTAGES

Twin Cities-area Indians should be given preferential treatment in job training and placement, according to 8 of 10 area residents

questioned by the Minneapolis Star's Metro-Poll.

In support of this view, just as many of those in the survey say the American Indian was treated poorly by the white man in the past, and almost half feel Minnesota Indians today still are treated unfairly.

The 600 adults polled, a representative sample of the five-county population, were asked to take an historical and then a present-day view of the Indian:

"As you understand it, in the days when the United States was being settled, was the American Indian generally treated fairly or unfairly by the white man?"

"In general, do you think Indians in Minnesota today are treated fairly or unfairly by white people? (If unfairly) How?"

Eighty-three percent agree that the Indian was abused in the past, compared with 12 percent who disagree and 5 percent with no opinion. Men are more inclined than women are to think the Indian was treated unfairly, and younger respondents more frequently think so than older ones. Those in the highest income group, over $15,000 a year, almost unanimously call historical treatment inequitable (96 percent).

By way of contrast, only 47 percent, but still a plurality, think the Indian in Minnesota today is treated unfairly. However, a strong minority (40 percent) disputes this. The remaining 13 percent have no opinion. Again, men more often than women call treatment unfair. The frequency of the "unfair" indictment increases directly with the amount of education the respondent has.

When the 47 perecnt were asked how Minnesota Indians are mistreated, more than a third (34 percent) cited job discrimination. "They are given inferior jobs and not as much help as other minority groups," said a 28-year-old Robbinsdale man.

Three of 10 persons (30 percent) pointed to unequal education. "They can't really take advantage of educational opportunities due to their poverty," commented a 49-year-old St. Paul woman.

Nearly as many (28 percent) criticized the reservations or official policy toward Indians. Said a 75-year-old Minneapolis man, "We've deprived them of the land that had any value and put them back in the rocks and swamps and haven't given them a chance." A 26-year-old Minneapolis resident added, "The whole U.S. Indian Affairs Bureau has been backward—reservations segregate."

About one in four (24 percent) noted prejudice, stereotypes or lack of opportunity in general. Twenty-one percent pointed to substandard housing or discrimination in renting, and 11 percent said Indians lag behind other minority groups because of lack of leadership and organization.

Of the remainder, 15 percent gave other answers, and 3 percent did not elaborate on their view that Minnesota Indians are treated unfairly.

Despite the 47–40 split in views on whether Indians are unfairly or fairly treated today, the people in the survey overwhelmingly approve of preferential treatment for Twin Cities-area Indians in job training and placement. They were told:

"One of the major problems of Indians living in the Twin Cities area is unemployment. Do you think special efforts should or should not be made to train Indians and find jobs for them?"

Of all people polled, 82 percent feel special efforts should be made. Fifteen percent say they should not, 2 percent are uncertain and 1 percent give other answers. Even of those who hold the view that Minnesota Indians are treated fairly these days, a large majority (71 percent) feel those in the Twin Cities area should be given extra help in getting jobs.

There are an estimated 8,000 to 12,000 Indians in the area, mostly in Minnesota.

WHITE TREATMENT OF THE INDIAN VIEWED

[In percent]

	Fair	Unfair	No opinion
In the past:			
All respondents	12	83	5
Men	9	86	5
Women	15	81	4
21 to 29 years	10	86	4
60 and over	17	72	11
Today:			
All respondents	40	47	13
Men	36	52	12
Women	45	42	13
Grade school education	54	32	14
High school	47	40	13
College	26	63	11

SHOULD SPECIAL EFFORTS BE MADE TO TRAIN AND FIND JOBS FOR LOCAL INDIANS?

[In percent]

	Yes	No	No opinion, other
All respondents	82	15	3
Grade school	73	22	5
High school	80	17	3
College	88	11	1

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

VOTING RIGHTS ACT 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 LEGISLATIVE CLERK. A bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

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

The Senate resumed the consideration of the bill.

Mr. HOLLINGS. Mr. President, presently the Senate is considering alternative proposals on the subject of voting rights which, in my judgment, are designed to eliminate an impartial application of the electoral process. Although these measures are designed to enforce the guarantees of the 15th amendment to the Constitution, the debate in this Chamber centers on the approach to be considered—not the objective to be achieved.

The Scott-Hart substitute would retain the section of the 1965 Voting Rights Act that requires those regions of the country that in 1964 had fewer than 50 percent of voting-age persons registered or voting to secure the approval of the Attorney General prior to instituting any revision in its voting qualifications or procedures. The obvious effect of this language is to restrict applications of these sections to six States and portions of three others. The further effect is that even though the statute may be written to apply to all people in the Nation, the practical application of the statute is that the Attorney General will be called upon to enforce the statute only in those six or seven States. The civil rights statute, like any Federal statute, is enforced only against those who are committing the wrong which the statute is intended to prohibit.

When Congress writes a statute, it should apply to all people within the Nation and, obviously, it should be enforced only against those people in those States which are believed to be in violation of it. The scheme of including the section of a bill to give the appearance of a nationwide application insults the logic of this body.

For the past decade we have been witnessing a great national debate on the subject of discrimination. Under the provisions of statutes enacted by the Congress, there are a multitude of prohibitions for anyone to discriminate between individuals if there is a question of sex, national origin, religion, or race. The very thought that a State or local government might today legislatively adopt a provision which is deliberately, and by its own provisions discriminatory in nature, is obviously unthinkable. The courts and the Congress have lead us to believe that this type of action is impossible. On the other hand, however, we are told to "ignore" exceptions to this rule which all three branches of the Federal Government exert from time to time upon the system. For example, there are the special guidelines from HEW, the court rulings which have been motivated more by sociological concepts than by a firm desire to uphold the Constitution, and only recently has one branch of the Federal Government taken the first courageous step in breaking this pattern. I refer to the vote on February 18, 1970, when the U.S. Senate adopted an amendment which I was proud to cosponsor with the distinguished Senator from Mississippi, Senator STENNIS, which required nationwide application of the various statutes which outlawed discrimination in the public school system.

I submit, Mr. President, that the issue before this body is whether the majority will again display the wisdom, courage, and dedication to equal protection by moving away from the concept of equal discrimination legislation. It is imperative that when we look at the question of voting rights we should not allow it to become an instrument of discrimination.

This body cannot afford to permit such a precedent to be established where laws become instruments of the Government for use against the people rather than instruments of all the people for protection against arbitrary actions of the Government. Unless we protect the principles and precepts to block the abuse of power in what appears to the majority to be a "good cause," we shall establish a government which operates by means of exceptions, by means of rule of law rather than by the rule of law itself.

I hold a basic belief that no American citizen should be prevented from exercising his right to vote by any method. I do not believe that the right to

vote should be limited to those of a certain color, race, creed, economic circumstances, or educational level. In short, I oppose discrimination against an individual with regard to voting rights.

Additionally, I oppose discrimination, not only against individuals of a particular creed or color, but against certain States or certain regions, or certain counties within those States and regions.

As I read the Scott-Hart substitute, it would discriminate against certain States in the South, my own included. However, that is not the reason for my opposition. I would oppose an amendment which discriminated against the State of Michigan or the State of Pennsylvania. If we are to accept the premise that the right to vote is basic in our democracy—and I believe it is—then we must also accept the premise that this right applies nationwide.

As I read the Scott-Hart amendment, should discrimination occur in Michigan or in Pennsylvania, the Attorney General would be precluded from moving to prevent that discrimination. Such a law would be discriminatory in itself. Therefore, I shall oppose the Scott-Hart substitute.

Just as basic constitutional rights apply nationwide, so should the laws passed by this Congress under the Constitution. I cannot, and I shall not support discriminatory legislation, regardless of what area of the country or group of people at which it may be aimed.

The very foundations of the law are rendered impotent when one part of our Nation is able to escape the burdens of these obligations. In my judgment, the precedence set by the 1965 Voting Rights Act on the issue of its application established a most dangerous precedent. We now have the opportunity to correct that wrong, at least in part, by replacing that unwise act and establish national application and enforcement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The pending business before the Senate is the Scott amendment to the pending bill.

Mr. ERVIN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. Does the Senator propose to call up his amendment?

AMENDMENT NO. 533

Mr. ERVIN. Mr. President, I call up my amendment No. 533 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from North Carolina (Mr. ERVIN) proposes amendment No. 533 to the pending Scott substitute amendment No. 544, as follows:

AMENDMENT NO. 533

Add a new section, appropriately numbered, as follows:

"SEC. —. That section 4(a) of the Voting Rights Act of 1965 is amended by striking out 'United States District Court for the District of Columbia' and inserting in lieu thereof 'the United States district court in which the capital of such State is located, or the United States district court in which such political subdivision is located'.

"(b) Section 5 of such Act is amended by striking out 'United States District Court for the District of Columbia' and inserting in lieu thereof 'the United States district court in which the capital of such State is located, or the United States district court in which such political subdivision is located'."

The PRESIDING OFFICER. The Senator has 1 hour.

Mr. ERVIN. Mr. President, the pending amendment is to amendment No. 544, formerly amendment 519.

Mr. President, as a North Carolinian I am glad that the constitution of my State does not permit the legislature of my State to take such a nefarious action as the Congress of the United States took when it enacted the Voting Rights Act of 1965. The Voting Rights Act of 1965 condemned six States, and 39 counties in my State, without a judicial trial, and punished them by depriving them of the power to exercise rights conferred upon them under four separate provisions of the Constitution. Then it closed every courthouse in which the States might have access except the District Court for the District of Columbia.

I rejoice in the fact that my State would not permit this to be done. Section 35 or article I of the constitution of North Carolina declares that:

All courts shall be open and every person for an injury done him in his lands, goods, person, and reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

The Voting Rights Act of 1965, which is sought to be extended by an additional 5 years, or until 1975, by the Scott-Hart amendment, offends each one of these provisions as stated in the constitution of North Carolina.

In the first place the bill would provide that only one court shall be open and all other courts shall be closed. For another thing it says that none of these States and none of these counties shall have access to a temple of justice under circumstances where due process of law can be had. It denies right and justice. It delays right and justice for 5 years.

I will not say that it provides that justice shall be sold. I will leave all comment on that subject to what the Supreme Court said in the case of Cummings against Missouri. That case involved a bill of attainder. Before I do so, however, I would like to join Aldous Huxley, the philosopher, in a little philosophizing. He said the end cannot justify the means for the simple and obvious reason that the means deployed determine the nature of the ends produced. I ask the Senate to meditate on that thought just a moment. What that says in effect is that when you adopt evil means to reach a good end, you do not reach that good end by evil means because these evil means produce the end that is reached.

I do not know a statute enacted by Congress in this century that illustrates better what Huxley had in mind than this statute.

Those who advocate this kind of legislation claim they are trying to secure the right to vote for somebody, but they adopt evil means to accomplish what they think is a good result. So let us see what kind of result they attain. One of the results they attain is that they close the doors of all courthouses in the universe to those whom they condemn by legislative fiat without a judicial trial.

Certainly, a country which has always bragged—"justice, every season, summer, and every place a temple"—departs from its heritage when it resorts to the evil means of closing courthouse doors against pleas for justice.

It also would reach an evil result. I shall apply the meaning of the bill to my State of North Carolina. North Carolina, which had 39 counties condemned under this bill in 1965, has been unworthy of receiving the consideration and the rights that would be accorded as a matter of course to the worst criminal. It is denied the right to use the literacy test in 39 of its counties. Yet, in the presidential election of 1968 in many North Carolina counties a higher percentage voted than the national average, including these 43 States which go unscathed by this act. So, Mr. President, you have my State standing condemned under this act although many parts of it exceeded the national average in the percentage of its citizens of voting age who voted in the presidential election. But those things apparently mean nothing to the proponents of the bill.

As I pointed out Friday, in order to bring certain of my counties under the bill they had to count felons serving sentences in penitentiaries, students residing outside the boundaries of North Carolina, and military personnel. I know of no more glaring example of rank discrimination than enacted upon Cumberland County where military personnel from other States, constituting somewhere in the neighborhood of one-third of our people there of voting age, were counted in order to condemn that county.

I wish to go back to the case of Cummings against Missouri.

When I used to read this case, I would wonder how any legislative body and how any State and how any people of any State could become so inflamed that they would adopt a constitutional provision denying a minister of the gospel the right to preach the gospel of the Lord Jesus Christ to sinners because of past action on his part; namely, because he had sympathized with the Confederacy. In other words, the people of Missouri became so inflamed that they apparently reached the conclusion that it was better for sinners in Missouri to go to hell than to have their souls saved by the preaching of the gospel by a man who had sympathized with the Southern Confederacy.

But that is the kind of bill that was passed in 1965 and which is sought to be renewed for 5 more years by the Scott-Hart amendment. They nail shut the courthouse doors. They adopt an artificial formula to convict people. They pass

an ex post facto law. They pass a bill of attainder. That is how inflamed we have become 100 years after the Cummings decision.

One of the greatest justices who ever sat upon the Supreme Court of the United States was Justice Field. He said something about the kind of climate in which bills of attainder and ex post facto laws are passed. I read from his opinion in Cummings against the State of Missouri, reported in 4 Wallace at page 277. On page 323 of this decision, Justice Field quoted a statement made by Mr. Justice Story with reference to bills like the one that prohibited one who had been a Confederate sympathizer in the past from preaching the gospel and one like the Voting Rights Act of 1965.

Bills of this sort—

Said Mr. Justice Story—

have been most usually passed in America in times of rebellion or greatest subserviency to the Crown or of violent political excitement, periods in which nations are most liable, as well the free as enslaved, to forget their duties and to trample upon the rights and liberties of others.

To bring Mr. Justice Story's statement down to date, I would paraphrase it to say bills of this sort are usually passed in times of greatest subserviency to pressure groups whose votes Senators and Congressmen seek.

Article I, section 9, clause 3 of the Constitution reads as follows:

No bill of attainder or ex post facto law shall be passed.

Now, what is a bill of attainder? It is defined in ex parte Garland, which is reported in 4 Wallace 333. It is defined in Cummings against State of Missouri, from which I have just quoted. It is also defined in simple language in the case of the *United States* v. *Lovett*, 328 U.S. 303. I quote the headnote 2(a) in the Lovett case:

Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict a punishment on them without a judicial trial are bills of attainder prohibited by the Constitution.

This is clear: It is clear that the Voting Rights Act of 1965 constitutes both a bill of attainder and an ex post facto law, because an ex post facto law is a law which punishes someone for an act which was not a crime at the time the crime was committed. The Voting Rights Act punishes States, the people of the States, and the people of 39 counties of my State, by depriving them of the power to exercise a constitutional right which is secured to them by four separate and distinct provisions of the Constitution.

These cases say that you do not have to punish people criminally; you punish people within the prohibition of a bill of attainder whenever you deny them the power to exercise a right, whatever that right may be.

Let us see whether it applies to States. I would like to contrast the decision of the Supreme Court in *South Carolina* v. *Katzenbach*, 383 U.S. 301, with the decision of the Supreme Court when it handed down its most courageous and its most intelligent decision of all times, ex parte Milligan. The Supreme Court of the United States, speaking through Chief Justice Warren in the Katzenbach case, held that Congress could do exactly the opposite from what the Supreme Court of the United States held in ex parte Milligan. Justice David Davis said in that case, in reply to the argument that it had the right to suspend a civilian's constitutional right to trial by jury in times immediately after the Civil War and conduct the trial before a military tribunal, that the men who wrote the Constitution knew that what had been attempted in the past would be attempted in the future, unless it was prevented by irrepealable law, which the Government could not annul or suspend.

In replying to the argument that in those troublous days in our Nation's history Milligan's constitutional right to be tried by a civil court and a petit jury rather than by a military tribunal could be suspended, Justice David Davis said this, in substance: "No doctrine involving more pernicious consequences was ever invented by the wit of man than the notion that any provision of the Constitution could be suspended under any circumstances." So that decision freed Milligan from his death sentence imposed by a military tribunal.

When he wrote his opinion in South Carolina against Katzenbach, Chief Justice Warren nullified clause 3 of section 9 of article II of the Constitution. That article provides that no bill of attainder—not a single one—no bill of attainder applying to anybody or anything could be passed. So the Supreme Court would have had to strike down the Voting Rights Act of 1965 as an unconstitutional bill of attainder if it had held that the Constitution means what it says, and what it has always been interpreted to mean, namely, that no bill of attainder of any kind applying to anyone or anything can be passed.

