tucky; WILLIAM A. STEIGER, Republican of Wisconsin; CHARLES M. TEAGUE, Republican of California; WILLIAM B. WIDNALL, Republican of New Jersey; and JOHN M. ZWACH, Republican of Minnesota.

FREDERICK B. LACEY

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FRELINGHUYSEN. Mr. Speaker, in recent days charges have been leveled at the Honorable Frederick B. Lacey, U.S. attorney for New Jersey, who is leading a most effective anticrime campaign in that State.

The charges are, in my opinion, most unfair. The New Jersey State Bar Association has approved a resolution expressing its complete confidence in Mr. Lacey. I am inserting in the RECORD a copy of the resolution.

RESOLUTION

Whereas, certain stories have recently appeared in the news media reporting that an individual or individuals outside of the State of New Jersey have called for the resignation or removal of the Honorable Frederick B. Lacey as United States Attorney for the District of New Jersey; and

Whereas, we are completely satisfied that the request and reasons therefor are utterly without merit;

Now therefore be it resolved that the Board of Trustees of the New Jersey State Bar Association express their complete, unequivocal, and unreserved confidence in the ability and integrity of the Honorable Frederick B. Lacey, and our enthusiastic support for the manner in which he has performed the duties of his office.

Be it further resolved that copies of this resolution be sent to President Richard M. Nixon, the New Jersey congressional delegation, and the United States Department of Justice.

SENATE—*Thursday, March 19, 1970*

The Senate, as in legislative session, met at 11 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, whose mercies are new every morning, take from our souls the strain and stress and let our ordered lives confess the beauty of Thy peace. Enfold us in Thy love and grant us wisdom from above. Give us understanding minds, patient hearts, and wills in tune with the infinite and eternal. Help us all in this place to lift the difficult decisions of national service into Thy holy light. Enable us to walk and work with eyes ever fixed upon that new day when Thy kingdom comes and Thy will is done on this earth.

In the Redeemer's name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 19, 1970.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 18, 1970, be dispensed with.

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

ORDER OF BUSINESS

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

Mr. MANSFIELD. Mr. President, will the Senator from Wyoming yield to me without losing his right to the floor or any of his time.

Mr. HANSEN. I am most happy to yield to the distinguished majority leader.

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 ADJOURNMENT UNTIL 11 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR COOPER FOR 15 MINUTES TOMORROW

Mr. MANSFIELD. I ask unanimous consent that immediately upon approval of the Journal on tomorrow, the distinguished Senator from Kentucky (Mr. COOPER) be recognized for not to exceed 15 minutes.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 737 and 738.

The ACTING PRESIDENT pro tempore. The clerk will state the first resolution.

FIFTH INTERNATIONAL CONFERENCE ON WATER POLLUTION

The joint resolution (S.J. Res. 162) in recognition of the Fifth International Conference on Water Pollution Research, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 162

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress declares that—

(1) the International Association on Water Pollution Research was formed in 1960 to bring scientists and engineers from throughout the world together in the fight against water pollution; and

(2) the objectives of the association are to contribute to a better understanding of water pollution problems, to encourage the exchange of scientific knowledge, to better enable the nations of the world to combat water pollution problems, to narrow the gap between actual and optimum use of water resources, and thus to contribute to continuing social and economic progress; and

(3) a lack of maximum communication and coordination between research programs has retarded efforts to effectively utilize all funds available for water pollution research performed in various countries; and

(4) efforts by the International Association on Water Pollution Research have materially assisted in alleviating duplication in pollution research, have fostered the exchange of scientific resarch data, and have significantly benefited all nations in their programs to control water pollution; and

(5) the international association has sponsored biannual conferences on water pollution research which have provided scientists, engineers, and administrators a forum for formulating an international activities program to permit concerted and cooperative water pollution research; and

(6) President Richard Nixon, in his address of September 19, 1969, to the United Nations, stated that "the task of protecting man's environment is a matter of international concern"; and

(7) in that address the President pledged the strong support of the United States for "international initiatives toward restoring the balance of nature, and maintaining our world as a healthy and hospitable place for man"; and

(8) the Fifth International Conference on Water Pollution will be held in San Francisco, California, July 26, 1970, through August 1, 1970, and will be reconvened in Honolulu, Hawaii, from August 2, 1970, through August 5, 1970, to deal with water pollution, one of the most important problems of the United States and the world.

(b) Therefore, all Federal departments and agencies, the States, and all interested persons and organizations, both public and private, are urged to cooperate with, and

assist fully, the Fifth International Conference on Water Pollution, the United States National Committee, and the California and Hawaii Host Committees in making the 1970 conference the most outstanding, productive, and successful yet held.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–742), explaining the purposes of the measure.

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

PURPOSE

The purpose of Senate Joint Resolution 162 (introduced by Senator Murphy for himself, Mr. Boggs, Mr. Cranston, Mr. Fong, Mr. Inouye, and Mr. Muskie), is to seek the cooperation of the Federal and State Governments and all interested persons and organizations to assist in the Fifth International Conference on Water Pollution. The conference will be held in San Francisco, Calif., from July 26 through August 1, 1970, and will be reconvened in Honolulu, Hawaii, from August 2 through August 5, 1970. Previous conferences have been held in London (1962), Tokyo (1964), Munich (1966), and Prague (1969). A future conference is scheduled to be held in Israel in 1972.