But the way the Supreme Court dodged around—and I find no better word to express it—dodged the Constitution, was this—I quote from the Katzenbach case:

The courts have consistently regarded the bill of attainder clause of Article I and the principle of separation of powers only as protections of individual persons and private groups—those who are peculiarly vulnerable to non-judicial determinations of guilt. See U.S. v. Brown, 381 U.S. 437; ex parte Garland, 4 Wallace 333.

Those are the two cases Chief Justice Warren cited to sustain his declaration that the prohibition on bills of attainder does not protect States.

Those two cases do not hold anything of the kind, and I challenge anyone in this Nation to find any decision prior to this one that says that the prohibition that no bill of attainder shall be passed does not protect States. The very definition used in all these cases is that it protects named individuals and individuals designated as a whole class of persons who are capable of being identified.

What does the word "State" mean, as set out in the Constitution? The word "State," as used in the Constitution, has been defined many times, but apparently Chief Justice Warren had never read about that, or he had forgotten about it if he ever did read it.

The clearest definition is that contained in the great opinion of Chief Justice Salmon P. Chase, in *Texas* v. *White*, 7 Wallace 700, and I shall read extracts from pages 720 and 721.

Now, under every definition of the term "bill of attainder" to be found in any of the reports of the Supreme Court of the United States, or in any treatise of any textwriter on the subject, a bill of attainder is a legislative act, no matter what its form may be, that applies either to named individuals or to ascertainable members of a group, in such a way as to inflict punishment on them without a judicial trial.

Let us see if the people of a county or the people of a State are an identifiable class of human beings.

A State is not some kind of an intangible something, like an incorporeal heriditament floating around somewhere in outer space, as the Supreme Court of the United States, speaking through Chief Justice Warren, evidently assumed it was in the Katzenbach case.

In the Constitution—

Says Chief Justice Salmon P. Chase in Texas against White, at page 721:

In the Constitution, the term "State" most frequently expresses the combined idea just noticed, of people, territory, and government. A State, in the ordinary sense of the Constitution, is a political community of free citizens occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed. It is a union of such States under a common constitution which forms the distinct and greater political unit which that constitution designates as the United States, and makes of the people and States which compose it one people and one country.

Now, manifestly, a bill of attainder which is directed against a State is directed against the people of the State, and a bill of attainder which is directed against 39 counties is a bill of attainder directed against the people who are resident in those 39 counties. So it is just as obvious as the noonday sun in a cloudless sky that the Constitution means exactly what it said in clause 3 of section 9 of article 1, when it said:

No bill of attainder or ex post facto law shall be passed.

In the Cummings case, Cummings was denied the right to preach the gospel because of a past act—sympathetic activities in behalf of the South. Garland, one of the greatest lawyers this country has ever known, was denied the right to practice law in the Federal courts because of his past act. And in the United States against Brown, the people, the union officials concerned, were denied the right to enjoy the benefits of the Taft-Hartley Act because of their past affiliations and with their present affiliations with the Communist Party. In each case there was a condemnation by legislative fiat without a judicial trial. In each case there was the denial as a result of this condemnation, to exercise a right or a privilege about which the parties invoking the protection of the bill of attainder and ex post facto law prohibition were concerned.

Now, what is the vice of a bill of attainder? Bills of attainder are very close

akin to ex post facto laws, and sometimes the same legislative act constitutes both a bill of attainder and an ex post facto law; because, as the Supreme Court held in the Cummings and Garland cases, it is not the form of the punishment but the fact that there is punishment, and it is not whether it is a civil disability or a criminal punishment that makes it an ex post facto law or a bill of attainder. It is the fact that the punishment is made by legislative fiat without a judicial trial.

I read from Bernard Schwartz's recent book, "Rights of the Person," volume 1, page 164:

> The constitutional ban against bills of attainder was intended to prevent legislative trial and judgment in specific cases and the evil aimed at exists regardless of whether the sanction imposed be criminal in nature or not . . .
>
> It is not the nature of the deprivation, but the fact that a deprivation is being worked by the legislature upon a specified individual or group for misconduct on his or their part, without any trial or hearing before a tribunal competent to determine the question of guilt, that makes for a violation of the bill-of-attainder ban.

I read the following from pages 165 and 166:

> The essential aspect of the bill of attainder forbidden by the Framers is what is in substance trial by the legislature—evidenced by a legislative determination of guilt, without any trial or hearing in a court or administrative agency. What the bill-of-attainder ban reaches is action which amounts to legislative condemnation and punishment; as such, it is "a general safeguard against legislative exercises of the judicial function, or more simply—trial by legislature.

That is exactly the kind of trial they had under section 4(b) of the Voting Rights Act of 1965, which it is proposed to renew for 5 additional years. This bill, in effect, condemns States and counties and their election officials and their people if they had exercised their constitutional power under four sections of the Constitution to establish a literacy test, and if either less than 50 percent of their people of voting age registered in 1964 or less than 50 percent of their people of voting age actually voted in that election.

There is not a syllable in the Voting Rights Act of 1965 which is consistent with sound American tradition, which is consistent with fairplay, and which can be held consistent with the Constitution as interpreted by a court which was willing to give the Constitution the meaning its words convey and apply the precedents which were established by the Court itself prior to 1965.

One principle of fairplay is involved here, and it makes this act an ex post facto law; because a law which changes the evidence necessary to support a conviction or a condemnation after a fact is accomplished is an ex post facto law. So when this law was enacted in 1965, it abolished all the rules of evidence and said that a State or a county having a literacy test which fell under either category—less than 50 percent of voting age were registered or less than 50 percent of voting age voted in 1964—was condemned of violating the 15th amendment.

A State does not have the power to compel any citizen to register to vote. A State does not have the power to compel any citizen who has registered to go out and vote. By using the figures contained in section 4(b) of this act, one could condemn any State, on the basis of these figures of discriminating against more white people than against black people. Any State in the Union could come under that, because multitudes of people do not register, and multitudes of those who do register do not vote.

I have frequently told this story on the floor of the Senate because it illustrates the point when we deal with figures.

An old mountaineer in our county had been buying his groceries on credit. He went down to the neighborhood grocery store to pay his bill. The storekeeper told him the amount of his bill, and it seemed to be higher than the old mountaineer thought was right, so he started to protest.

The storekeeper got out his account books and spread them out on the counter and said, "Here are the figures, and you know figures don't lie."

The old mountaineer said, "I know figures don't lie, but liars do figure."

Not only do liars figure, but also, men who ordinarily are intellectually honest figure when they use figures to prove a point. Anything can be proved by figures. I could take the figures for registration and voting in any State of the Union; and on the basis that is used in section 4(b) of the Voting Rights Act, I could condemn those States of discriminating against multitudes of their citizens in the electoral process. But I do not believe in drawing inferences of that kind. It is bad enough for Congress to invent a formula for condemning the States for something they are powerless to prevent. They cannot force people to register. They cannot force people to vote.

One of the worst things about this bill is that it constitutes a rank prostitution of the judicial process. I do not know any other way to describe it. It says that these States and these counties which have been condemned by a congressional fiat, without a judicial trial, will continue to suffer under the disabilities imposed upon them by a specious formula, until they can come up to the District of Columbia and establish their innocence. I respectfully submit that when the Founding Fathers wrote the Constitution of the United States, they recognized that a man cannot get a fair trial when he has to produce witnesses in a court far removed from the place where the witnesses reside and where the witnesses are available; and yet, in this bill, Congress closed the door of every courthouse in the land to the States and the counties, except the District Court of the District of Columbia, and in the case of the States the Supreme Court of the United States.

This provision of the bill requires the transportation of witnesses to the District of Columbia for distances as great in some cases as a thousand miles. The court says that is all right, that Congress has the power to prescribe jurisdiction of the courts. It says that Congress passed the Norris-LaGuardia Act, depriving the courts of most of their equitable jurisdiction in labor controversies, but the court did not point out that the Norris-LaGuardia Act applied to every district court in the United States under exactly the same circumstances, instead of saying, as this act does, impliedly at least, that no district outside of the District of Columbia has enough character, or enough intelligence, or enough legal learning, or enough devotion to justice and truth to be allowed to try a case where a State or county seeks to escape from the congressional conditions of guilt.

It certainly is a far cry from the legal principle, like that which we have in North Carolina, where all courts are required to be open and where justice is not to be delayed or denied.

The pending amendment does nothing in the world but say that instead of having these trials in the District Court of the District of Columbia, Congress believes that Federal judges sitting in the capitals of the States which are condemned, or sitting in the districts in which are located the county which is condemned, are manned by men of character, men of legal learning, men who love justice, men who are just as capable of ascertaining the truth as judges in the District Court of the District of Columbia. As a matter of fact, I would say they have a far better opportunity to ascertain the truth because those courts that my amendment would permit to have jurisdiction of these cases sit in the areas where the witnesses who know something about the circumstances are available.

So, my amendment would simply open the doors of all the courthouses, and these are all courts of like jurisdiction, and give them the privilege of hearing these matters.

For the life of me I cannot understand how any man who loves justice, who believes that courts should act according to due process of law to those who are denied their rights, can oppose an amendment of this kind. There were many specious reasons given at the time of passage of this bill for denying all courts jurisdiction except the District Court of the District of Columbia. One was that was we needed a uniform interpretation. That was a specious reason, because we have 10 separate and distinct U.S. courts of appeals sitting in the 10 circuits handing down, in some cases, different interpretations of the law, and those interpretations are ultimately made uniform by appeals to the Supreme Court of the United States.

(At this point, Mr. DOLE took the chair as Presiding Officer.)

Mr. ERVIN. Mr. President, the truth is, and I say this advisedly, and I hate to say it, but the reason exclusive jurisdiction was vested in the District Court of the District of Columbia is because of the attitude of certain judges on questions of this kind.

Gaston County in my State is fair proof of that.

Gaston County, where within the memory of everyone living in North Carolina there has been no discrimination against any man in registering or

voting on account of his race, came up here and asked for exoneration. The district court made a finding which would turn the most pronounced white supremacist green with envy, that because it had a segregated school system in Gaston County, that black people were handicapped in learning to read and write. They made a finding which meant this, if anything, that a black student cannot learn to read and write, or if he does learn to read and write, it is only with great difficulty, when he is taught by a black teacher in a school attended exclusively by other black students.

I deny the validity of that finding. I think it is an insult to the black race. I think it is not only an insult to the black race but it is also an insult to the courts of justice and an insult to justice itself.

My amendment asks very little. All it asks is that, in effect, we go on record as saying that Federal judges in Virginia, in North Carolina, in South Carolina, Georgia, Alabama, Mississippi, and Louisiana, all of whom have been confirmed by the Senate, have enough character, enough intelligence, enough knowledge of the law, and enough love for justice to be allowed to try these cases in the U.S. district courts sitting in the seven States where the witnesses are available.

It seems to me that is asking very little of the Senate. My amendment asks the Senate to give the States and trial judges, condemned by act of Congress rather than by judicial trial, access to the nearby courts to approve their innocence.

That is a plea, which Congress would not deny to a man charged with murder, rape, robbery, burglary, or any other crime.

I sincerely trust that Congress will not continue this exclusive jurisdiction in the District Court of the District of Columbia and, thereby, insult every Federal judge who happens to be an inhabitant of any one of the seven States in the Union.

Let us open the doors of the courthouses. Let us say once again, "For justice every season, summer, and every place a temple."

Mr. President, I appeal to the Senate to agree to the amendment.

Mr. STENNIS. Mr. President, will the Senate yield?

Mr. ERVIN. I yield.

Mr. STENNIS. Mr. President, I compliment the Senator and thank him for his very fine argument here.

As fine a justice as the Senator is and as learned in the Constitution as he is, he struck upon the fundamentals of our system of government. He struck at a vicious and discriminatory part of the pending bill.

Someday the Senator's argument will be heard. It is a great pity that not many Senators were present to hear the Senator. However, someday we will get back on the track.

Will the Senator yield me a few moments at an appropriate time?

Mr. ERVIN. Mr. President, I will do so after pointing out that in these cases the people really condemned are State election officials. They have said, in effect, that the bill of attainder clause does not protect State officials. Yet, in the United States against Lovett the same court held that the same clause does protect Federal officials.

I ask how in Heaven's name a bill could provide that a bill of attainder could protect Federal officials and not State officials. It shows where the discrimination is being practiced.

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

Mr. ERVIN. I yield.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from North Carolina on his very able, scholarly, and brilliant address.

I ask the distinguished Senator from North Carolina if these very sections of the Voting Rights Act—section 4(b) and 5—the Senator is seeking to modify or change are not the sections that caused Mr. Justice Black in the South Carolina against Katzenbach case to hold in a dissenting opinion that section 5 is unconstitutional and to point out that this very section 5 causes the States to come great distances to Washington and seek to get approval of a Federal court here?

Mr. Justice Black in his opinion compared this situation to the conditions that existed at the time of the Declaration of Independence. One of the grievances pointed out in that great document was the practice of King George III of requiring legislative and judicial bodies in the colonies to meet in distant places far removed from the places where they kept their records, and in that way seek to force the colonies to submit to his will.

Is that not the very section that the Senator is seeking to correct?

Mr. ERVIN. Mr. President, that is the practice that was given as one of the reasons why the colonies should sever their bond with the mother country. Another is that he took people beyond the seas to try them at a place far removed from where the case originated.

Mr. ALLEN. Mr. President, this is the kind of despotism that Mr. Justice Black compared to the despotism of King George III.

Mr. ERVIN. The Senator is correct. I will offer an amendment today in which I will give the legislatures of these seven States the right to do their own legislating without giving the Attorney General or the District Court of the District of Columbia the right to exercise veto power.

Mr. ALLEN. Mr. President, I thank the Senator. I ask the Senator if the amendment is not directed at section 4(b) of the act which requires a State to proceed in a Federal district court of the District of Columbia in order to come out from under the provisions of the act after not having been guilty of alleged discrimination for a period of 5 years—that being one phase of the matter, the other being the requirement that a State must come to Washington to get approval of its legislative acts.

Mr. ERVIN. A State has to come up here hat in hand and bow before the Attorney General of the United States to get permission to exercise a legislative power reserved to it by the fifth amendment to the U.S. Constitution.

Mr. ALLEN. Of course, the Senator's amendment still places that power in the Federal court. It does not remove it from the Federal court.

Mr. ERVIN. The Senator is correct. They have to establish their innocence. I give them the power to establish their innocence in a court of the United States that is presided over by a Federal judge appointed by the President of the United States and confirmed by the Senate of the United States before he took his seat.

Mr. ALLEN. Mr. President, I would certainly interpose no objection to the amendment. I hope the Senate will approve it be an overwhelming margin.

Mr. ERVIN. Mr. President, I thank the Senator. I yield the floor.

Mr. HART. Mr. President, I yield myself such time as I require.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, the able Senator from North Carolina has brought to our attention again the concern he felt strongly should have required a different treatment at the time the 1965 act was adopted.

Notwithstanding his very effective argumentation, it was the judgment of the Congress that, for purposes of consistency and uniformity, the applications both for withdrawal from under the act and for changes in the election laws—if a State or county was under the act—should be subject to review by the district court of the District of Columbia, by three men sitting here in the District of Columbia.

The Supreme Court of the United States in the intervening several years has found that this was an appropriate exercise of judgment on our part. It does not quarrel with, but expresses understanding of the reasons that persuaded Congress to adopt the 1965 Act and to include in the act the provision about which the Senator from North Carolina complains.

We feel that promptness, uniformity, and consistency of application all argue for the approach that Congress took, the approach which the court has sustained.

For these reasons, I urge very much that the Senate, faced again with this proposition, maintain the position it took in the earlier debate and reject the pending amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. HART. On the time allocated to the opponents.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clark proceeded to call the roll.

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

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

Mr. HART. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. PERCY in the chair). Who yields time?

Mr. ERVIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ERVIN. Mr. President, I would like to say that this is rather a queer world. In North Carolina, according to the figures, 426,955 whites are not registered and 245,925 blacks are not registered. Every one of those people, whether they could read and write or not has had 5 years to register. If this proves anything it proves North Carolina would be discriminating against whites rather than discriminating against blacks because far more whites are not registered than blacks. The truth is that North Carolina is not discriminating against anybody. Anyone of voting age who possesses the necessary qualifications for residence and age could register to vote for the past 5 years whether or not they could read or write.

Our literacy test is very simple. We print on a piece of paper the shortest clause in the North Carolina Constitution:

Elections are to be free.

Then, we let the voter sit down and copy that. They give him as many hours as he want to copy it. Any child who knows his alphabet or any child who has gone to the fourth grade in school could do it.

This Voting Rights Act will not add a single person to the registration list of North Carolina. I oppose it because it is an insult to my State to say we are unworthy to be admitted to have access to our courts; that our judges are unworthy to be trusted.