COST OF U.S. PARTICIPATION

Although the resolution does not request an authorization for an appropriation of funds for the Conference, in a letter dated February 20, 1970, the Department of State informed the Committee that on January 6, 1970, the Department of the Interior made a $70,000 contribution to the International Association on Water Pollution Research and the California host committee to support the U.S. participation in this Conference.

ADMINISTRATION COMMENTS

From the standpoint of the administration's program the Bureau of the Budget has no objection to Senate Joint Resolution 162, and according to the Department of State, it "will be happy to do all it can to facilitate the attendance of visitors from abroad."

COMMITTEE ACTION

Senate Joint Resolution 162 was introduced on October 21, 1969, by Senator Murphy (for himself and Senators Boggs, Cranston, Fong, Inouye, and Muskie) and referred to the Committee on Foreign Relations the same day. After the receipt of favorable executive branch comments on February 20, 1970, the joint resolution was considered by the committee during an executive session held on March 12, and ordered reported to the Senate with the recommendation that it be approved.

COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

The resolution (S. Res. 366) authorizing expenditures by the Select Committee on Equal Educational Opportunity, was considered and agreed to, as follows:

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.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–743), explaining the purposes of the measure.

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

Senate Resolution 366 would authorize the expenditure of not to exceed $375,000 by the Select Committee on Equal Educational Opportunity, from the date of approval of this resolution through January 31, 1971.

The Select Committee on Equal Educational Opportunity was established by Senate Resolution 359, agreed to February 19, 1970: To study the effectiveness of existing laws and policies in assuring equality of educational opportunity, including policies of the United States with regard to segregation on the ground of race, color, or national origin, whatever the form of such segregation and whatever the origin or cause of such segregation and to examine the extent to which policies are applied uniformly in all regions of the United States.

Senate Resolution 366, the present proposal, would provide the select committee with the necessary funds to carry out that purpose.

The membership of the Select Committee on Equal Educational Opportunity is composed of three majority and two minority members of the Committee on Labor and Public Welfare, three majority and two minority members of the Committee on the Judiciary, and three majority and two minority Members of the Senate from other committees. The members of the select committee are appointed in the same manner as the chairmen and members of the standing committees of the Senate.

Pursuant to Senate Resolution 359, the select committee shall make an interim report to the appropriate committees of the Senate not later than August 1, 1970, and shall make a final report not later than January 31, 1971. Such reports shall contain such recommendations as the committee finds necessary with respect to the rights guaranteed under the Constitution and other laws of the United States, including recommendations with regard to proposed new legislation, relating to segregation on the ground of race, color, or national origin, whatever the origin or cause of such segregation.

(At this point Mr. EAGLETON assumed the chair as Presiding Officer.)

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

Mr. MANSFIELD. I yield.

Mr. SCOTT. As a member of the Committee on Rules and Administration, I want to mention that the functions of the Select Committee on Equal Educational Opportunity were rather fully discussed in that committee with the chairman, the Senator from Minnesota (Mr. MONDALE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA). It was made clear in the colloquy among those testifying and members of the committee that the purpose of this select committee is pretty well defined by the debate which took place in the Senate; that it is hoped the select committee will complete its business at the time set, and will then report at a time later decided on; and that the select committee would not necessarily expect indefinite continuances.

The functions of the select committee are not to impinge on the functions of the standing committee having jurisdiction but it is, rather, to look into the entire question of integration, busing, and all the many other complex and agonizing questions which were considered within the framework of debate on the Voting Rights Act. The select committee is not expected to go into the whole question of the educational system, the right to read, the roles of Federal and State governments and the local communities.

Therefore, I make this statement so that it may become a part of the record of the Senate, that the select committee itself accepts the limitations of its scope as being within the general framework of what went on in the Senate during debate on the voting rights bill.

I thank the Senator from Montana and the Senator from Wyoming for yielding me this time.

Mr. MANSFIELD. I am delighted that the distinguished minority leader has made these remarks. May I suggest that the most forgotten of all minorities, the American Indian, not be forgotten during the course of this study.

Mr. SCOTT. I think the study is broad enough to include all minorities. There were things said on the floor regarding Mexican Americans, Latin Americans, and I would think that the rights of all minority groups are involved in this thing and will be considered.

It is the intent that all American children shall have a better opportunity to learn more than they are learning now; but this is limited in this context to the functions of the select committee as it understands it and as the Committee on Rules and Administration understood it.

Mr. MANSFIELD. That is why I said I hope that the American Indians will not be forgotten.

I would only add that I believe the resolution that established this committee clearly defined the scope of this select committee's responsibilities. I am certain that the able chairman of the select committee, the distinguished Senator from Minnesota (Mr. MONDALE), who authored that resolution, will interpret correctly its full scope.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, and the approval of the distinguished minority leader, I wish to announce that after the votes on the two treaties, shortly after noon, it is our intention to call up the conference report on the Eisenhower dollar legislation at that time.

I thank the distinguished Senator from Wyoming for yielding.

Mr. SCOTT. So do I.

THE FACTS ABOUT CANADIAN OIL IMPORTS

Mr. HANSEN. Mr. President, to those who have voiced objections to the President's recent proclamation establishing a temporary, formal limitation on imports of crude oil and unfinished oil from Canada into districts I–IV of the United States, I would like to point out some of the underlying factors involved in the cutback.