This provision is not to attain uniformity of decisions under the act. I would say there is more divergence of view on the law among judges in the District of Columbia than in any other jurisdiction in the United States. If anyone does not believe that, he should read the decisions of the court of appeals of the District of Columbia.

As far as expediting matters is concerned, that is another argument totally lacking in validity. The docket of the District of Columbia is more congested than the docket of any other district court in the United States. Judges say the reason there is so much crime in the District of Columbia is that half the time they do not have enough courts to try the criminals. Therefore, why further congest those courts by bringing cases here that do not properly belong here and condemn people by legislative fiat by requiring them to come to the District of Columbia to establish their innocence?

Mr. President, I appeal to the Senate to adopt this very simple amendment and, as I say once more, proclaim—for justice all seasons—summer, and every place a temple.

I yield back the remainder of my time.

Mr. HART. Mr. President, there is no time on this side to yield back.

The PRESIDING OFFICER. All the time has been yielded back.

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

Mr. HART. I yield.

Mr. STENNIS. The Senator from Mississippi wanted to make a few remarks and had so informed the Senator from North Carolina, who did not hear me.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HART. Mr. President, I ask unanimous consent that 5 minutes be made available to the Senator from North Carolina.

Mr. ERVIN. I thank the Senator. That had escaped me.

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

Mr. STENNIS. Mr. President, I thank the Senator from Michigan and the Senator from North Carolina.

Mr. President, I heard the argument of the Senator from North Carolina in full. It ably and fully presents the entire matter in this serious question. I can hardly see how the Senate could pass on this matter with such scant attention. My remarks, by tone or content, are not of complaint but I direct myself only to one major point and I think that is the greatest mistake that we have made on any major bill since I have been in the Senate.

I speak of the law we passed here 5 years ago that had the provision in it of taking a step backward with reference to qualifications for voters. In other words, it destroyed all regulations whatever with reference to illiteracy. It makes no difference, in my thinking, with respect to that bill whether it be Indonesia, Canada, the United States, Mississippi, some country in South America, or anywhere else. Progress in our system of government can be made only with a more enlightened electorate. That day was one of the saddest days of my official life. That error was compounded, I respectfully submit, by votes here that were not willing to let the same law apply to their people in their own States; but rather singled out, as if punishing one area of the country. If not punishment, it is the result of unfairness. There was a willingness to impose this severe rule that goes to the very heart and soul and spirit of our self-government, on another area by those who were not willing to impose the same rules on their States.

I hope we get a better bill. I think some bill is going to pass but I hope we can have a better bill than we did 5 years ago. The Senator from North Carolina has so ably presented one of the major features.

With reference to the idea of the Senate not permitting the courts in the States to pass on these matters, the Senate has power with reference to these appointments. No one can become a judge until he receives the approval of the majority of this body. We are charged by the Constitution with this additional special responsibility.

How could we—just because it is the civil rights matter—come in here and take something lock, stock, and barrel that we ordinarily would not consider for 5 minutes, and close the doors of the Federal courts, courts over which we have a special responsibility in their selection? Why, it is a national disgrace.

I respectfully submit that I do not think such a measure would have passed here except in a moment of rashness when the Senate was so determined and the Congress so determined on the passage of anything labeled civil rights.

If this is going to be a precedent—as it will be to a degree—we will live to witness the day when States that are immune from the operation of this law will not be able to be immune next time from a law that is not sound fundamentally.

I thank the Senator again for yielding me time.

The PRESIDING OFFICER (Mr. Dole in the chair). All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN) to the Scott-Hart amendment in the nature of a substitute. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Illinois (Mr. SMITH). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withdraw my vote.

Mr. SPONG (after having voted in the affirmative). Mr. President, on this vote I have a pair with the senior Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL), are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Washington (Mr. JACKSON) are absent on official business.

On this vote, the Senator from Georgia (Mr. RUSSELL), is paired with the Senator from Alaska (Mr. GRAVEL). If present and voting, the Senator from Georgia would vote "yea," and the Senator from Alaska would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. GOODELL), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

The pair of the Senator from Illinois (Mr. SMITH) has been previously announced.

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Texas would vote "yea," and the Senator from New York would vote "nay."

The result was announced—yeas 32, nays 48, as follows:

[No. 85 Leg.]

YEAS—32

Allen	Eastland	Long
Alliott	Ellender	McClellan
Bellmon	Ervin	Miller
Bennett	Fannin	Murphy
Byrd, Va.	Fulbright	Sparkman
Byrd, W. Va.	Gore	Stennis
Cannon	Hansen	Talmadge
Cooper	Holland	Thurmond
Cotton	Hollings	Yarborough
Curtis	Hruska	Young, N. Dak.
Dole	Jordan, N.C.	

NAYS—48

Aiken	Hart	Muskie
Anderson	Hartke	Nelson
Bayh	Hatfield	Pearson
Bible	Hughes	Pell
Boggs	Inouye	Percy
Brooke	Javits	Prouty
Burdick	Kennedy	Proxmire
Case	Magnuson	Ribicoff
Church	Mansfield	Schweiker
Cook	Mathias	Scott
Cranston	McCarthy	Smith, Maine
Eagleton	McGee	Symington
Fong	McIntyre	Tydings
Goldwater	Mondale	Williams, N.J.
Griffin	Montoya	Williams, Del.
Harris	Moss	Young, Ohio

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Spong, for.
Stevens, against.

NOT VOTING—18

Baker	Jackson	Pastore
Dodd	Jordan, Idaho	Randolph
Dominick	McGovern	Russell
Goodell	Metcalf	Saxbe
Gravel	Mundt	Smith, Ill.
Gurney	Packwood	Tower

So Mr. ERVIN's amendment to the Scott-Hart substitute was rejected.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Scott-Hart substitute.

Mr. ERVIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. It is proposed to add a new section appropriately numbered, as follows:

SEC. —. The first paragraph of section 4(b) of the Voting Rights Act of 1965 is amended to read as follows: "(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, and on November 1 of each subsequent presidential election year, any test or device and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964."

Mr. ERVIN. Mr. President, I shall not take more than 10 minutes, if that much, to explain the amendment. The purpose of the amendment is that any State which had a literacy test on the first of November 1964 and was condemned under section 4(b) of this act, which State abolished the literacy test, would be removed from coverage of the act.

I want to say to the Senate that if Senators do not want to take North Carolina out from under this coverage until the last lingering note of Gabriel's horn trembles into ultimate silence, then they should vote against the amendment.

Guilford County, in my State, elected a black representative to the North Carolina Legislature and he proposed a resolution to amend the North Carolina constitution to repeal the literacy test. The Legislature of the State of North Carolina approved that resolution and it will be submitted to a vote of the people in the forthcoming general election.

My amendment would allow North Carolina, or any other State which repealed its literacy test, to get out from under coverage of this act. Thus, any Senator who believes that North Carolina should be kept under the coverage of this act until the last lingering note of Gabriel's horn trembles into ultimate silence, he should vote against the amendment. But if any Senators believe that North Carolina should get out from under this act, he should approve the amendment. I ask that all Senators vote for my amendment.

Mr. SCOTT. Mr. President, the fault with this amendment is the same as that with previous ones. Aside from the fact that if the present formula works, tinkering with it would put upon the proponents of the change a burden of proof to indicate why multiplication would be necessary, and what counties or States would be left under the triggering device. The proposal in the amendment leaves all this very much in doubt. By contrast, the present formula is accurate, and, therefore, the amendment is confusing.

Moreover, there is nothing to prevent a State from removing a literacy test on a certain month just before election and then reinstituting it so that there would be a literacy test at the next election. Therefore, the proposal is simply another device to evade compliance with the law. I think it has no more merit than the previous amendments offered. There is a desire, and an understandable desire, to remove certain counties in North Carolina from the impact of this act but it would not remove other counties. Therefore, I think it is somewhat regional in its effect and I ask that the amendment be rejected.

Mr. ERVIN. The Senator from Pennsylvania is a very ingenious man. The North Carolina literacy test is in the Constitution. Once taken out of the Constitution, it will not be there any more. Under the amendment, it provides that at any subsequent presidential election, upon the first day of November, if North Carolina does not have a literacy test, it would no longer be under this act. The Senator from Pennsylvania says that we might reinstate the literacy test between the first day of November and the first Tuesday in November. The constitutional processes in North Carolina do not operate quite that fast.

I have engaged in a most profound study on this subject and have summoned to my aid the wisest men I could find on the Washington scene and attempted to get and devise an amendment that even the distinguished Senator from the great State of Pennsylvania could vote for. But I find that I have not persuaded him.

Thus, I would say to Members of the Senate, again, that all Senators who believe that North Carolina should be exempt, or any other State should be exempt from this law when it abolishes a literacy test, which is the only reason it is included in the law, is to vote for my amendment; but I hope that every Senator who thinks like the Senator from Pennsylvania, that North Carolina should be kept under bondage until the last note from Gabriel's horn trembles into ultimate silence, should, as the Senator from Pennsylvania intends, vote against the amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I am happy to yield to the Senator from Iowa for that purpose.

Mr. MILLER. If I understood correctly the Senator's amendment, which I do not believe is printed, it reads substantially as follows:

(a) shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964 and *on November 1 of each subsequent presidential election year,* any test or device . . .

I interpret that to mean that a State has not only to have had a test on November 1, 1964, but on November 1, 1968, and on November 1, 1972, completely on out. If a State did not have one on any one of those presidential years, then the State would not be covered.

Mr. ERVIN. That is correct.

Mr. MILLER. That would be my interpretation of it, and I understand the Senator has so stated. But what concerns me is, suppose there is a State that did not have a test or device on November 1, 1964, but did have one on November 1, 1968, or does have one on November 1, 1972.

Mr. ERVIN. My amendment would not deal with that situation at all. It deals only with one date, November 1, 1964, and one on November 1, 1968, but any State after November 1—in the past—which after November 1, 1968, abolished the literacy test, would be removed from coverage of the act, provided the Attorney General found that abolition of the literacy test was not discriminatory; otherwise, it would stay the law forever.

Mr. MILLER. I thank my colleague from North Carolina for his answer. My suggestion would be, however, that I am concerned about a State that did not have one, that is a literacy test, on November 1, 1964, but could well have had one on November 1, 1968, and may have one in 1972. I think that the use of the word "and" in the Senator's amendment brings that result about.

Mr. ERVIN. This would affect only a State that had a literacy test on November 1, 1964, but which thereafter abolished the literacy test. That is the only change it makes in the law. I think this is a very reasonable amendment, frankly.

Mr. SCOTT. The Senator from North Carolina has been perfectly candid about his amendment. They had a literacy test in November 1964. They abolished that literacy test. Therefore, they say, "Take us out from under the operation of this act."

Mr. ERVIN. We have not abolished it yet. The people will vote on it in November of this year.

Mr. SCOTT. They expect to abolish it shortly. They say, then, "Take us out from under operation of the act." This is a piecemeal approach, whereby if the amendment would be so formulated as to take first one State out of operation of the act and then another, this would be an attempt to accomplish piecemeal what some of the other amendments have attempted to accomplish en bloc.

Again, as the Senator from Iowa has pointed out, it does not protect against future action whereby a State might reimpose the literacy test.

I say the amendment should not stand.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), and the Senator from Washington (Mr. JACKSON), are absent on official business.

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from Washington (Mr. JACKSON). If present and voting, the Senator from Georgia would vote "yea" and the Senator from Washington would vote "nay."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay".

Mr. SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from New York, Mr. GOODELL), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting the Senator from Texas would vote "yea" and the Senator from New York would vote "nay"

The result was announced—yeas 26, nays 54, as follows:

[No. 86 Leg.]

YEAS—26

Allen	Ervin	McClellan
Bellmon	Fannin	Murphy
Bennett	Fulbright	Sparkman
Byrd, Va.	Hansen	Spong
Byrd, W. Va.	Holland	Stennis
Curtis	Hollings	Talmadge
Dole	Hruska	Thurmond
Eastland	Jordan, N.C.	Young, N. Dak.
Ellender	Long	

NAYS—54

Aiken	Gore	Muskie
Allott	Harris	Nelson
Anderson	Hart	Pastore
Bayh	Hartke	Pearson
Bible	Hatfield	Pell
Boggs	Hughes	Percy
Brooke	Inouye	Prouty
Burdick	Javits	Proxmire
Cannon	Kennedy	Ribicoff
Case	Magnuson	Schweiker
Church	Mansfield	Scott
Cook	Mathias	Smith, Maine
Cooper	McGee	Stevens
Cotton	McIntyre	Symington
Cranston	Miller	Williams, N.J.
Eagleton	Mondale	Williams, Del.
Fong	Montoya	Yarborough
Goldwater	Moss	Young, Ohio

NOT VOTING—20

Baker	Jackson	Randolph
Dodd	Jordan, Idaho	Russell
Dominick	McCarthy	Saxbe
Goodell	McGovern	Smith, Ill.
Gravel	Metcalf	Tower
Griffin	Mundt	Tydings
Gurney	Packwood	

So Mr. ERVIN's amendment was rejected.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, would the distinguished majority leader be willing to discuss with me the state of the Union at this point?

The PRESIDING OFFICER. Does the Senator from Montana wish to discuss the state of the Union?

Mr. MANSFIELD. Mr. President, it is pretty much an all-embracing subject, but I will try to confine my discussion to this Chamber.

If I am not considered impertinent, I wish to ask the distinguished Senator from North Carolina how many more amendments he has.

Mr. ERVIN. Mr. President, in response to the Senator's question, I would first like to observe with respect to the state of the Union, that the Union is in a much stronger state than the Confederacy or the Constitution. I have several more amendments I could offer.

Mr. MANSFIELD. That is good enough. We just wanted an idea.

Mr. PASTORE. If the Senator will yield, the Senator from North Carolina said he had several amendments he "could" offer.

Mr. MANSFIELD. When I am ahead I do not push it.

Mr. ERVIN. I am not at all reluctant to give the Senate an opportunity to do right. If Senators do not avail themselves of it, it is not my fault.

Mr. MANSFIELD. The Senator is one of the most sagacious Members of this body.

If I may have the attention of the distinguished Senator from Kentucky, would the Senator from Kentucky agree to the same time limitation that applies to the Ervin amendments and the Mansfield amendment, which is 2 hours, 1 hour to a side?

Mr. COOPER. I certainly would.

Mr. MANSFIELD. Mr. President, I make that request with respect to the Cooper amendment.

The PRESIDING OFFICER (Mr. HANSEN in the chair). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that the junior Senator from Alabama (Mr. ALLEN) has an amendment, which may or may not be called up immediately. I understand the Senator from Tennessee (Mr. BAKER) has an amendment on which he may agree to a limitation tomorrow. The Senator from Iowa (Mr. MILLER) has an amendment, I understand.

So I would hope that we would stay in session until a reasonable hour this evening and continue the good work which we have been doing as far as casting votes is concerned, regardless of what happens beyond, in order that we may get as much business out of the way as possible.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I hope it would be possible to finish consideration of this bill by Wednesday or Thursday, and then immediately to go into the Carswell nomination. That is about the best I can say at this time on the stated subject.

Mr. SCOTT. Mr. President, I would make very much the same expression of desire. No Senator wishes to interfere with the opportunity of any Senator to offer amendments, but so far as we know now on the part of the joint leadership, we have mentioned all of which we are aware.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter to me, under date of March 8, 1970, from Theodore M. Hesburgh, Chairman of the U.S. Commission on Civil Rights, which I will discuss at a later time.

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

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., March 8, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: I am writing you today to express to you the Commission's concern that the Senate vote to extend the Voting Rights Act of 1965 undiluted by destructive amendments. It is our belief that the Scott-Hart substitute would accomplish this and provide, in addition, other beneficial provisions.

The Commission met today for its regular monthly meeting. At this meeting, we discussed the current status of legislation to extend the Voting Rights Act. Because of the continual attention given to voting rights by the Commission since its creation in 1957, we all are familiar with the issues involved and we all feel a deep personal commitment to this cause. It is in this context that I would like to tell you what we feel are the basic questions involved.

H.R. 4249 removes Section 5, the preclearance provision, from the Voting Rights Act. In its place it proposes a provision which adds nothing to the existing powers of the Attorney General to protect voting rights. When Section 5 was passed in 1965, we, and the Department of Justice, believe that we finally had found an effective method to end the never-ceasing attempts of many Southern States to deny to their black citizens the right to vote. Experience has confirmed this belief. Nor have we seen evidence that the need for this method has come to an end; the record before the Senate makes this clear. We also find no evidence to support the suggestion that Section 5 is burdensome either on the States and political subdivisions affected by it, or on the Department of Justice.

It has been proposed that the Voting Rights Act's "trigger" be "updated" by the use of 1968 rather than 1964 presidential election statistics. This proposal has a false attraction and is based on faulty logic. The choice of a voter turnout rate or a registration rate of less than 50 percent in the presidential election of 1964 did not constitute a benchmark from which progress in voter registration and turnout was to be measured. The 1964 formula was the basis for a presumption that the right to vote was being denied on account of race or color in the affected States. Progress made under the Act is not a sufficient reason to discard the protection provided by the Act. The fact that—with the presence, or with the constant threat of the presence, of Federal voting examiners—black registration has increased in the seven States primarily affected by the Act is not evidence that need for the protection of the Act has evaporated. There simply has not been enough time under the 1964 formula to establish a tradition of effective black political participation. It is necessary, therefore, to extend the 1965 Act intact for another five years.

It is argued, finaly, that the Voting Rights Act is "regional" legislation. There is daily evidence of legislation that does not have the same impact or effect in every State. Defense spending, dams, agricultural support payments, urban renewal, impacted aid to education—all are at widely different levels in different States. The greatest impact of the Voting Rights Act has been in the South because that is the area of the greatest problem. We should keep in mind, however, that the Act has had varying degrees of effect on the States of Alaska, Arizona, Hawaii, Idaho, and New York, and has provided the basis for a lawsuit in my own State of Indiana.

The Commission strongly urges you to support the extension of the Voting Rights Act of 1965 without weakening its essential provisions.

Sincerely,

THEODORE M. HESBURGH,
Chairman.

"THE HARP OF THE WEST"—SPEECH OF JENKIN LLOYD JONES, PRESIDENT, CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. ALLOTT. Mr. President, in this great country of ours, composed of sons and grandsons and great grandsons and daughters of people of many, many races, descendants from those countries have a day which they celebrate here. The Italians in the country celebrate October 12 as Columbus Day. Of course, the Irish celebrate March 17 as St. Patrick's Day. But a little less known day celebrated in this country is March 1, which is St. David's Day, the day of the Welsh patron saint.

On February 28, St. David's Day falling on Sunday this year, Mr. Jenkin Lloyd Jones, president of the Chamber of Commerce of the United States, and editor and publisher of the Tulsa Tribune delivered an address before the St. David's Society of Washington, D.C. This paper is very informative concerning Welsh history and Welsh characteristics. It shows some of the flavor of the true Welshman, as Mr. Jones describes himself, in a great display of the use of words and alliteration. It has a delightful way of bringing human words and speech to the ear and mind.

Because of the interest which I am sure many people will have in the speech, I ask unanimous consent to have included in the RECORD as a part of my remarks the speech made by Jenkin Lloyd Jones, entitled "The Harp of the West."

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

THE HARP OF THE WEST

(By Jenkin Lloyd Jones)

In the opening lines of the first canto of Lady of the Lake, Sir Walter Scott spoke of "Harp of the North that mouldering long has hung," and he expressed his determination to strike a few chords upon it in commemoration of the ancient heroes of the clans of Scotland.

Tonight we of Welsh descent have come together to strike some chords upon the Harp of the West. We have come to see once more the walls of Camelot, the misty towers of high Tintagel, and to hear the faint echoes of the defiant cry raised by the Men of Harlech.

Fourteen centuries ago St. David established the first of his 52 churches in what is now Cardiganshire. And it was from Cardiganshire that my ancestors emigrated to America 125 years ago. So, perhaps, St. David was an ancient neighbor.

George Santayana once said, "A man must know from whence he comes."

This is not necessarily the same as the sterile worship of one's ancestors. Noble tradition is what makes scared men stand fast. It keeps tempted men honest and angry men humane. The search for noble traditions provides a rationale for better living. As a man from Illinois once said, "It is altogether fitting and proper that we should do this."

But those of us who sing of ancient tribes from which we sprang tend to fall into a counter-evil. You might call it the Confederate Syndrome. The Confederate Syndrome comes about when a side that has been beaten with all the selective hindsight of frustration and rage, begins to imagine that all the virtues were lodged with the vanquished and all the vices with the victors.

Thus there arose in the American South the legend of the gay cavaliers, the snow-white womanhood, and the black-hearted, cowardly Yankees—all of which had its comfort factor, to be sure, but it wasn't exactly history.

You remember how Bobby Burns describes the wife of tippling Tam O'Shanter as "nursin' her wrath to keep it warm." Well, we have all kinds of people in this world nursin' their wrath.

No two peoples which have lived next to each other for a millenium lack authentic atrocities. Human beings do misbehave and those with long memories are condemned to live their lives in high dudgeon.

The most wonderful thing about America was that in the scramble for new riches, in the struggle to tame the wilderness lions and lambs became so busy with the hauling and the chopping that they forgot they were not supposed to live in peace.

Their offspring intermarried. The Hatfields and the McCoys became the Coyfields and the McHats. America was blessed by a long drink from the fountain of Lethe—a miraculous forgetting of Old World angers. Nothing sweetens life like a statute of limitations on one's hates.

It was with sadness, therefore, that I read the other day of a group of young Welsh demonstrators who had been caught in some senseless act of sabotage in London, and who were loudly demanding, in perfect English, a complete trial in the Welsh language.

I am well aware that Wendell Willkie's hopeful "One World" has been shot to atoms. His happy assumption that after World War II the peoples of the world would coalesce into larger, harmonious units turned out all wrong. We have been overcome by the separation madness.

The new states of Africa are degenerating into tribal enclaves. India is hopelessly divided and may subdivide again. The lighthearted rioting, which has been a tradition of little Ulster, has recently turned to murder. Our Black Panthers, once integrationists, have now reversed their field and want to set up an all-black nation. The Caribbean federation lasted just three months. And even conservative Scots applauded the swiping of the Stone of Scone as though this collegiate jape somehow revenged Culloden.

But of all irrational behavior brought about by the Confederate Syndrome nothing is more idiotic than the lunatic fringe of the Welsh separatists who dream, indeed, of a separate state and the reimposition of the Welsh language as the normal communication among its people.

In pursuit of this thesis I would like to lay down several propositions:

1. The Celtic peoples have been a great deal more successful than the sentimental mourners among them seem to imagine.

2. Much of this success has been due to the welding of their peculiar talents to wider literatures and broader methods of communication.

3. In the particular case of the Welsh, every time the Welsh genius tended to stultify itself by the rigidity of form it was jolted out of its rut by the force of the neighboring English culture.

4. Even the evil things that happened to Wales during the Industrial Revolution—the absentee landlordism, the miserable coal pits, the dirty foundries, the wage exploitation—in many cases turned out to be blessings in disguise, for they sent the Welsh forth into the world with marketable skills.

Weep not for the Celts. They conquered all of Spain as far south as Cadiz. They took northern Italy and had to be bought off by Roman gold. They levied tribute on the Byzantines. Although their kingdoms died quickly and their blood was absorbed into the native veins who can tell how much vigor they added to humankind?

A branch of them, the Brythons, overcame the primeval tribes of southern Britain, and they, in turn, were defeated by Caesar. To

be defeated by Caesar was sort of like losing a hole to Jack Nicklaus or getting knocked down by Joe Louis. In other words, the Brythons fell to the finest pros. One wing fled into Cornwall, another to the mountains of Wales.

But it is a mistake to imagine that their defeat was complete. Their first cousins, who stayed in Brittany, made common cause with William of Normandy and probably supplied that weight that changed history on the beach at Hastings. One quarter of the small English army that won so brilliantly at Crecy consisted of Welshmen.

And let us not forget that it was a charming Welsh adventurer, one Owen Tudor, who attached himself to the household of the English Queen Catherine, and who succeeded in having five illegitimate children by her before anyone seemed to notice. This feat, unprecedented in history, began the Tudor dynasty which resulted in five monarchs.

It doesn't do to grow oversentimental about the Tudors, even if they were Welsh. They had small idiosyncracies, and heads rolled in all directions. But when Henry VII came to the throne he owed the King of France 40,000 livres. And when he left it he was not only highly solvent, but deep in the loan shark business.

I like to think that it was this peasant Welsh canniness that moved England away from the romantic blood bath of the War of the Roses and put her on the path of glory. Certainly by the time Elizabeth Tudor closed her eyes in 1603 the great days of the empire were well begun.

Far from taking much satisfaction in the Tudors, however, many professional Welshmen prefer to mourn two earlier Welsh princes who strove valiantly to throw off the British yoke and didn't quite make it.

There was Llewelyn Gruffyd who had 22 years of success before Edward I crushed him in 1277. And there was the sainted Owen Glendower, who, beginning in 1400, was able to maintain a court of sorts for 16 years before the roof fell in.

Had these gentlemen succeeded, Wales would have become another Albania, a mountainous fossil with a pickled culture. Because they failed, Wales was able to draw upon the sweetness of its differentness, without tasting the bitter dregs of stagnation.

Let me illustrate:

The eistedfodd, which goes back at least to the 12th century, was far more than a song-fest. It was an effort at quality control. It sought to classify the wandering minstrels according to degrees of excellence in the rigid bardic tradition. Those judged to have the least talent were regarded as mere tramps and ordered to lay down the lyre and pick up the ax or the scythe.

This was a noble aim, but so rigid were these bardic rules that men of imagination and ingenuity were discouraged, too. H. I. Bell of the British Museum, in his book on Welsh Poetry, draws that parallel with the iconography of medieval Greece which became so form-ridden that El Greco fled first to Venice and then to Spain.

It was, therefore, hardly coincidental that half a century after the defeat and death of Llewelyn, during a period when Norman influence had successfully muscled its way into South Wales, a new, lyric voice, that of Dafyd ap Gwilym, came out of this Norman-Welsh society. The old shackles were struck away and Welsh poetry leaped forward once again.

The tales of Chaucer filtered across the marches. The new power and vividness of Shakespeare and Marlowe and Ben Johnson washed against the hills of Wales. And so while the purists mourned the eclipse of old Welsh forms, what they were really witnessing were the seismic shocks of a neighboring genius. It had to happen to Wales. It was lucky that it did.

The important thing is not whether one speaks Welsh, but whether one speaks Welshly. I had always heard that the Welsh included a high percentage of people who have a way with words. But I never grasped it until one June Sunday morning when I stepped out of a rented car and entered the village church of my ancestors near the crossroads of Pren-Gwyn.

I understood nothing said by the earnest young preacher. But my spirits soared with his onomatopoeia, his alliteration, his lilting dectyls and sonorous spondees.

It had to be a good sermon, whether the text was from Genesis or Revelations. I was fortunate in the sense that the opera goer is fortunate who doesn't understand the language of the arias. One can concentrate on the music, and that was what the sermon was—music.

Welshmen who speak Welshly can ornament any language in the world. David Lloyd George wowed the British hustings by English spoken Welshly. Aneurin Bevan rose from the back bench seat representing Ebbw Vale and rocked the British Parliament speaking English Welshly. Dylan Thomas, in his brief sad hour, packed the students to the rafters all over the world as he read English Welshly. Whatever Richard Burton said to Elizabeth Taylor, I'll bet he said it Welshly.

But—and let's never forget this—had it not been for the English language these men would have lived obscurely. English was their window on the world.

It is a family tradition that when my great-Grandfather emigrated from Wales in 1845 he had two motives. As a small farmer he had sought to supplement his meager income by making hats during the long winter evenings—strong hats that he proudly stood on at the country fairs. Then someone over in Lancashire invented a hat machine and that finished another cottage industry.

Secondly, he was a defiant Unitarian, and as he, his wife and seven children marched home from church, his Methodist neighbors threw eggs at them. This outraged him on two counts—first, because it was an affront to freedom of the spirit and, second, because he could have used the eggs.

In those days, few Welsh peasants spoke English. On the day the family climbed aboard the ship at New Quay great-grandpa could talk to 800,000 people. Three years later he could have talked to 100 million. And today that new tongue is the lingua franca of the world. It is the No. 1 favorite of all language classes. It is the standard communication from every international airport control tower. It has replaced Latin as the language of culture, Italian as the language of the arts, French as the language of diplomacy, and German as the language of science. Happy is he who born into English. And the fact that the Welsh were dragged in—kicking and screaming—makes it no less a blessing.

Much has been written about the cruel industrial revolution and how it afflicted Wales. At the beginning of the 19th century Wales was a peaceful, pastoral little nation, its population spread evenly along the valleys and green slopes.

Then the age of steam discovered the great South Wales coal fields, right on navigable water. It was a cruel coal, quick to explode and one that powered the lungs with slow death. It sucked the population out of the rural cottages. It concentrated it in the jammed valleys where the piles of slate under the huge pit wheels threatened to engulf, and sometimes really did engulf, the dismal houses of the miners.

By 1880 Wales was exporting more coal than any country in the world. And the foundries had come. For a brief time the 20-mile strip from Pontypool to Hirwaun was the greatest iron-producing region on earth. For another brief hour Wales held virtually a monopoly on tin plate.

It couldn't last, of course. It didn't. Too many other parts of the world had superior natural resources. And the decay was painful—the cutting of the pay, the impoverishment of the company towns, the miserable queue-ups for dole. It is fashionable, in the tradition of "How Green Was My Valley," to look upon the short-lived Welsh industrial boom as a disaster.

Let me object. In countless thousands of cases it proved the Emancipation Proclamation for a locked-in peasantry.

Welshmen learned to gouge out coal right at the moment the world began to hunger for it. And so they went forth to show others how to do it. Welsh miners from Pennsylvania helped dig the huge powder magazine beneath the Confederate lines at Petersburg that came within an acre of ending the Civil War six months sooner.

Check over the old coal towns of America—Nanty Glo, Evans City, Hughesville, Bala Cynwyd, Griffithsville—yea, even Jenkinjones.

It is a step from digging coal to shoveling it into a firebox. It is another step from the shovel to the throttle. Welsh stokers went forth upon the high seas. In a few seasons they came back as second engineers and in a few seasons more as chiefs. The steam engine was an ugly, sweaty, oily thing but the Welsh had a feel for it.

The Welsh started with the hammer mills and grew through the open hearths and the converters to the difficult art of the continuous strip. Nearly every spot on earth that moved into the age of steel hired Welshmen.

It is easy to rhapsodize about the halcyon life of the Welsh countryman a century and a half ago. It wasn't so halcyon. Those hills were steep, those pastures small, those fields rocky. Practically every one of us who is here tonight is here because some desperate ancestor sought an alternative to the old, Welsh ways.

But even when the gray oceans were passed over, and the language was lost, and the new generation played in the school yards with the Murphys and MacTavishes, the Saxes and D'Antonios there remained the echo of what Tennyson called "old, forgotten far-off things and battles long ago."

This brings us back—even from the distant reaches of Oklahoma, which is eight times as large as Wales. There is that fey quality that hauled from Pembroke to the plains of Salisbury the stones of Stonehenge. There is the dim tradition of Taliesin, a contemporary of Merlin and nearly as hazy, that has endured into Methodist hymns. There is the faint echo of bearded men in crude leather armor, beating their swords on their shields and boasting before the smoky fires of primitive castles.

And across the wastes of time comes the song of Hywel ab Owain, prince of Gwynedd:

"I love today the land hated of England, the bright land, and within its border many a grove . . . . I love its sea marsh and its mountains, its fortress on the forest edge and its sunny leas. I cherish its white seagulls and lovely women; I love its warriors and its well-trained horses, its fastnesses and dwellings. And I love its fields and the fine clover that covers them, where great deeds won glory."

It has been eight centuries since the Prince sang this song. And here we gather on St. David's Eve in a mighty capital a quarter of a world away to remember.

For it is a proud thing to be a Welshman.

EXPRESSES OUTRAGE AT BUSING INCIDENT

Mr. ALLOTT. Mr. President, I want to join with President Nixon, Vice President

AGNEW, and other outraged Americans in expressing my concern at the recent assault on a schoolbus in Lamar, S.C.

This attack was cowardly, mad, and barbaric. Most of all, it was stupid beyond belief.

I cannot imagine a more disgusting spectacle than these putative adults—all of them demonstrable mental and moral midgets—attacking a school bus.

First they attacked this vehicle with clubs and chains, smashing the windows and spraying the children inside with broken glass. When they grew weary of beating on the bus and terrifying the children, they overturned the bus.

Were it not so utterly despicable, there would be something pathetic in this. Imagine adults venting their dumb rage on a piece of yellow metal.

Mr. President, I am glad to see that the Governor of South Carolina has denounced this outrage in the strongest language, and has undertaken a vigorous investigation that promises to bring the culprits to justice.