First, Canadian imports were running far in excess of the rate of 332,000 bar-

rels per day previously agreed upon between the two Governments and were approaching some 600,000 barrels. In addition, imports to the west coast were entering the country at a rate that added up to an overall total of around 800,000 barrels per day.

This represents more than half of Canada's total daily production and also an increase in just 2 months of more than 150,000 barrels daily. Although the Canadian Minister of Energy, Mines and Resources, J. J. Greene, said he thought the cutback was a "mistake," he also said that he knew the abnormal surge in Canadian imports had been disruptive to American producers and markets.

Even the Oil Import Task Force report recommended an increase of total Canadian imports to only 615,000 barrels per day by July 1970, and about the rate that will be in effect after the cutback.

The Canadians, themselves, had acknowledged the problem and, as a result, a National Petroleum Advisory Committee was established only last month.

The Honorable J. J. Greene, Canadian Minister of Energy, Mines and Resources, in a speech to the Canadian Petroleum Association in February, made it perfectly clear that the Canadian Government was concerned over what he termed, "this extraordinary fluctuation in our exports" to the United States.

The critics of the oil industry and the President's proclamation on Canadian imports have, as usual, distorted the facts and ignored the basic and underlying reasons for the cutback and the inclusion of Canadian oil imports under a formal agreement arrangement, rather than the voluntary agreement which had proved meaningless.

Let us examine the President's proclamation which prompted the outcry from the usual critics of anything the oil industry does or does not do.

The proclamation signed by the President was based on the national security provisions of the mandatory oil import program—section 2 of the act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877).

The proclamation noted:

The Cabinet Task Force on Oil Import Control, established in March, 1969 to conduct a comprehensive review of the mandatory oil import restrictions under Proclamation No. 3279, as amended, submitted, on February 2, 1970, a report concluding that the existing overland exemption in combination with a system of restriction based on international agreements does not effectively serve our national security interests and leads to inequities within the United States and recommending that volumetric restrictions on the importation of Canadian oil be established as a means of interim control during the period of transition to an alternative United States-Canada energy policy.

The Director of the Office of Emergency Preparedness, with the concurrence of the Oil Policy Committee, has recommended that the importation into Districts I–IV of Canadian crude and unfinished oils heretofore subject to voluntary controls, while exempt from mandatory controls, be limited to 395,000 average barrels per day in the period March 1, 1970 through December 31, 1970, in order to institute a more effective system of import control for the accomplishment of the national security purposes of Proclamation 3279, as amended.

I agree with the recommendation of the Director and deem it necessary in the interest of the national security objectives of Proclamation 3279 to establish an orderly limitation on the importation into Districts I–IV of Canadian crude and unfinished oils.

Mr. President, one may note that the proclamation was based on not only the national security provisions of the mandatory oil import program, but also on the recommendations of the Cabinet Task Force on Oil Import Control, as noted in the proclamation.

When the President released the task force report in late February, there was the usual and expected outcry from the usual and expected oil industry critics because the President had not adopted in total the task force recommendations but had, instead, followed part of the task force recommendations by creating an interdepartmental panel under the chairmanship of the Director of Office of Emergency Preparedness.

In establishing the Oil Policy Committee, the President noted that all members of the task force agreed that a unique degree of security can be afforded by moving toward an integrated North American energy market and that he had directed the Department of State to continue to examine, with Canada, measures looking toward a freer exchange of petroleum, natural gas, and other energy resources between the two countries.

Those who now criticize the President's action apparently have not examined the task force recommendations which they say should have been adopted. What the task force recommended is essentially what the Presidential proclamation will accomplish. On page 105, the report states:

Canada would be permitted to export to the United States as a whole 615,000 barrels of crude or products at existing rates during the first six months of the transition—roughly the volumes expected in July, 1970.

At the time the President issued the proclamation, Canadian imports were running at a rate of between 550,000 and 600,000 barrels per day for the area east of the Rocky Mountains and at 235,000 barrels per day for the west coast area.

The agreement between the United States and Canada called for a rate of 332,000 barrels per day for 1970. Imports to the west coast area are restricted only to the difference between actual production in that area and total consumption. The gap is about 482,000 barrels daily and of this shortage, Canada is supplying approximately half.

So the cutback to 395,000 barrels for the area east of the Rocky Mountains still represents an increase for 1970 of 63,000 barrels above the informal agreement with Canada and 15,000 barrels more per day than even the task force had recommended by July 1970.

And, actually, most of the complaint is coming from the usual sources in the Senate, the New York Times, the Boston Globe, and the Washington Post, rather than from the Canadians, who realize that they still have a pretty good thing going when they can import more than half of their requirements at cheap foreign rates and, at the same time, export more than half of their domestic production to the higher priced U.S. market.

Let me quote Mr. Greene, their Minister of Energy, in regard to that point. Greene said in his recent speech to Canadian oil producers:

It will be no surprise for me to tell you that the United States authorities are concerned at this extraordinary fluctuation in our exports.

I hope it will not surprise you to know that the Canadian Government is also concerned.