I am happy to see that the Senator from South Carolina (Mr. THURMOND) is speaking in the same vein.

I know the Federal Government is lending whatever aid is required.

I am sure the perpetrators of this montrous attack are not representative of the people of their State. However, they are representative of the spirit of malignant extremism that afflicts a minority in every region of the country.

The people of Colorado have had some experience with this kind of sickness. Last month in Denver more than 40 schoolbuses were dynamited in a parking lot.

Fortunately, this attack, which occurred early in the morning, did not involve children. But it had one thing in common with the attack in South Carolina. It was cowardly.

This is the way weak and cowardly people behave when they dislike some aspect of public policy. They do not have the courage, the patience, or the respect of their fellow citizens that would enable them to petition for redress of grievance in an orderly manner.

Instead, they skulk about in the early morning darkness, or they lose themselves in a rolling mob. Such meanminded people mistake a temper tantrum for politics. They cannot be ignored. On the contrary, they must be prosecuted to the full extent possible. But we must not allow them even the slight triumph of distracting us from the orderly discussion and resolution of our differences.

If these sick people succeed in polarizing the community, they will have succeeded in their major objective, which is disrupting our community life.

There is a minority in this country—a tiny but potentially lethal minority—which is determined to bypass the normal political process and to make a shambles of our judicial process. If we respond to them severely but calmly, they will fail. If we respond with frenzy and misplaced recrimination, then the extremist minority will achieve its despicable ends.

AUTHORIZATION OF ADDITIONAL FUNDS FOR THE LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2910.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2910) to amend Public Law 89–260 to authorize additional funds for the Library of Congress James Madison Memorial Building, which was, after line 10, insert:

SEC. 2. Nothing contained in the Act of October 19, 1965 (79 Stat. 986), shall be construed to authorize the use of the third Library of Congress building authorized by such Act for general office building purposes.

Mr. JORDAN of North Carolina. Mr. President, I move that the Senate concur in the amendment of the House.

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

Mr. JORDAN of North Carolina. I yield.

Mr. COOPER. This deals with an amendment placed on the bill by the House. Is that correct?

Mr. JORDAN of North Carolina. That is correct.

Mr. COOPER. This amendment does not increase the funds which had been authorized for the Congressional Library?

Mr. JORDAN of North Carolina. The amendment of the House merely provides that the funds cannot be used for another House Office Building.

Mr. COOPER. The amendment provides that the money cannot be used for another office building for the Congress. Is that correct?

Mr. JORDAN of North Carolina. That is correct.

Mr. SCOTT. Mr. President, if the Senator will yield, the Senator from Kentucky is the ranking Republican member of the committee. I am perfectly content with his assurance and the assurance of the chairman. I understand some members of the committee are absent, but I cannot conceive that they would have any objection to this measure.

Mr. JORDAN of North Carolina. The measure passed the Public Works Committee unanimously and the Senate unanimously. The amendment before us is just a little amendment put on the bill by the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina that the Senate concur in the amendment of the House.

The motion was agreed to.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate resumed the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

AMENDMENT NO. 540

Mr. SCOTT. Mr. President, may I inquire of the Senator from North Carolina if he wants to be recognized?

Mr. ERVIN. Yes. I wish to call up another amendment. However, I am willing to yield to other Senators for that right, if they want to avail themselves of that right. If not, I call up my amendment No. 540 and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina will be stated.

The bill clerk read amendment No. 540 as follows:

Add a new section, appropriately numbered, as follows:

SEC. —. That section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) is amended to read as follows:

"SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision shall submit such qualification, prerequisite, standard, practice, or procedure through the chief legal officer or other appropriate official of such State or subdivision to the Attorney General which qualification, prerequisite, standard, practice, or procedure may be enforced after sixty days from such submission. If the Attorney General believes that such qualification, prerequisite, standard, practice, or procedure has the purpose and will have the effect of denying or abridging the right to vote on account of race or color, he may institute an action in the United States district court in which the capital or such State is located, or the United States district court in which such political subdivision is located for a restraining order or a preliminary or permanent injunction, or such other order as he deems appropriate, and unless and until the court enters such judgment, such qualification, prerequisite, standard, practice, or procedure may be enforced. Any action under this section shall be held and determined by a court of three judges in accordance with the provisions under section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court."

Mr. ERVIN. Mr. President, the purpose of this amendment is very simple. It is to give efficacy once more to four separate provisions of the Constitution which permit the States of the Union to legislate in this area.

Under the Voting Rights Act of 1965, a State is denied the right, or the power, to change its election laws in any respect without getting the prior consent of the Attorney General or the consent of a district court sitting in the District of Columbia.

The Constitution of the United States clearly gives States the power to legislate, and to make their legislative acts effective without the consent of the Attorney General and without the consent of the District Court of the District of Columbia.

When the Constitution was being considered by the Constitutional Convention of 1787, the proposal was made on several occasions, by such great men as James Madison of Virginia and James Wilson of Pennsylvania, that the Supreme Court of the United States be given the power to veto acts of State legislatures which the Supreme Court

thought were unwise, no matter how much those acts might be in harmony with the Constitution itself.

The Constitutional Convention on repeated occasions rejected that proposal, and left the sole determination of the question of whether an act of a State legislature was valid to be determined in litigation before the Federal courts.

When Congress passed the Voting Rights Act of 1965, it departed from that constitutional principle and that practice, and provided, as I stated a moment ago, that no act of a State legislature changing its voting requirements should take effect unless it was approved by either the Attorney General of the United States, an executive officer here in Washington, or the District Court of the District of Columbia.

This is the first time, in the history of this Republic, as far as I have been able to determine, that Congress ever took such action as this. When he wrote his great opinion in the case of Texas against White, Chief Justice Salmon P. Chase said that the Constitution, in all its provisions, looks to an indestructible Union composed of indestructible States.

I respectfully submit that whenever Congress stipulates that legislation enacted by a State legislature with reference to a matter committed by the Constitution to the States cannot be effective without the permission of an executive officer of the Federal Government, or of a Federal court, the States are being destroyed.

Evidently some Members of Congress think the States ought to be destroyed, but I respectfully submit that if we are going to have sound government in America, we are going to have to respect the federal system of government established by the Constitution. Anyone who will give sound consideration to this question will come to the conclusion that the people can enjoy liberty only if they keep as much of their government as near at home as possible.

Manifestly, the political subdivisions of the country, such as States, municipalities, and counties, can know much better than the National Congress, sitting in Washington, what the problems of the various communities are, and what is the best way to solve those problems; and that was the genius of the Constitution: That the Founding Fathers provided that as much government should be kept near the people as was possible. They realized something which the American people are again coming to realize slowly, but are about to realize painfully and speedily: That when you concentrate all the powers of government in the Federal Government, you are going to find such concentration of powers incompatible with the continuance of the liberties of the people.

The greatest student of the American Government who ever occupied the White House was Woodrow Wilson; and Woodrow Wilson said this on that subject:

> Liberty has never come from government. Liberty has always come from the subjects of government.
>
> The history of liberty is a history of the limitations of governmental power, not the increase of it.
>
> When we resist . . . concentration of power, we are resisting the powers of death, because concentration of power is what always precedes the destruction of human liberties.

No other bill in the history of this Nation has gone so far to concentrate power—that is, the power of a few States—in the central government. One of the worst aspects of this bill is the provision which says that the legislature of a sovereign State cannot make legislation which it is authorized by the Constitution to adopt effective without the prior approval of the Attorney General or the prior approval of the U.S. District Court sitting in the District of Columbia.

This provision, the proponents of which claim is to secure the right to vote is inconsistent with at least four provisions of the Constitution. The 10th amendment says that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. Under this provision of the Constitution, State legislatures have undoubted power to enact legislation relating to elections and relating to voting, subject to the limitation that that legislation must not offend the 15th amendment or the 17th amendment, or the equal protection clause.

Then section 2 of article I of the Constitution says:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

The provision of the Constitution confers upon States the power to prescribe the qualifications of those who are eligible to vote for Members of the national House of Representatives. It does this by saying that those electors shall possess the qualifications requisite for electors of the most numerous branch of the State legislature. Undoubtedly, the States have the power to prescribe the qualifications for those who are to vote for the most numerous branch of the State legislature.

Another provision of the Constitution, section 1 of article II, provides that the legislatures of the several States have the power, and they alone have the power, to prescribe how presidential and vice presidential electors shall be chosen.

The 17th amendment, which provides for the election of Senators, contains a similar provision. The 17th amendment says that to be eligible to vote for a Member of the U.S. Senate, a person must have the qualifications requisite for an elector of the most numerous branch of the State legislature.

These four provisions of the Constitution give the States of the Union the power to prescribe the qualifications for voting. They are subject only to the limitations that these qualifications must apply in like manner to all persons in like circumstances and shall not deny or abridge anyone's right to vote on account of race or sex.

Under the Voting Rights Act of 1965, the legislature of one of the States covered by this act has undoubted power to enact legislation relating to voting and to make it effective immediately. Yet, the Voting Rights Act of 1965 curtails and limits this undoubted constitutional power of the States to enact such legislation and to make it effective by stipulating that it cannot go into effect without the prior consent of the Attorney General of the United States or the District Court of the District of Columbia. Under this provision of the Voting Rights Act, we see the States covered by the act come into Washington with hat in hand, begging the Attorney General of the United States for the right to exercise their undoubted constitutional powers.

I could argue this matter at great length, but the point involved here has been stated very well by an Associate Justice of the Supreme Court of the United States, Mr. Justice Black. In his dissenting opinion in the case of *South Carolina* v. *Katzenbach*, 383 U.S. 301, Justice Black made some trenchant observations on this provision of the Voting Rights Act of 1965. He wrote a dissenting opinion in which he said, commencing at page 356:

> Section 4(a), to which § 5 is linked, suspends for five years all literacy tests and similar devices in those States coming within the formula of § 4(b). Section 5 goes on to provide that a State covered by § 4(b) can in no way amend its constitution or laws relating to voting without first trying to persuade the Attorney General of the United States or the Federal District Court for the District of Columbia that the new proposed laws do not have the purpose and will not have the effect of denying the right to vote to citizens on account of their race or color. I think this section is unconstitutional on at least two grounds.
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> (a) The Constitution gives federal courts jurisdiction over cases and controversies only. If it can be said that any case or controversy arises under this section which gives the District Court for the District of Columbia jurisdiction to approve or reject state laws or constitutional amendments, then the case or controversy must be between a State and the United States Government. But it is hard for me to believe that a justiciable controversy can arise in the constitutional sense from a desire by the United States Government or some of its officials to determine in advance what legislative provisions a State may enact or what constitutional amendments it may adopt. If this dispute between the Federal Government and the States amounts to a case or controversy it is a far cry from the traditional constitutional notion of a case or controversy as a dispute over the meaning of enforceable laws or the manner in which they are applied. And if by this section Congress has created a case or controversy, and I do not believe it has, then it seems to me that the most appropriate judicial forum for settling these important questions is this Court acting under its original Art. III, § 2, jurisdiction to try cases in which a State is a party.[1] At least a trial in this Court would treat the States with the dignity to which they should

[1] If § 14(b) of the Act by stating that no court other than the District Court for the District of Columbia shall issue a judgment under § 5 is an attempt to limit the constitutionally created original jurisdiction of this Court, then I think that section is also unconstitutional.

be entitled as constituent members of our Federal Union.

The form of words and the manipulation of presumptions used in § 5 to create the illusion of a case or controversy should not be allowed to cloud the effect of that section. By requiring a State to ask a federal court to approve the validity of a proposed law which has in no way become operative, Congress has asked the State to secure precisely the type of advisory opinion our Constitution forbids. As I have pointed out elsewhere, see my dissenting opinion in *Griswold* v. *Connecticut*, 381 U.S. 479, 507, n. 6, pp. 513–515, some of those drafting our Constitution wanted to give the federal courts the power to issue advisory opinions and propose new laws to the legislative body. These suggestions were rejected. We should likewise reject any attempt by Congress to flout constitutional limitations by authorizing federal courts to render advisory opinions when there is no case or controversy before them. Congress has ample power to protect the rights of citizens to vote without resorting to the unnecessarily circuitous, indirect and unconstitutional route it has adopted in this section.

(b) My second and more basic objection to § 5 is that Congress has here exercised its power under § 2 of the Fifteenth Amendment through the adoption of means that conflict with the most basic principles of the Constitution. As the Court says the limitations of the power granted under § 2 are the same as the limitations imposed on the exercise of any of the powers expressly granted Congress by the Constitution. The classic formulation of these constitutional limitations was stated by Chief Justice Marshall when he said in *McCulloch* v. *Maryland*, 4 Wheat. 316, 421, "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, *which are not prohibited, but consist with the letter and spirit of the constitution*, are constitutional." (Emphasis added.) Section 5, by providing that some of the States cannot pass state laws or adopt state constitutional amendments without first being compelled to beg federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between state and federal power almost meaningless. One of the most basic premises upon which our structure of government was founded was that the Federal Government was to have certain specific and limited powers and no others, and all other power was to be reserved either "to the States respectively, or to the people." Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other power to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg federal authorities to approve them.[2] Moreover, it seems to me that § 5 which gives federal officials power to veto state laws they do not like is in direct conflict with the clear command of our Constitution that "The United States shall guarantee to every State in this Union a Republican Form of Government." I cannot help but believe that the inevitable effect of any such law which forces any one of the States to entreat federal authorities in far-away places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces. And if one law concerning voting can make the States plead for this approval by a distant federal court or the United States Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff. It is inconceivable to me that such a radical degradation of state power was intended in any of the provisions of our Constitution or its Amendments. Of course I do not mean to cast any doubt whatever upon the indisputable power of the Federal Government to invalidate a state law once enacted and operative on the ground that it intrudes into the area of supreme federal power. But the Federal Government has heretofore always been content to exercise this power to protect federal supremacy by authorizing its agents to bring lawsuits against state officials once an operative state law has created an actual case and controversy. A federal law which assumes the power to compel the States to submit in advance any proposed legislation they have for approval by federal agents approaches dangerously near to wiping the States out as useful and effective units in the government of our country. I cannot agree to any constitutional interpretation that leads inevitably to such a result.

I see no reason to read into the Constitution meanings it did not have when it was adopted and which have not been put into it since. The proceedings of the original Constitutional Convention show beyond all doubt that the power to veto or negative state laws was denied Congress. On several occasions proposals were submitted to the convention to grant this power to Congress. These proposals were debated extensively and on every occasion when submitted for vote they were overwhelmingly rejected.[3] The refusal to give Congress this extraordinary power to veto state laws was based on the belief that if such power resided in Congress the States would be helpless to function as effective governments.[4] Since that time neither the Fifteenth Amendment nor any other Amendment to the Constitution has given the slightest indication of a purpose to grant Congress the power to veto state laws either by itself or its agents. Nor does any provision in the Constitution endow the federal courts with power to participate with state legislative bodies in determining what state policies shall be enacted into law. The judicial power to invalidate a law in a case or controversy after the law has become effective is a long way from the power to prevent a State from passing a law. I cannot agree with the Court that Congress—denied a power in itself to veto a state law—can delegate this same power to the Attorney General or the District Court for the District of Columbia. For the effect on the States is the same in both cases—they cannot pass their laws without sending their agents to the City of Washington to plead to federal officials for their advance approval.

In this and other prior Acts Congress has quite properly vested the Attorney General with extremely broad power to protect voting rights of citizens against discrimination on account of race or color. Section 5 viewed in this context is of very minor importance and in my judgment is likely to serve more as an irritant to the States than as an aid to the enforcement of the Act. I would hold § 5 invalid for the reasons stated above with full confidence that the Attorney General has ample power to give vigorous, expeditious and effective protection to the voting rights of all citizens.[5]

(At this point Mr. BYRD of Virginia took the chair as Presiding Officer.)

Mr. ERVIN. Mr. President, I should like to state that on the hearings before the Subcommittee on Constitutional Rights, on the proposal to extend the Voting Rights Act of 1965 for 5 additional years, a representative from the Department of Justice appeared before the subcommittee and testified that the provisions of section 5 were a hindrance rather than a help in the enforcement of the act.

He pointed out that virtually all the changes in the State laws relating to voting matters were fair upon their face, and that it was necessary to conduct a great deal of investigation to determine how the statutes could deny anyone the right to vote on account of race or color. Thus, he advocated the elimination of this power from the law.

To illustrate how absurd the requirement is, he said that a State, under this section, could neither raise a filing fee from $5 to $6 or lower it from $5 to $4 without first getting the approval of the Attorney General, that as a practical matter this required the Attorney General to investigate how many dollars were in the pockets of the citizens of the community which wanted to change the fine.