This concern stems partly from the nature of our oil relations with the United States and our current understandings with the American Government. The development of our petroleum resources and the growth of our industry is predicated in part on expansion of exports to the U.S.A. The Canadian industry has benefited greatly from the relatively free access it has had to this large and valuable market. We have fought hard for this access and will continue to do so. But the current surge in Canadian exports undoubtedly poses a problem for the United States authorities in the short run. We have always recognized that the overland exemption to which we attach the highest importance carries with it the responsibility of avoiding disruption of U.S. markets. I feel therefore that we must be prepared to give the Americans what assistance we can in dealing with their short-term problem if we are to approach the bargaining table regarding long-term arrangements in a spirit of mutual confidence and with a likelihood of success.

I have had some concern about the high level of exports in relation to the domestic situation. With trunk pipe lines operating at or near capacity, we find ourselves virtually without any cushion to deal with emergency circumstances which may arise in the short-term. This I find disturbing. It has been part of our posture in regard to the matter of supply security that we maintain a measure of emergency capacity to the U.S. West Coast and also to Ontario as a back-up for Quebec's oil supply. The current high level of oil exports leaves us virtually without this cushion.

And in regard to the eastern Provinces of Canada which now depend on some 700,000 barrels per day of foreign oil, Minister Greene said:

The Federal Government would have welcomed and encouraged any industry initiative designed to market western Canadian oil on an economic basis east of Ontario, but such has not been forthcoming and eastern Canada remains dependent on imports.

The fact of continued reliance on overseas supplies for approximately half of our domestic oil requirements has in recent months brought the question of the security of imported supply into public debate. This is both inevitable and desirable. It is inevitable because of continuing conflict in the Middle East and other oil-supplying areas, and desirable because basic issues relating to our national oil policy must be, and are, subject to periodic reappraisal.

A related matter which has arisen in the course of the deliberations of the U.S. Cabinet Task Force on Oil Import Control is that of the continued security of Canadian supplies to U.S. markets in a situation where Canada is heavily dependent on imports for its own needs.

The National Energy Board is giving continuous consideration to these problems. In particular, the Board is seeking to determine whether imported supplies which have proved reliable in previous crisis circumstances are likely to be any less secure in the future and, if so, what means could best be employed to

ensure an acceptable degree of security of eastern Canadian Oil supply.

I do not wish to anticipate the Board's findings, but should it advise that a supply security problem does exist, then I am ready to urge a policy of progressive reliance on more secure sources for eastern Canadian supply.

The complete answer to this would be the discovery of large resources on the Atlantic Shelf or in the Canadian Arctic. Even at the present rate of exploration in these areas, I think it appropriate for the Canadian Government to have a policy of no net dependence on United States oil supplies in times of emergency. I am not sure that this involves a drastic change in policy, as I understand that in the circumstances arising out of the Mid-East conflicts of 1956 and 1967 some U.S. oil was shipped to eastern Canada but these imports were greatly exceeded by emergency deliveries of Canadian oil to the U.S. West Coast. We intend to take steps to ensure that such a swap-out will be feasible in the future and that Canada is never likely to be in a position of posing a greater demand on U.S. sources in the east than it can compensate in the west. This type of arrangement whereby we bolster each other's security of supply makes good sense for both countries.

Canada is not yet self-sufficient in oil production—that is, the ratio of her total production to total consumption—but is rapidly approaching that capability. Whereas in 1960, Canadian production was 544,000 barrels daily—63 percent of domestic demand—today production is 1,300,000 barrels—95 percent of domestic use.

But rather than to continue to eat her cake and have it too, by the heavy use of cheap imports while realizing a substantial profit from more than half her production in sales to the United States, Minister Greene warned the Canadian producers that this "best of two worlds" would not continue as Canadian production increases. He said, and I quote:

It is also incumbent upon me to serve notice to eastern Canadian refiners that, in the event oil supplies become available to them from any of a number of potential producing areas in Canada, they will be required to give preference to such indigenous oil over imported material.

Minister Greene has taken a realistic and sensible approach to this problem and rather than flailing the industry and ignoring its advice and recommendations as the majority of the Cabinet Task Force on Oil Import Control chose to do, he consulted with the industry and sought its advice in setting up a National Petroleum Advisory Committee.

And rather than locking the industry out of a study of its problems as did the Chairman of the President's Cabinet Task Force, Greene addressed the Canadian oil producers, as follows:

In representing a major segment of Canada's petroleum industry, and in representing a distinctly prominent sector of the general Canadian Petroleum Association membership, I want to assure you—if such assurance is necessary—that the Federal Government is deeply impressed with the national importance of the oil industry, the magnitude of its problems and the great potential of its future.

We face a series of difficult and critically—important policy decisions relating to the petroleum industry. I have therefore been most anxious that government should be able to draw on the best wisdom and experience of the industry and have taken vigorous steps to this end.

Thus, since reassuming the full responsibilities of my portfolio I have committed myself to regular consultation with the leadership of your Association and with that of the Independent Petroleum Association of Canada. I had most useful meetings with these groups yesterday.

In addition, I have established a National Petroleum Advisory Committee. This group is already at work and I am confident that it will afford an extremely valuable input to our policy deliberations. You will recall that the mmebership includes two persons selected on the advice of this Association: I am most gratified to have been able to bring together a group of men of such outstanding caliber to serve our country in this way.

I regard the Advisory Committee as a most important development which will enable us to draw more effectively on the collective wisdom of the industry. However, I have sought to make clear that its appointment is intended to broaden the range of advice available to me rather than to displace existing sources of advice.

This is indeed a fresh approach and one that certainly should have been used by the chairman of the President's Task Force, rather than a panel of academicians with no practical knowledge of or expertise in the petroleum industry and who, according to testimony in recent hearings, did not even consult with recognized experts in the oil and gas industry.

In reading the rationale of some of their observations and recommendations, it would appear that the eminent economists, professors and lawyers who made up the task force staff were more interested in applying their own theories and creating an inanimate, federally regulated and controlled industry that could not possibly under the conditions they imposed, provide either national security of our energy resources or continue as a progressive, viable and vital part of the Nation's economy and develop massive energy needs of the future.

Mr. President, I commend the Canadian Minister for his recognition of the short-term problem and the long-range goals of a United States-Canada energy policy which President Nixon has directed the Department of State to continue to examine toward a freer exchange of petroleum, natural gas, and other energy resources between the two countries.

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

Mr. HANSEN. I yield.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. However, we are in the period for the transaction of routine morning business.

Mr. HANSEN. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

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

Mr. HANSEN. I yield to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I commend the Senator from Wyoming for drawing attention to developments in Canada. I recently participated in a Canadian-United States Interparliamentary Conference. The question of the recent action of the United States concerning imports from Canada was raised and discussed at length at that meeting. It should be noted that the concern—I should say "interest"—of the Members of Parliament, was directed toward what the Senator has pointed out: the development of a long-range energy policy for our two nations. It is important to recognize there was no criticism of the level of the 395,000 barrels a day that has been imposed by virtue of the recent order of the United States on imports from Canada.

Rather, the interest really was in trying to make the continental policies workable.

I would call the Senator's attention to this important observation. So long as we maintain—and I hope we will maintain—an oil import quota system we may well find that our programs, whatever they might be, would be unworkable unless our Canadian neighbors joined in and agreed with us on an overall oil policy.

A fresh approach was taken by members of the Canadian Parliament who came to discuss matters not only with Members of Congress, but also with those who are negotiating for the executive branch through the Department of State, for an energy policy.

The Senator is correct when he says that the Canadians seem to be wiser than we in utilizing those who have expertise in the field. They are listening to members of their industry, particularly those who have the voices of the developing industry in their north country, just as we have a developing oil industry in our Alaska north country.

I would hope that those downtown who are dealing with this policy would heed the Senator's advice and would listen to and take heed of what the members of the oil industry of this country are saying with regard to the future of this industry.

I am sure the Senator knows full well what has happened in our natural gas industry under the regulation that has come about in the production field. Our resources and our known supply of natural gas have declined. If we are to have a vital energy policy, it must include natural gas as well as petroleum.

I commend the Senator for bringing to the attention of this body developments in our neighboring country, so far as the Canadian task force and the actions of the Canadian Minister of Energy are concerned. They have developed a very enlightening approach in Canada in looking at the total problem.

I hope we will follow the same approach. I believe that is what the Senator is suggesting to our executive branch.

Mr. HANSEN. That is indeed what I am suggesting. I want to express my appreciation to my distinguished colleague, the senior Senator from Alaska, who himself is a student of considerable note of the whole matter of energy, insofar as the contribution to that important facet of our economy comes from oil and gas. He is a realist, as are the Canadians.

I would hope this country could face up to the facts and recognize that unless we shore up our domestic reserves, both in oil and natural gas, we are going to

be at the mercy, in an increasing quantity of measure, of foreign suppliers—a position that I think is inimical to the best interests of this country, and a position which would hurt the United States all around.

Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

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

Mr. HANSEN. If we do not now take steps to shore up our natural gas and oil supplies in this country, we will find, as Canada now realizes, and as other countries throughout the world realize, that nothing is higher priced than something one has to have that someone else owns. It is because of the awareness of that fact by the senior Senator from Alaska that I am happy to join with him in carrying on a continuing crusade which I hope will bring to the attention of the American public the fact that natural gas and oil, taken together, provide 75 percent of our energy requirements in this country now.

Natural gas is the best fuel we can use as we try to fight the battle of pollution. We ought to be encouraging the development of its supply in this country rather than discouraging it, which will happen if we do away with the mandatory oil import program. If we want to encourage it, we have to give the industry greater assurance than we have given it up to the present time, or we will find fewer and fewer dollars will be going into exploration and fewer and fewer dollars will be going into actual reserves and production of gas. Out of that result will come an increasing dependence upon foreign sources of these energy fuels, or of alternative sources within our own country, neither of which I think serves the national interest at this time.

I thank the distinguished Senator from Alaska. He is most knowledgeable. I am very grateful to him.

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

Mr. HANSEN. I yield.

Mr. AIKEN. I do not want to put any flies in the ointment, but people in New England are also realists. Could the Senator give us any good reason why, when nearly 500,000 barrels of oil a day are unloaded in New England, for the cheapest heating oil we have to put up 2 or 3 cents a gallon more than the rest of the country? I realize the answer is that these 500,000 barrels have to go through a pipeline, across Maine, Vermont, and New Hampshire, to Montreal, and that eastern Canadians get the benefit of it.

It would be very helpful, if we were working out a long-range energy program—and I think it has to be energy, rather than oil, gas, uranium, or even hydro—that the administration do something to relieve the situation which we have been encountering in New England for the last several years. This situation is not warranted. Why they permit it to continue, I do not know.