He agreed with my observation that North Carolina could not have changed its laws which originally provided that the polls should open at sunrise and close at sunset to a provision that the polls would open at 6:30 in the morning and close at 6:30 in the evening without first getting the consent of the Attorney General had that law been passed after the 1965 Voting Rights Act went into effect.

This even contests the right to change district boundaries. Under this provision of the law, none of the seven States could change their congressional dis-

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[2] The requirement that States come to Washington to have their laws judged is reminiscent of the deeply resented practices used by the English crown in dealing with the American colonies. One of the abuses complained of most bitterly was the King's practice of holding legislative and judicial proceedings in inconvenient and distant places. The signers of the Declaration of Independence protested that the King "has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures," and they objected to the King's "transporting us beyond Seas to be tried for pretended offences." These abuses were fresh in the minds of the Framers of our Constitution and in part caused them to include in Art. 3, § 2, the provision that criminal trials "shall be held in the State where the said Crimes shall have been committed." Also included in the Sixth Amendment was the requirement that a defendant in a criminal prosecution be tried by a "jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

[3] See Debates in the Federal Convention of 1787 as reported by James Madison in Documents Illustrative of the Formation of the Union of the American States (1927), pp. 605, 789, 856.

[4] One speaker expressing what seemed to be the prevailing opinion of the delegates said of the proposal, "Will any State ever agree to be bound hand & foot in this manner. It is worse than making mere corporations of them . . . ." *Id.*, at 604.

[5] Section 19 of the Act provides as follows: "If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

tricts without first getting the consent of a district court in the District of Columbia or the Attorney General.

Congress is a creature of the Constitution. I do not care how many courts speak to the contrary, I do not think that Congress, a creature of the Constitution, has the power, as exercised in the Voting Rights Act of 1965, to nullify the provisions of the Constitution.

This is not only unwise from the constitutional standpoint, but it is also a disgrace. And I use that word advisedly. It is a national disgrace for Congress to single out seven States which, under the Constitution, are supposed to have equal power with all other States of the Union, and reduce those States to a second-class status and say to them, "The Constitution of the United States to the contrary notwithstanding, you cannot pass laws which you are authorized by the Constitution itself to pass and make them effective without getting prior approval of the Attorney General of the United States or of the district court of the United States sitting in the District of Columbia."

In an argument on an earlier amendment, I quoted what Justice Story said about the occasions on which laws like this were passed. He said that in England they were passed when Parliament was grossly subservient to the Crown, when Parliament had lost its independence, or when Parliament did not use its intelligence.

I would paraphrase that remark, as I did before, by saying that when laws like this get passed, they are passed because Members of the Congress of the United States are grossly subservient to the pressure groups which demand the passage of such law as the price of their support to those Members of Congress.

This is a tragic bill.

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

Mr. ERVIN. I yield.

The PRESIDING OFFICER (Mr. SPONG in the chair). The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I would like to ask the distinguished Senator a question concerning the wording of the amendment which states:

> Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision shall submit such qualification, prerequisite, standard, practice, or procedure through the chief legal officer or other appropriate official of such State or subdivision to the Attorney General which qualification, prerequisite, standard, practice, or procedure may be enforced after sixty days from such submission.

Would this amendment enable the Attorney General to institute an action in the U.S. district court of the capital of the State in which a provision was enacted which would have the effect of denying or abridging the right to vote in a manner that was contrary to the Voting Rights Act of 1965?

Mr. ERVIN. Mr. President, this amendment would change the provision of the Voting Rights Act of 1965 which requires States to get prior approval of the Attorney General or a district court of the District of Columbia. It would require the States to submit changes in the election laws to the Attorney General, and it would require that those changes would not become effective for 60 days and that during those 60 days if the Attorney General believed they were discriminatory in force or effect, he could bring a suit in the local Federal court and secure an injunction or a temporary restraining order invalidating them in the event the court agreed with him that they were discriminatory in purpose or effect.

Mr. HANSEN. If the local district court did not issue such a restraining order or preliminary or permanent injunction, despite the recommendations of the Attorney General that it should indeed do that, then do I correctly understand the thrust of the Senator's amendment to be that such prerequisite as may have been authorized by State legislative action would indeed have full force and effect?

Mr. ERVIN. It would have full force and effect as all other laws would have.

Mr. HANSEN. Do I understand further that there would be an appeal from the action of the Federal district court located in the capital of such State and that the appeal would be directly to the Supreme Court of the United States?

Mr. ERVIN. The Senator is correct. Since the question would involve the constitutionality of the change of a State election law, a three-judge district court would meet and the appeal would be directly from the three-judge district court to the Supreme Court of the United States. So, the matter could be very much expedited.

Mr. HANSEN. Further, is it correct that this amendment would afford each of the States, or any State that might be affected, the opportunity of being heard in the Federal district court nearest the State capital or where the actual difference exists?

Mr. ERVIN. The Senator is correct. It would do that instead of concentrating all the power in the District of Columbia, in the first place.

Mr. HANSEN. Mr. President, does the Senator believe that the district court judges throughout the United States are equally as competent as are those Federal district judges within the District of Columbia to hear cases and proceedings of this kind?

Mr. ERVIN. I do. And I think that all States ought to be put on an equality of legal right. And this provision would put them on not quite a basis of equality with all other States, but it would come nearer to equalizing the statutes of other States under the present bill.

Mr. HANSEN. Mr. President, does the distinguished Senator, who is also a very distinguished constitutional lawyer, find any difference in the qualifications that must be had by members of the Federal district judiciary in the several States and the qualifications that must be had by members of the Federal district judiciary within the District of Columbia?

Mr. ERVIN. Mr. President, the only difference I would find in the equipment of the judges is the fact that most of the Federal judges in the States are trained in the law of the State as well as the Federal law, while those in the District of Columbia sit in a district, where, if a law originates outside the district, there is no law on the subject.

I think from the standpoint of broad experience and knowledge of the law relating to matters of this kind, the Federal judges sitting in the States would probably have a broader competence to reach a correct decision.

Mr. HANSEN. So far as requirements are concerned, and the appointive power of the President, there is no greater qualification for membership on the district court in the District of Columbia than there would be for any other court. Is that correct?

Mr. ERVIN. The Senator is correct. All Federal judges are appointed by the President, usually on the advice of a Senator, they are confirmed by the Senate, and the overwhelming majority of them are very competent men.

Mr. HANSEN. In the Senator's judgment, would the possibility that a number of cases might be heard throughout the United States and be subject to the jurisdiction and judgments of different Federal judges throughout the United States be of any advantage to the members of the Supreme Court in reviewing a particular case and looking at the decisions that have been handed down if the area of jurisdiction and concern were to be spread more widely throughout the United States? Would this be of help to the Supreme Court?

Mr. ERVIN. I think undoubtedly it would be. No judges in the land are more overworked than judges in the District of Columbia because the District of Columbia has the biggest backlog of pending cases and it has more congestion than any other court in the country.

Mr. HANSEN. Is there any other instance in the Senator's knowledge wherein only Federal judges within the District of Columbia exclusively have the right to review cases, as is the case in the Voting Rights Act of 1965?

Mr. ERVIN. With the exception of the Voting Rights Act of 1965 there is no such distinction made by the Federal courts in the country now. In the days before we had airplanes, good railroads, and things of that kind, suits against Cabinet officers and other Federal officials had to be brought in the District of Columbia. That practice was to keep them from going to California or Louisiana to try cases. But as soon as we got expeditious modes of travel that system was changed.

The only other instance is the law that established the OPA at the time of World War II, and that was the Yakus case. That statute set up a court called the emergency court of appeals that sat here in the District of Columbia. That court passed on the original validity of OPA regulations. It had a provision that after they passed on the validity of those regulations their constitutionality could not be contested in any other court. Unfortunately, that law worked out very poorly because a lot of men later charged with violating OPA regulations were people who never had their cases con-

tested in the District of Columbia and many of them were convicted notwithstanding the question of constitutionality.

I think it is tragic whenever Congress proceeds on the theory that justice must be administered in only one place in the United States. I think that is an insult to the judiciary throughout the United States. I think it is bad because witnesses were not available in the District of Columbia, and I think this act should be amended in these respects.

While this does not take care of all my objections to this measure, it makes sure there will be speedy adjudication of these laws. I think we should go back to our proud days and proclaim it just for all seasons, summer, and every place and temple.

Mr. HANSEN. Has there been any study made, to the Senator's knowledge, which would support a belief that over the years there has been a greater competence, based upon the number of reversals, and based upon the number of actions to sustain a lower court in the District of Columbia than there has been throughout the country?

Mr. ERVIN. I am not aware of any study ever having been made.

Mr. HANSEN. To the Senator's knowledge, has that allegation been made in support of the Voting Rights Act of 1965?

Mr. ERVIN. The only allegation they made was the excuse they gave for concentrating it here: That they would get a uniformity of interpretation. Again, that is a specious argument because our entire judicial structure is based on having 10 separate courts of appeal in 10 areas of the country and they depend on the Supreme Court to make interpretations uniform in the long run because circuits frequently differ in interpretation and they frequently differ in interpreting an act of Congress, or any other legal question. The Supreme Court readily grants certiorari and reviews the question.

Mr. HANSEN. Does the Senator believe uniformity in judicial determinations of cases is the goal which we should seek or rather might we better seek justice and seek considerably broad experience which would be available to the Supreme Court in order that we might have the experience and the convictions of a number of persons brought to bear so that justice and fairness might be our goal and thereby, hopefully, it would be better if we had a broadening of opportunity for review?

Mr. ERVIN. I think the broadening of opportunity for review is conducive to the correct interpretation of law because in that way, with the 10 circuit courts of appeal, there is no danger of having sectional interpretations prevail. With the able men on the 10 circuit courts of appeal in the 10 different areas we get more brainpower devoted to the task and more viewpoints. Therefore, in the long run it results in a fairer, more just, and uniform interpretation because the more people we have studying the proposition the more likely we are to reach the correct solution.

Mr. HANSEN. I thank the Senator.

Mr. ERVIN. Mr. President, Mr. Justice Black dissented again on this point in the case of Allen against State Board of Elections, which is reported in 393 U.S. 544. In his dissenting opinion Mr. Justice Black reiterates what he had to say in very forceful language beginning on page 595. The opinion covers also pages 596 and 597. He stated:

> Assuming the validity of the Voting Rights Act of 1965, as the Court does, I would agree with its careful interpretation of the Act, and would further agree with its holding as to jurisdiction and with its disposition of the four cases now before us. But I am still of the opinion in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 355–362 (1966), a part of § 5 violates the United States Constitution.
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> Section 5 provides that several Southern States cannot effectively amend either their constitutions or laws relating to voting without persuading the United States Attorney General or the United States District Court for the District of Columbia that the proposed changes in state laws do not have the purpose and will not have the effect of denying to citizens the right to vote on account of race or color.
>
> This is reminiscent of old Reconstruction days when soldiers controlled the South and when those States were compelled to make reports to military commanders of what they did. The Southern States were at that time deprived of their right to pass laws on the premise that they were not then a part of the Union and therefore could be treated with all the harshness meted out to conquered provinces.
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> The constitutionality of that doctrine was certainly not clear at that time. And whether the doctrine was constitutional or not, I had thought that the whole Nation had long since repented of the application of this "conquered province" concept, even as to the time immediately following the bitter Civil War. I doubt that any of the 13 Colonies would have agreed to our Constitution if they had dreamed that the time might come when they would have to go to a United States Attorney General or a District of Columbia court with hat in hand begging for permission to change their laws. Still less would any of these Colonies have been willing to agree to a Constitution that gave the Federal Government power to force one Colony to go through such an onerous procedure while all the other former Colonies, now supposedly its sister States, were allowed to retain their full sovereignty.
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> While *Marbury* v. *Madison*, 1 Cranch 137 (1803), held that courts can pass on the constitutionality of state laws already enacted, it certainly did not decide to permit federal courts or federal executive officers to hold up the passage of state laws until federal courts or federal agencies in Washington could pass on them. Proposals to give judges a part in enacting or vetoing legislation before it passed were made and rejected in the Constitutional Convention; another proposal was made and rejected to permit the Chief Justice of this Court "from time to time [to] recommend such alterations of and additions to the laws of the U.S. as may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union. . . ." See my dissenting opinion in *Griswold* v. *Connecticut*, 381 U.S. 479, 515, n. 6 (1965).
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> It seems to me it would be wise for us to pause now and then and reflect on the fact that the separate Colonies were passing laws in their legislative bodies before they themselves created this Union, that history emphatically proves that in creating the Union the Colonies intended to retain their original independent power to pass laws, and that no justification can properly be found in the Constitution they created or in any amendment to it for degrading these States to the extent that they cannot even initiate an amendment to their constitutions or their laws without first asking the permission of a federal court in the District of Columbia or a United States governmental agency. I would hold § 5 of the 1965 Voting Rights Act unconstitutional insofar as it commands certain selected States to leave their laws in any field unchanged until they get the consent of federal agencies to pass new ones.

Some of my colleagues in the Senate perhaps wonder why I stand on the floor of the Senate and make appeals that the Senate adopt amendments to the Voting Rights Act of 1965, before extending it, which are fair, which are just, which are constitutional.

I deeply regret that I have not had more success in persuading my colleagues to adopt such amendments. I was astounded a moment ago when the Senate voted down a proposal made by me that a State which abolished its literacy test be taken out from under the coverage of the act, which was only based on the supposition that literacy tests are supposed to abuse the rights of the people to vote, and that those abuses ought to be curbed. I would have thought Senators would have supported an amendment to exempt a State from the coverage of the act if that State had abolished its literacy test.

My State has been trying to get back into the Union for 105 years. The Civil War is over. I wish I could say the same thing about Reconstruction.

I deeply regret that it is still politically profitable in this country, after one century and 5 years, to browbeat North Carolina and other Southern States. I hope that the day will arrive when it will be true that we will be back in the Union on an equality with other States. But I know that in the absence of faithful observance of the provisions of the Constitution by the Congress, the President, and the Supreme Court, neither our country nor the citizens within its borders will have protection against tyranny on the one hand and persecution on the other.

Thereby, I am going to stand by the Constitution. I have taken an oath to support the Constitution. However, I have not taken an oath to support judicial aberrations and usurpations. I shall fight usurpations of the Constitution whether they come from the President, from the Congress, or from the courts.

Unless we become aware of the importance of our Constitution, this country is on the road where it is soon to be without constitutional government, and we will have a government of men rather than a government of laws.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, may I inquire of the distinguished Senator from North Carolina whether he intends to ask for the yeas and nays?

Mr. ERVIN. Yes.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the distinguished Senator from North Carolina

has made an extremely able and effective argument, again this afternoon, with reference to the amendment which he had submitted to the Senate.

The subject of the amendment was considered in the course of the hearings on the extension of the Voting Rights Act.

One provision of his amendment would change the burden of proof away from the States which wish to change voting laws, and place the burden of proof on the Attorney General to prove that such a change was discriminatory. The second major part of the amendment would change the venue from the district court in Washington to the Federal court in the affected State.

On the question of venue, the Senate has spoken this afternoon. I think the RECORD has been made quite complete in that area.

I feel the justification and constitutionality of section 5 has been expressed in the case of South Carolina against Katzenbach, in a most straightforward and most pertinent way. There the Supreme Court stated:

> For reasons already stated, there was nothing inappropriate about limiting litigation under this provision to the District Court for the District of Columbia, and in putting the burden of proof on the areas seeking relief.

In the earlier part of this very extensive case, the Court talks in detail about those reasons and clearly establishes the constitutionality of both provisions.

Regarding venue, the case made reference to the fact that at the present time, contractual claims against the United States for more than $10,000 must be brought in the Court of Claims, and until 1962, the District of Columbia was the sole venue of suits against Federal officers officially residing in the Nation's Capital. The court stated further:

> We have discovered no suggestion that Congress exceeded constitutional bounds in imposing these limitations on litigation against the Federal Government, and the Act is no less reasonable in this respect.

As to the second proposal, Mr. President, in terms of altering section 5 to change the burden of proof, once again, from the various States that are seeking the change to the Attorney General, I would also refer to the language of the South Carolina case, which reads:

> Congress knew that some of the States covered by § 4(b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees. Congress had reason to suppose that these States might try similar maneuvers in the future in order to evade the remedies for voting discrimination contained in the Act itself. Under the compulsion of these unique circumstances, Congress responded in a permissibly decisive manner.