I agree that we need a continental program for energy, and I know the Canadians—many of them, anyway—feel that we should deal in terms of energy rather than oil or other sources of energy. I think they are right about it.

We have to work together, but I do think in the meantime, if the Senator from Wyoming would pass this message along to the administration also, it would be very helpful if they could find some way—and there is a way—in which they could bring the price of heating oil in New England down to at least the average for the rest of the country.

I realize that Wyoming is the one State in the Union that pays more for oil than Vermont does. There is a reason for that. Just pass the message along to the White House, Senator.

Mr. HANSEN. Mr. President, if I may respond to my distinguished and dearly loved friend, let me say, first of all, that we should not forget that oil and natural gas today are among the biggest bargains to be found anywhere in our country, and I include New England when I say that. If one considers the average price index, the price of oil and gas has gone up not nearly as much as has the average cost of living.

I would point out, also, that at the wholesale level in New England, oil and gas are not in excess of the price throughout the rest of the country. The Senator asked why it is higher there. As a cattleman and producer of meat, I will ask the Senator, why there is a big difference between the price the farmer receives for an animal he sells on the market as compared with the price of steak. The cost of oil and gas to New England consumers does not result from the wholesale price, but, rather, from the retail prices that are added to it after it leaves the wholesaler.

During the past decade, the price of home heating oil has increased about 17 percent compared with a consumer price index rise of 26 percent. The task force report said that higher prices in New England for home heating oil appeared to be a matter of higher dealer margins and that New England wholesale prices were actually a little less than other parts of the United States.

So I would call attention to the fact that I have concern for New England and the fact that the people of New England are dependent upon oil and natural gas supplies. If we do not give greater encouragement to this industry than we are presently giving it, the people of New England could very well face a situation that would be completely intolerable, a situation which would result in a very great shortage of natural gas so that furnaces throughout all of New England could no longer be used because there would be no gas to supply them. This has been predicted by John Nassikas, Chairman of the Federal Power Commission, who has said that we have got to see to it that the oil producers of this country get a little better break pricewise or we are not going to have the gas to supply the homes of New England or the factories of the whole United States.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The time of the Senator from Wyoming has again expired.

Mr. HANSEN. May I have 5 additional minutes?

The PRESIDING OFFICER. Without objection, the Senator will be recognized for not to exceed 5 additional minutes.

Mr. HANSEN. Because of this fact, the people of this country surely must understand that the alternatives that are posed by doing away with the mandatory oil import program, instead of helping New England, will hurt New England. The better we are able to add to our reserves in this country, the greater becomes the chance that we can continue to supply the homes, the factories, and the mills of this country with fuel that is a very great bargain when compared with any other commodity, other than becoming dependent on unreliable foreign sources.

Mr. STEVENS. Mr. President, will the Senator yield for a moment at that point?

Mr. HANSEN. I am happy to yield.

Mr. STEVENS. I should like to state to my good friend from Vermont that our State pays a much higher per unit cost for heating oil than they do in New England, even though we produce a great deal more oil than even the State of Wyoming. The problem is one of distribution and the cost of distribution.

What the Senator from Wyoming has stated as far as dealers' margins in New England and New York are concerned is exactly correct. The additional cost to the consumers is in the distribution pattern in New England and New York, much more even than in the West.

I might also point, for instance, that in Alaska I could buy shoes from Japan much more cheaply than I could buy them from the east coast; and I could buy bicycles from our neighbors in the Pacific much more cheaply than from the east coast of the United States.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). May we have a little less noise, in the galleries, please?

Mr. STEVENS. But the differential in the cost to us is the tariff pattern that exists and has existed for the protection of manufactured products in this country. Somehow, when we are dealing with natural resources, the interest of the consumer is considered by some to be paramount, but in connection with manufactured goods, it is rarely mentioned. This is something I cannot understand.

If New England, New York, and the east coast allow themselves to become dependent on a supply of oil from the Middle East, with the tremendous instability that exists there today, I think the east coast will rue the day that sufficient stability was not maintained in the oil industry, the gas industry, and the energy industries as a whole, to maintain their supply lines to the east coast, to bring to it electric power, gas, and oil on a stable delivery basis that is secure.

The real problem we face, in terms of Canadian imports—and our good friend from Vermont was there during a part of that period—is the surge of imports through the line the Senator is talking about into Canada. At the same time, there is a surge from the western part of Canada into our Midwest, and the result is a windfall profit for the industry involved. This does not help your con-

sumers or our producers, and it provides no stability for the country.

We would like to work with you to provide stability for the manufactured products of the East. All we are asking for is assistance in providing the incentive for the development of our resources. If the incentive is not there, they will not be developed.

We are building a $900 million pipeline just to get the oil to tidewater. If the markets for the oil flowing through that pipeline are not protected, the pipeline will not be there, and the day will come when we will wish it were.

Even the natural gas that is starting to come into the east coast now would be affected. We have the greatest supply of natural gas in the world in Alaska, and it is not tapped today because of the regulation on natural gas. It is a shortsighted policy that has hindered the production of natural gas in this country up to this time. Canada faces a similar problem, for they too, have a supply of natural gas.

I hope we will get together and talk in the terms of energy, not just fuels. I would like to see us say to the Canadians, "Put the electric plants at the source of supply, in the rural areas where pollution is not a problem."

Certainly what we are thinking about is, in the long run, the best interests of the consumers of the United States. To insure a supply, to insure a stable market, and to insure that there are no surges and no dumping in this country of products from anywhere, whether they be manufactured products or the natural resources that come from our western and northwestern country will benefit all.

Mr. AIKEN. Certainly, Mr. President, I would be the last to criticize either the Senator from Wyoming or the Senator from Alaska for protecting and promoting the industries of their States. The Senator from Wyoming is doing a good job in that respect and I am glad to say so here while the Senator from Alaska is performing exceptional service for his State.

However, we do have a situation in New England—and it is an irritation to see the oil from other fields.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HANSEN. Mr. President, I ask for 5 additional minutes.

Mr. AIKEN. Not from Kuwait nor from the Middle East——

The PRESIDING OFFICER. Without objection, the Senator may proceed for 5 additional minutes.

Mr. AIKEN. But from Venezuela I think it is, largely, that comes into the pipeline at Portland, Maine, and goes through to Montreal, where the Canadians make, I presume, a dollar a barrel over what they would make by using their own oil, from western Canada.

We do, in Vermont, where we have lower electric rates than the other New England States, receive Canadian natural gas. I do not know where it is generated; I do not know whether there is a pipeline from the Prairie States through to Montreal, or not. It is not low-cost gas; I understand it is rather expensive, but its use is growing on the part of those people who prefer to use natural gas.

Mr. HANSEN. Mr. President, if the Senator will yield at that point, let me observe that if we consider the total energy mix, both oil and gas, this domestic industry, this great oil and gas industry in the United States, is fully competitive with foreign sources of supply, because if we consider oil, let us say, at $3.50 or $3.30 a barrel, and add to it the cost of natural gas, we see that even New England gets a total energy mix which is very comparable with what foreign oil costs us, plus what liquid natural gas would cost were it to be shopped over here. To do so, it would have to be kept at minus 200° Fahrenheit. It is a very expensive product to ship because of the refrigeration cost. If we included both these items it ought not be forgotten that this American industry is doing a great job in competing with that low-cost, foreign-produced oil.

Mr. AIKEN. I certainly hope the time does not come when the United States or the eastern part of the United States will be dependent on Middle East oil. I do not think that would be in the interests of our security at all.

Mr. HANSEN. I agree. That happened to a certain extent during the Israel-Arab war of 1967.

Mr. AIKEN. That is why I am so concerned that we work out a hemisphere arrangement with the Canadians, which would involve Alaskan oil, probably, and Canadian oil and gas—that which is discovered and not yet discovered—and the hydroelectric power which is still not developed in Canada. In New England, if all else should fail, we would have to go to the woodpile, and you cannot buy an ax with a well-shaped handle any more, I find, so I do not want to do that.

Mr. HANSEN. I know what the Senator means.

Mr. AIKEN. But in the meantime, I am advised that over half of the new homes built in Vermont are wired for electric heating, and that is why I say, let us talk in terms of energy rather than the various sources of energy.

Mr. STEVENS. Mr. President, will the Senator yield further?

Mr. HANSEN. I yield.

Mr. STEVENS. I think the Senator from Vermont is absolutely correct, and has provided great leadership in laying the foundation for these United States-Canadian talks that have taken place and are still taking place at the executive level.

Certainly, those of us who come from areas that have untapped water power resources, such as from the Yukon, Kuskokwim, and Tanana Valleys in my State, know that with such power we can match the energy resources of fossil fuels, and our water power could produce energy for transmission to New England, the great Midwest of the United States, and the power consuming areas of California and the Pacific coast.

This requires coordination, and the assurance to American industry that the markets will be there, and that they are not going to be subject to dumping of foreign supplies when the market is right, and the disruption of their lines of energy distribution as they are established throughout the country.

I think that if we can talk in terms of energy, the resources of my State are going to be wisely used in this country, and this is what we want in the long run. I think our long-term objectives coincide, and I am happy to try to help work that out.

Mr. HANSEN. Mr. President, I might just say that certainly the great and excellent rapport that exists between Canada and the United States reflects in no small measure the leadership, the fairness, and the great courtesy that are always hallmarks of the distinguished Senator from Vermont.

Senator STEVENS and I are happy to have been associated with the Senator from Vermont as members of that delegation with the Canadians in this recent interparliamentary effort.

Mr. AIKEN. I have enjoyed this colloquy with the Senators from Wyoming and Alaska, and particularly the last remarks of the Senator from Wyoming.

The PRESIDING OFFICER (Mr. EAGLETON). The time of the Senator from Wyoming has expired.

Mr. AIKEN. I ask for 30 seconds.

Mr. HANSEN. I ask unanimous consent that I may proceed for 2 additional minutes.

Mr. BYRD of West Virginia. Reserving the right to object—I shall not object—but we will have a vote on a treaty at 12 noon, and we hope to have a quorum call prior to that time. I do not object to the 2 minutes.

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

Mr. AIKEN. I wish to say, finally, that my reports indicate that the use of electricity in the State of Vermont is doubling every 6 years, as compared with, I think, a rate of 9 or 10 years for the country as a whole.

Mr. STEVENS. I would say that that is one reason why Vermont has preserved its clean air. We will find a way around this pollution problem when we start using our energy resources to create electrical energy for transmission and for utilization in residences and in our large industries. That is the way we are pointed with this energy policy with Canada.