It also states:

> Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

Mr. President, both of these provisions referred to in the statement of the distinguished Senator from North Carolina have been upheld in the Supreme Court, and the reasons for that, I think, were stated quite fully and amply in the course of earlier discussion and debate on a previous amendment.

But I think we get back to the fundamental reason why I would have reservations about accepting the provisions of the amendment of the Senator from North Carolina, which are that the law does work in the way that it now stands; that it works well, promptly, efficiently, and effectively; and that it has been upheld by the Supreme Court. I have yet to hear that there is really anything wrong with the way that it is working at the present time.

So for those reasons, for the reason that those particular provisions that would be changed or altered by the amendment of the Senator from North Carolina have been upheld by the Supreme Court as being within the purview and the power of Congress to legislate and for the other reasons I have stated, I would hope that the amendment would be defeated.

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

Mr. KENNEDY. I yield.

Mr. SPONG. The Senator has been speaking of the burden of proof requirements of the present law, which the Senator from North Carolina seeks to change by his amendment.

One of the States which would be relieved of the burden of proving its innocence under the law imposed upon it is my State of Virginia.

I ask the Senator from Massachusetts the same question I previously posed to the Senator from Michigan: If, in the course of his hearings or in the course of his research on this matter, he knows of any offenses that have taken place in the State of Virginia? I believe it is a matter of record that no Federal examiners have been sent into Virginia, and there have been no court judgments against it. However, if the substitute is passed, my State will continue to have the burden of proving its innocence, whereas 43 other States will not. So, I would ask the Senator from Massachusetts if he knows of any instance of legislation or any instance of complaint about the State of Virginia that would indicate discrimination in voting?

Mr. KENNEDY. Mr. President, I would respond to the inquiry of the distinguished Senator from Virginia in this way: As I understand it, there have been some 426 separate requests by various political subdivisions, counties and States, requesting approval of changes and alterations in voting rules. Of that total of 426 requests, there have been some 34 that have been rejected since 1965. The State of Virginia made 10 separate requests of the Attorney General to alter and change voting procedures in its various counties, none of which requests was found by the Attorney General to be in any way violative of the Voting Rights Act of 1965.

The question of the distinguished Senator from Virginia suggests the further question whether this provision does not place an undue burden upon his State, to make such a request of any Attorney General. It is my understanding, however, that such requests and such approvals have been made in such an informal way as by telephone calls, letters, and other informal procedures. Therefore, it would be my best information that the State of Virginia has not, in its various requests for alterations or changes, either been burdened with an intolerable task, nor has it in any way made a recommendation or a change which the Attorney General found to violate the spirit or the letter of the law.

Mr. SPONG. So the Senator from Massachusetts is saying that so far as he knows, in its relationship with the Attorney General's office, there has been no request for approval of a law that, in effect, has not been approved?

Mr. KENNEDY. That is my understanding, based upon the memorandum submitted by the Department of Justice, which lists the various States, the number of requests, the objections, and the reasons for such objections.

Mr. SPONG. I had occasion, on Thursday and Friday, to discuss with the Senator from Michigan a case in which Virginia participated, involving a regulation which was designed to aid the uneducated in voting. After the voting rights law went into effect, the State issued a regulation, which was subsequently approved by the Attorney General, seeking to assist those who lacked sufficient education to mark their ballots.

Mr. KENNEDY. Were they going to do that in the voting booth?

Mr. SPONG. Not in the booth, but in the polling place—to answer questions and assist in other ways, that hitherto they had not been able to do. The purpose of the law was actually to help more people exercise the franchise.

The Senator from Virginia is concerned, after the years that this law has had special application to his State, and in the absence of any marshals or any observers being sent into the State for any reason, that under the substitute which is before us, the burden of proof will remain with the State. It must continue to prove its innocence. In the course of this debate, I have tried to avail myself of every opportunity to ask those who advocate extension of the act if they know of abuses under the law in Virginia. I did not have an opportunity to question the Senator from Indiana, who made a very fine speech late Friday afternoon, and cited instances of voting violations. I have read his speech, and I see no reference to Virginia.

The Senator from Virginia cannot explain to his constituents why a burden of proof should be imposed upon them when it does not apply to 43 other States in the United States. For that reason, I have some sympathy and some regard for what the Senator from North Carolina has been saying. I do not intend to go back 100-and-some years, but I will

say that in my judgment, some aspects of the proposed legislation are unequal in application, and I think we should be mindful of it.

Mr. KENNEDY. Let me respond very briefly to the Senator from Virginia; then the Senator from Michigan, I am sure, will give a more complete answer.

It is my understanding that where the 1965 act included, under its coverage, States and political subdivisions which were able to show that their literacy tests had not been used for the purpose of discrimination, those areas were able and permitted to remove themselves from the coverage of the act. This applied to Alaska, and some counties in Hawaii, Arizona, and Idaho. Today, the act still applies to the State of Virginia and they have not been able to remove themselves from this coverage. Thus the conclusion must be that Virginia cannot meet the statutory tests justifying noncoverage.

The spokesman for the administration appeared before the subcommittee and addressed this point. Even though the administration's bill sought to change and alter the burden of proof, he still had to admit, when pressed for explanations and responses, that it does place a much heavier burden upon an attorney general if that burden of proof is altered and changed. He was not able to give a satisfactory response, I thought, when questioned about the fact that with the present burden of proof, the covered States are slower, more reluctant, and more hesitant in making discriminatory changes or alterations in regulations and in their procedures, because they know that they would have a difficult burden to carry in the district court.

I can understand the Senator's position when he goes to the people of his State and says, "Well, we have had 10 changes. All 10 changes have been approved. If we have shown good faith in this, why cannot we get out from under?"

But I think we still would have to realize that the nature of the burden has served as an enormously important preventive procedure in many States. In the case of Virginia, perhaps it has not. But in terms of total legislation and even with respect to certain places or counties in that State, perhaps it has.

Perhaps the Senator from Michigan would like to comment on this.

Mr. HART. I think the Senator from Massachusetts has reacted to the able Senator from Virginia's question as I would have. I am sure that many factors operated on the decision made by Virginia not to seek removal from the bill.

Mr. SPONG. I think I owe it to the Senator from Michigan to say something on that point, because when it was brought up a week ago, the press of time did not permit a full explanation.

First of all, Virginia was under the bill by virtue of having less than 50 percent voter participation. Speaking for myself, I was very disturbed that we did not have 50 percent of our people participating in elections at that time. I have always supported measures to increase the electorate and broaden it in every way possible. But in the 1968 elections we exceeded that 50 percent mark. I think if Senators will look at the statistics that have been introduced in this debate, they will find a much higher degree of voter participation both among the white and the black and I find that very commendable.

Even though they were eligible to be removed from the act, the State still felt, as the able Senator from North Carolina has so ably stated on the floor of the Senate—and regardless of the Katzenbach decision—that some provisions of this act were unconstitutional and it awaited the outcome of court tests.

In the interim, I would say to the Senator from Michigan, the Gaston case was decided. Without belaboring the Senate or taking time to go into it, because it has been discussed, the Gaston case added a new dimension to the proof necessary. The Gaston case opened the door on the question of whether or not school systems had been unitary in the past and the State felt that, in view of this, it would be a hopeless task to seek judicial relief from the act.

One other reason—I say this very candidly—is that Virginia is a state of mind. Virginians are law-abiding people. They do not understand why they have to come up here to the district court to plead their case when there has been no complaint and no marshal has been sent into the State. All Virginia laws which were passed, as the Senator has said, have been approved by the Attorney General. I think there was a strong feeling among those making decisions at that time, that they did not want to take their hat in hand and come to the court designated. Frankly, they would prefer this bill or the amendment that has been rejected, under which they could go to the district court in Richmond and plead their case before a three-judge court. But first they waited for the decisions in the Katzenbach case and others, because they questioned the law's constitutionality.

Second, the Gaston case, which may be obviated as a result of this measure, was considered a bar; and frankly, there was some objection to the venue in the matter. But Virginia is eligible to be removed. Regardless of what action it takes, the question remains: Why should it be treated differently from 43 other States?

I thank the Senator from Massachusetts. I thank the Senator from Michigan. As long as the debate goes on, I shall continue to ask both Senators to justify the unequal treatment given Virginia by this act. It has not been justified to now.

Mr. HART. I will note in that connection that Virginia still registers fewer nonwhites than Louisiana or Mississippi.

Mr. ERVIN. Mr. President, Mark Twain said:

> Truth is very precious. Use it sparingly.

I am not going to do that. The truth is that this bill was sectional in conception. It has been sectional in execution.

It arises from the very unfortunate fact that it is still politically possible in the United States to browbeat the South. The bill was conceived by the administration then in power for the purpose of being sectional.

There were counties and areas in the North, including Harlem, that fell under the condemnation of this act. There were other areas outside the South. But this act contained a provision that could relieve those counties. All that the Department of Justice had to do was to enter consent judgments. The Department of Justice immediately entered a consent judgment dismissing from the provisions of this act every area of the country outside what is usually called the "Old Confederacy." That is the truth about this act. It is wholly a sectional act. It was conceived for political and sectional purposes and was executed in that way.

Despite the fact that truth is very precious and ought to be used sparingly, I make these remarks, which I am satisfied are the truth.

Mr. BYRD of Virginia. Mr. President, may I be yielded 1 minute?

Mr. KENNEDY. Mr. President, I yield 1 minute to the distinguished Senator from Virginia.

Mr. BYRD of Virginia. I thank the Senator from Massachusetts.

I should like the RECORD to show that according to evidence supplied the Committee on the Judiciary by the Department of Justice, not a single Federal registrar has been sent into a single precinct in a single county or city in Virginia. No Federal observers have been dispatched to oversee a single election anywhere in our State. This includes the period during which the act has been in existence.

This shows that Virginia has no irregularities in regard to voting, so far as the application of this law is concerned. It speaks well for the State of Virginia.

Yet the prevailing sentiment in the Senate is that despite Virginia's excellent record, she is being grossly and unfairly discriminated against. I think we are confronted with the fact that in this instance might makes right. There are enough votes in the Senate to pass a bill aimed only at seven States. That, of course, is permissible under the rules of the Senate. But I want the RECORD to show that I feel this is a grossly unfair proposition.

Mr. ERVIN. Mr. President, I can verify this fact of my own knowledge. Two attorneys who represented Gaston County in an effort to get Gaston County out from under the act informed me that they had negotiations with the Department of Justice, and that the Department of Justice told them that the Department had considered a consent judgment to dismiss Gaston County from the act if officials of Gaston County designed a statement to the effect that, if released from the act, they would not obey the State laws as to a literacy test.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. SPONG in the chair). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina.

On this question the yeas and nays have been ordered, and the clerk called the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), and the Senator from Washington (Mr. JACKSON), are absent on official business.

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from Alaska (Mr. GRAVEL). If present and voting, the Senator from Georgia would vote "yea" and the Senator from Alaska would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New Hampshire (Mr. MCINTYRE), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. GOODELL), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER), are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Idaho (Mr. JORDAN) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Vermont (Mr. PROUTY), and the Senator from North Dakota (Mr. YOUNG), are detained on official business.

The Senator from New York (Mr. JAVITS) would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 27, nays 48, as follows:

[No. 87 Leg.]

YEAS—27

Allen	Ellender	Long
Bennett	Ervin	McClellan
Byrd, Va.	Fannin	Murphy
Byrd, W. Va.	Fulbright	Sparkman
Cooper	Hansen	Spong
Cotton	Holland	Stennis
Curtis	Hollings	Talmadge
Dole	Hruska	Thurmond
Eastland	Jordan, N.C.	Williams, Del.

NAYS—48

Aiken	Griffin	Muskie
Allott	Harris	Nelson
Anderson	Hart	Pastore
Bayh	Hartke	Pearson
Bellmon	Hatfield	Pell
Bible	Hughes	Percy
Boggs	Inouye	Proxmire
Brooke	Kennedy	Ribicoff
Burdick	Magnuson	Schweiker
Cannon	Mathias	Scott
Case	McGee	Smith, Maine
Church	McGovern	Stevens
Cranston	Miller	Symington
Eagleton	Mondale	Williams, N.J.
Fong	Montoya	Yarborough
Gore	Moss	Young, Ohio

NOT VOTING—25

Baker	Javits	Randolph
Cook	Jordan, Idaho	Russell
Dodd	Mansfield	Saxbe
Dominick	McCarthy	Smith, Ill.
Goldwater	McIntyre	Tower
Goodell	Metcalf	Tydings
Gravel	Mundt	Young, N. Dak.
Gurney	Packwood	
Jackson	Prouty	

So Mr. ERVIN's amendment was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Chair recognizes the Senator from North Carolina.

AMENDMENT NO. 345

Mr. ERVIN. Mr. President, I call up my amendment No. 534 to the Scott substitute amendment No. 544, and ask that it be stated.

The PRESIDING OFFICER (Mr. LONG in the chair). The amendment will be stated.

The bill clerk read as follows:

SEC. . That 4(b) of the Voting Rights Act of 1964 is amended by striking "November 1, 1964" wherever it appears and submitting therefor "November 1, 1968", and by striking "November 1964" and submitting therefor 'November 1968".

The PRESIDING OFFICER. The Senate is not in order.

Senators desiring to carry on conversations will please retire to the cloakroom.

The Senator from North Carolina may proceed.

Mr. ERVIN. Mr. President, this amendment is to the Scott amendment No. 544.

Mr. KENNEDY. Mr. President, may I ask the distinguished Senator from North Carolina if he would like to make his amendment the pending amendment when the unfinished business is laid before the Senate tomorrow?

Mr. ERVIN. That is my purpose.

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the unfinished business is laid before the Senate tomorrow, the pending amendment be amendment No. 534, offered by the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Chair inquires if the understanding of the Senator from Massachusetts is that his unanimous-consent request includes the fact that time on the amendment will not run until tomorrow.

Mr. KENNEDY. That is my understanding.

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

Mr. HART. Mr. President, many people in this country have a deep concern with respect to the subject matter that is engaging the attention of the Senate for this second week—the Voting Rights Act of 1965 and its future.

There are few men and women in this country who have been more intimately associated with the operation of the act than those who served in the Department of Justice from 1965 until tonight. Before the 1965 act became law there were other men and women in the Department of Justice who had sought to implement the promise of the 14th amendment and the 15th amendment under the acts of 1957, 1960, and 1964.

Together, the men and women who served in the Department of Justice in the past 12 years, I think, are qualified witnesses to express an opinion with respect to the desirability of extending intact the 1965 act. Three former Department of Justice attorneys with experience in the Civil Rights Division have filed with me, and I believe with the Senator from Pennsylvania (Mr. SCOTT), a letter which encloses as signatories more than 140 attorneys who served in the Department during that period, all of whom desire to join in this statement.

It reads, in part:

"The undersigned attorneys who worked in the Department of Justice during the period 1957 to 1970 join together to support extension of the Voting Rights Act through August 1975.

The Act has proven itself in operation to be the soundest and most successful guarantee of the right to register and vote free of discrimination in the history of the United States. Through it, the Nation is redeeming the pledge of the Fifteenth Amendment for the first time in 100 years.

We believe there is a continuing need for the full protections of the Act which no lesser substitute would fulfill."

Mr. President, that letter was signed by and this effort was organized by Nathan Lewin, David H. Marlan, and Stephen J. Pollak. Their letter encloses a petition with additional signatures. Interestingly among the signers of this request, this council, this petition, are two former Attorneys General of the United States, Ramsey Clark and Nicholas Katzenbach, one former Deputy Attorney General, and also nine former Assistant Attorneys General, two former U.S. attorneys for the District of Columbia, more than 45 members of the Civil Rights Division of the Department of Justice, the head of the Civil Rights Section of the Criminal Division under the Eisenhower administration before it was a separate section, the two heads of the Civil Rights Division after it became a separate division under President Eisenhower are now Federal judges and, therefore, were not asked or solicited to participate in the expression and many lawyers who served in the Department of Justice during the Eisenhower and Kennedy administrations, some of whom served in the Department more than 25 years.

Mr. President, I ask unanimous consent that the letter from Nathan Lewin, David M. Marlin, and Stephen J. Pollak, the statement or petition, and the names of the 141 attorneys enclosed therewith be printed in the RECORD.

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

MARCH 9, 1970.

Senator PHILIP A. HART,
Washington, D.C.

DEAR SENATOR HART: As former Department of Justice attorneys with experience in the Civil Rights Division, we have been concerned about the fact that the Voting Rights Act of 1965 expires in August 1970 unless extended by the Congress.

We believe the Act has been the most successful piece of federal civil rights legislation in the history of our country. According to the most recent statement of the Department of Justice, black voter registration in the covered States and counties has doubled in the short space of 43 months since its passage. Expiration or dilution of the Voting Rights Act at this time would constitute a major setback for those who seek to make democracy work in meeting and resolving the problems of our time.

In the belief that the views of those who have been close to the problems of federal law enforcement since the enactment of the Civil Rights Act of 1957 might be helpful to the members of the Senate, we prepared a short statement of support for extension of the Voting Rights Act and invited former Justice Department attorneys to endorse it. To date 141 attorneys have signified their desire to join us in this statement:

"The undersigned attorneys who worked in the Department of Justice during the period 1957 to 1970 join together to support extension of the Voting Rights Act through August 1975.

"The Act has proven itself in operation to be the soundest and most successful guarantee of the right to register and vote free of discrimination in the history of the United States. Through it, the Nation is redeeming the pledge of the Fifteenth Amendment for the first time in 100 years.

"We believe there is a continuing need for the full protections of the Act which no lesser substitute would fulfill."

We enclose the names, dates of service, and divisions of these attorneys.

These 141 former Departmental attorneys, whose service in the Department spans the terms of Presidents Eisenhower, Kennedy, Johnson, and Nixon and covers every level in the Department from line attorney through Attorney General, have reason to know the practical consequences of a restriction of the Act's protections. We hope this expression of views will be of assistance to those members of the Senate who are presently determining the course to take with respect to this important national issue.

Sincerely yours,

NATHAN LEWIN.
DAVID H. MARLIN.
STEPHEN J. POLLAK.

LIST OF ATTORNEYS, DATES OF SERVICE, AND DIVISION

The undersigned attorneys who worked in the Department of Justice during the period 1957 to 1970 join together to support extension of the Voting Rights Act through August 1975.

The Act has proven itself in operation to be the soundest and most successful guarantee of the right to register and vote free of discrimination in the history of the United States. Through it, the Nation is redeeming the pledge of the Fifteenth Amendment for the first time in 100 years.

We believe there is a continuing need for the full protections of the Act which no lesser substitute would fulfill.

Attorneys period of service, and division:

Abramson, Frederick B., November 1961 to December 1966, Civil.
Acheson, David C., 1961 to 1965, U.S. Attorney for District of Columbia.
Atmore, Robert, October 1964 to July 1967, Civil Rights.
Austin, Stephen G., 1 year, Civil Rights.
Beveridge, Albert, III, 1966 to 1968, Tax.
Bingler, John H., Jr., 1965 to 1967, Civil Rights, and 1967 to 1970, U.S. Attorney for Pittsburgh.
Bleakley, Peter K., 1966, Antitrust.
Block, Allen D., 1967 to 1968, Civil Rights.
Branton, Wiley A., 1965 to 1967, Special Assistant to Attorney General for Civil Rights.
Bray, John M., 1962 to 1966, Tax.
Brenner, Edgar H., 1954 to 1957, Civil.
Bress, David G., 1965 to 1969, U.S. Attorney for District of Columbia.
Caldwell, Arthur, 1935 to 1957, Criminal, and 1957 to 1968, Civil Rights.
Chapman, Jerome I., 1965 to 1967, Office of Solicitor General.
Christopher, Warren, 1967 to 1969, Deputy Attorney General.
Clark, Ramsey, 1961 to 1969, Attorney General.
Cohen, Jonathan S., 1963 to 1969, Tax.
Craven, James B., III, 1968 to 1969, Civil Rights.
Crossland, David, June 1966 to November 1968, Civil Rights.
Davidow, Joel, 3½ years, Antitrust.
Donnenfeld, Charles, 1960 to 1963, Civil.
Dootlittle, J. William, July 1961 to June 1963, Office of Solicitor General, and June 1963 to November 1966, Civil.
Douglas, John W., 1963 to 1966, Assistant Attorney General, Civil.
Dragula, Fred W., 1963 to 1969, Civil.
Dyk, Timothy B., 1963 to 1964, Tax.
Edelman, Peter, September 1963 to September 1964, Special Assistant to Assistant Attorney General, Civil.
Ellperin, Stephen, September 1964 to September 1966, Civil Rights.
Feldman, Howard J., June 1964 to September 1968, Tax.
Ferris, Charles, 1961–63, Civil.
Filvaroff, David B., 1963–66, Office of Attorney General, Office of Deputy Attorney General.
Finkelstein, Joel, 1964–67, Civil Rights.
Finley, William T., Jr., 1968–68, Associate Deputy Attorney General.
Flocken, P. Jay, 1960–63, Antitrust.
Foster, Thomas Michael, September 1965 to August 1967, Civil Rights.
Freed, Daniel J., 1959–64, Antitrust; 1964–1969, Acting Director, Office of Criminal Justice.
Friedman, Victor, 1958–60, Office of Deputy Attorney General.
Geoghegan, Wm. H., 1961–65, Assistant Deputy Attorney General.
Glick, Martin R., 1964–66, Civil Rights.
Goldfarb, Ronald L., 1961–64, Criminal.
Gottesman, J. Michael, 1966–68, Civil.
Gough, Kerry, October 1, 1966 to July 30, 1967, Civil Rights.
Granger, David, 1961–65, Tax.
Graybeal, John F., 1962–68, Antitrust.
Guilfoyle, Joseph D., 31 years, Antitrust and Civil.
Hammond, Robert A. III, 1956–69, Antitrust.
Hardison, Donald, 1959–65, Antitrust.
Harris, Sidney, 1957–62, Antitrust.
Hedland, John S., 1965–68, Civil Rights.
Heffron, Howard A., 1959–60, Tax; 1960–61, Assistant Deputy Attorney General.
Heilbronner, Edward, 1964–68, Tax.
Hill, Frank, 1966–69, Civil Rights.
Himmelman, Harold, 20 months, Civil Rights.
Hoerner, Robert J., July 1963 to January 1965, Antitrust.
Hoffman, Joel E., 1960–63, Antitrust.
Jacobs, L. W., Jr., 1964–65, Criminal.
Joelson, Mark R., 1958–63, Civil.
Johnson, Robert K., 1965–68, Antitrust.
Jones, John B., Jr., 1961–65, Tax.
Jones, Lyle L., 1939–68, Antitrust.
Kahn, Arthur, May 1960 to October 1962, Antitrust.
Katzenbach, Nicholas deB. 1961–69, Deputy Attorney General, Attorney General.
Kelley, James L., 1964–67, 1968–69, Civil Rights, Off. Legal Counsel.
Kestenbaum, Lionel, 1961–69, Antitrust.
Kirby, John J., Jr.., 1961–63, 1967–68, Civil Rights.
Klingsberg, David, 1958–59, Off. Deputy Atty. Gen'l.
Kolker, Peter R., 1968–69, Off. Deputy Atty. Gen'l.
Kramer, Victor H., 19 years, Antitrust.
Kucik, George R., 1961–65, Antitrust.
LaRue, Lewis H., August 1965 to August 1966, Civil Rights; August 1966 to August 1967, Civil.
Leifer, Elihu I., October 1964 to November 1967, Civil Rights.
Levenson, Diane Wayne, 1½ years, Civil Rights.
Lewin, Nathan, 1962–63, Criminal; 1963–67, Office of Solicitor General; 1968–69, Civil Rights.
Londrigan, Thomas F., 1963–64, Asst. U.S. Atty., So. D. Ill.
Lord, George E., 1967–68, Civil Rights.
Lucas, Louis R., June 1960 to December 1964, Asst. U.S. Atty. for New Orleans; December 1964 to June 1967, Civil Rights.
Lyon, John W., 1964–68, Civil Rights
Marer, Alan G., 1961–67, Civil Rights.
Marlin, David H., 1961–65, Civil Rights.
Marshall, Burke, 1961–65, Assistant Attorney General, Civil Rights.
Martin, John S., Jr., July 1967 to September 1969, Office of Solicitor General.
Mayers, Daniel K., 1961–62, Tax.
McIntyre, Kenneth G., July 1963 to February 1967, Civil Rights.
Medalie, Richard J., January 1960 to May 1962, Office of Solicitor General.
Miller, Jeffrey M., 2 years, Civil Rights.
Miron, George, 1959–65, Antitrust.
Montgomery, Bruce L., 1960–62, Antitrust.
Moore, Donald Page, 1964–66, Criminal.
Murphy, Terrence R., 1966–68, Civil.
Nathan, Marvin D., 1966–68, Civil Rights.
Neal, James F., 1961–66, U.S. Attorney, M.D., Tenn.
Nesson, Charles R., 1965–66, Civil Rights.
Newman, Jon O., 1964–69, U.S. Attorney, Conn.
Nolan, John E., Jr., 1963–64, Administrative Assistant to Attorney General.
Norris, Grady J., 1965–69, Civil Rights.
Oberdorfer, Louis F., 1961–65, Assistant Attorney General, Tax.
Ortenberg, Reuben, April 1965 to September 1967, Civil Rights.
Paley, Stephen H., 1964–68, Tax.
Pergam, Albert S., September 1965 to August 1966, Civil Rights.
Pollak, Stephen J., 1961–69, Assistant Attorney General, Civil Rights.
Pugh, Richard C., July 1966 to November 1968, Tax.
Quaintance, Charles, 1964–70, Civil Rights.
Raywid, Alan, 1957–66, Civil.
Redmond, Daniel M., 1961–63, Civil.
Reilly, John R., January 1961 to January 1964, Office of Deputy Attorney General.
Reis, Harold F., 25 years, Executive Assistant to Attorney General, Criminal.
Reycraft, George D., December 1952 to December 1961, Antitrust.
Rivlin, Lewis A., 1957–64, Civil (2 years), Antitrust (5 years).
Rogovin, Mitchell, January 1966 to January 1969, Assistant Attorney General, Tax.
Rotatori, Robert J., 1962–64, Antitrust; 1964–69, Office U.S. Attorney for Cleveland.
Rubin, David, 1959–65, Civil Rights.
Ryan, Leonard E., 1966–68, Civil Rights.

Salzman, Richard S., July 1962 to December 1967, Civil.
Sand, Leonard B., 1953–55, Assistant U.S. Attorney, South District of N.Y.; Assistant Solicitor General.
Schlei, Norbert A., August 1962 to March 1966, Assistant Attorney General, Office of Legal Counsel.
Sexton, John J., 1954–58, Tax.
Silk, Thomas, 1964–68, Tax.
Silver, Laurens H., 1963–65, Criminal.
Silver, Lawrence B., 1963–67, Tax.
Sisk, Marcus W., Jr., July 1964 to February 1965, Civil Rights.
Slawson, W. David, 1965–67, Office of Legal Counsel.
Smith, Jeffrey L., October 1966 to October 1969, Civil Rights.
Solomon, Richard A., February 1958 to May 1962, Antitrust.
Sonnenschein, Marco S., March 1964 to January 1969, Tax.
Spritzer, Ralph S., 1947–68, Office of Solicitor General.
Steiner, David A., October 1967 to May 1968, Civil Rights.
Stern, Gerald M., June 1961 to February 1964, Civil Rights.
Strout, Arthur, 2½ years, Tax.
Taylor, Leigh H., June 1966 to September 1968, Civil Rights.
Terris, Bruce J., 1957–65, Office of Solicitor General.
Terry, Joseph Ray, 4 years, Civil Rights.
Tirana, B. R., 1962–64, Civil.
Turner, Donald F., 1965–68, Assistant Attorney General, Antitrust.
Van Alstyne, William, 1958–59, Civil Rights.
Vinson, Fred M., 1965–69, Assistant Attorney General, Criminal.
Wasserstrom, Richard, 1963–64, Civil Rights.
Weinstein, Les J., 5 years, Antitrust.
Weissman, William R., 1966–69, Antitrust.
Wertheimer, Richard J., September 1960 to February 1965, Antitrust.
Wilkins, Roger W., April 1966 to January 1969, Director, Community Relations Service.
Wright, Robert, 15 years, Antitrust.
Zimmerman, Edwin M., July 1965 to January 1969, Antitrust.

Mr. HART. Mr. President, I believe that these men speak from a background of knowledge and understanding, and that should persuade Members who have had less association and, therefore, less experience with the difficulties that are thrown in the road of the Department of Justice personnel seeking to protect all of us equally in this country. This counsel is most helpful. I know it will be given very thoughtful consideration.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received, and which I understand other Senators have received, from Mr. John W. Gardner, chairman of the Urban Coalition Action Council, signed also by Andrew Heiskell, A. Philip Randolph, Whitney M. Young, Jr., and W. D. Eberle.

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

THE URBAN COALITION
ACTION COUNCIL,
Washington, D.C., March 6, 1970.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: We are writing to urge you to support the Scott-Hart voting rights bill. We believe it is vital that the 1965 Voting Rights Act be extended without amendments that would allow many states to revert to discriminatory practices which prevented minority citizens from registering and voting.

We simply must not slow down in our efforts to insure that every citizen has access to the ballot box. If we tell our minority citizens to support the democratic process and work within the electoral system, then we must insure that they have full and free access to the voting rolls.

The 1965 Voting Rights Act was landmark legislation that has been remarkably successful in assuring the right to vote to hundreds of thousands of people. A change in this historic Act at this time would be a drastic step backward for the cause of human rights and the democratic process.

Sincerely,

JOHN W. GARDNER,
Chairman.

On behalf of the Urban Coalition Action Council and its Co-chairmen:

Andrew Heiskell, Chairman of the Board, Time, Inc.

A. Philip Randolph, International President-Emeritus, Brotherhood of Sleeping Car Porters.

Whitney M. Young, Jr., Executive Director, National Urban League.

W. D. Eberle, President, American Standard.

Mr. PERCY. Mr. President, I should think that the very dedicated men who have sent this letter can serve as an important guide to us. John W. Gardner's dedication to this country is particularly distinctive as is his concern about our future, his understanding of our cities, and understanding of people who live in those cities.

I believe the action of the Senate today and in recent days in standing firm on voting rights legislation which has been adopted in the past, successfully implemented and judicially upheld, must be very encouraging to him. It should also be encouraging to all Americans who believe in equal rights of expression and equal voting privileges, rights which are fundamental to our form of government.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 28 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, March 10, 1970, at 10 a.m.

NOMINATION

Executive nomination received by the Senate March 9, 1970:

DIPLOMATIC AND FOREIGN SERVICE

William D. Brewer, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

EXTENSIONS OF REMARKS

VFW CONGRESSIONAL AWARD TO SENATOR JACKSON

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1970

Mr. ROUDEBUSH. Mr. Speaker, a former Member of this body who is a distinguished Member of the Senate will be honored tomorrow night by the Veterans of Foreign Wars of the United States. The 7th annual VFW Congressional Award will be presented at the 1,500,000-member organization's annual congressional banquet at the Sheraton-Park Hotel. I know that the great majority of Members of both the House and the Senate will be on hand to honor our distinguished colleague.

According to VFW Commander-in-Chief Ray Gallagher, of Redfield, S. Dak., the VFW chose "Senator JACKSON because of his studious and hard-working approach to the Nation's problems during his nearly 30 years in Washington. Senator JACKSON was prominent in passage last year of legislation for the antiballistic missile system. During Senate debate he warned that the Soviet Union is a 'dangerous, unpredictable opponent'."

Senator JACKSON was first elected to the House of Representatives in 1940. He served six terms and was elected to the Senate in 1952. In 1960, he was chairman of the Democratic National Committee. Presently, he serves on three major Senate committees, plus a joint committee. He is chairman of the Senate Interior and Insular Affairs Committee and has long fought pollution and for conservation of the Nation's natural resources. As a member of the Government Operations Committee he is chairman of a Subcommittee on National Security and International Operations, and a ranking member of the McClellan Investigations Subcommittee.

The Senator serves on the Armed Services Committee and is a member of the subcommittee which oversees the activities of the Central Intelligence Agency. He is chairman of the Subcommittee on Atomic Weapons of the Joint Committee on Atomic Energy. He also serves as ex officio member of the Defense Appropriations Subcommittee of the Committee on Appropriations.

Commander Gallagher said:

I feel that we could not have made a better choice to receive the Congressional Award than Senator Jackson. He certainly embodies the aspirations for our Nation held by all members of the Veterans of Foreign Wars.

The congressional award is the highest honor presented by the VFW. It was first awarded to former Senator Carl Hayden of Arizona in 1964. Recipients since have been: Speaker of the House JOHN W. MCCORMACK, of Massachusetts, former Senate minority leader Everett McK. Dirksen of Illinois, Representative WILBUR MILLS of Arkansas, Senator RICHARD RUSSELL of Georgia and in 1969, Representative OLIN E. TEAGUE of Texas.