Mr. AIKEN. And the Canadians are even more concerned about pollution than we are.

Mr. HANSEN. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE TOOLS FOR POLLUTION CONTROL

Mr. HATFIELD. Mr. President, it is said that a journeyman carpenter using brandnew tools and the best material available can do a good job, but that a cabinetmaker, using whatever tools come to hand, does superb workmanship.

In a sense this is true as well when applied to the art of government. There are those who constantly need new tools and new programs—and produce a fairly reasonable result. There are others who look into the tool chest, find what is available, and then proceed to do something important.

For nearly a decade our Democratic friends have done a great deal of talking about the problems of our environment—particularly about water pollution. The constant cry has been for new legislation and for new programs.

They have said, in effect, give us the tools with which to work and the environment can be restored. Well, a lot of legislation has been passed in the past few years—and the problem is still with us.

Meanwhile, in the tool chest of government there is a 70-year-old law which makes it a crime to pollute navigable streams and waters. For the past 8 years under Democrats that law was ignored while demands were being made to produce new and sharper tools in the fight against pollution.

A month ago the Nixon administration moved in Chicago Federal court against a dozen corporations, charging them with adding to pollution content of Lake Michigan. The administration used the old law.

Yesterday the administration followed this up with an indictment against one of our industrial giants, the United States Steel Corp., and one of its officials, charging pollution of the lake.

I believe as strongly as any man in this Senate that we need to take ever possible and reasonable action to slow down the spread of pollution and restore the quality of our environment. However, while Congress is studying the problem, let it be noted that the Nixon administration is already at work on the problem, using the tools that are at hand.

For too long there have been those who think that every problem needs new legislation if it is to be solved. In their frenetic search for new programs and proposals they often overlook what can be done with laws already on the books.

SMITH OF MAINE

Mr. AIKEN. Mr. President, on March 15, a very delightful column appeared in the Maine Sunday Telegram entitled "Smith of Maine." I think that every Member of the Senate ought to have an opportunity to read this column. Therefore, I ask unanimous consent to have it printed at this point in the RECORD.

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

SMITH OF MAINE

(By Bill Caldwell)

WASHINGTON.—Six false starts to this column stare up at me, crumpled and accusatory, from the waste basket. They all fudge what I really feel.

So on this seventh try, I'll say straight out what I think, and what you'd find out by the end of this column anyway.

I think Margaret Chase Smith is the most direct and fascinating woman I know; and that she is the most unique and amazing senator I have ever met.

And, one way and another, I've met a lot of both over the years.

I say this out loud and clear today because I just spent an hour closeted with Senator Smith in her Washington office. And I have never seen her looking better. And I have never heard her speak more directly and frankly and informatively about the political and military scene in the nation and the affairs of Maine. Somehow that major surgery on her hip seems to have speeded her up instead of slowing her down.

Part of our conversation was taped; and that part of the interview appears on this page today. But I wish you could have been sitting in her office with me, so you could have heard the crisp, downeast incisiveness of her voice, seen the liveliness of her vivid blue eyes, listened to the inflexions of humor and annoyance and seriousness in her expressions. It would have done your heart good.

Maine people do not need to be "sold" on Margaret Chase Smith. Maine people have been sending her back to Washington again and again. She has represented us in the House and the Senate for 33 years! That in itself speaks volumes. I don't believe any woman has ever before in U.S. history represented her people so long, nor been held so steadfastly in their affections.

Yet the United States Senate is very much a man's club. It is a club where the nation's most serious business is done in closed sessions behind committee doors, or in the privacy of a senator's office.

The Senate is a club where long term membership, long term friendships, long term exchanges of confidences and long term exchanges of help given and help received count far more than flashy brilliance in floor debate. A senator who may spellbind the public in packed auditoriums, or who makes TV programs and newspaper headlines with provocative punch lines, is not necessarily a senator who cuts the mustard with other senators or whose advice is sought by the Man in the White House.

I recount all this because this is the background against which Margaret Chase Smith operates and must be measured. It is a masculine background which might be an insurmountable handicap to any lady, especially a lady who once had been a telephone operator in Skowhegan, Maine.

In some magic way, Senator Smith of Maine stays wholly feminine, yet cuts the mustard in the man's world of the Senate. And in the man's world of the oval office of the President, she is sought out by the Man in the White House—whoever he is. (Presidents Harry Truman, Dwight Eisenhower, John F. Kennedy, Lyndon Johnson and now Richard Nixon have each and everyone paid their own court to the lady from Maine).

How does she do it?

I will hazard these guesses . . . First, she does her homework. And the homework for someone on the Armed Forces, the Appropriations and the Space Committees is immense!

As a result Sen. Smith knows whereof she talks before she opens her mouth. Among Senators—let alone ladies—this is a rare quality, much respected. Second, when Sen. Smith speaks in the Senate, or at the White House, she keeps it short. Her talk is all meat and no fat. In Washington this rarity also commands attention. Third, Senator Smith goes for the jugular. That is not a lady-like way of expressing what Sen. Smith does in a very lady-like way. With a rose at her shoulder, her silver hair genteely in place, her voice modulated but delightfully from Maine, Senator Smith sometimes makes Admirals and Generals knock at the knees, makes Cabinet officers quake, makes budget directors triple-check their figures. She does this with no malice, but by going bluntly to the heart of the matter at hand, without wrapping her thrust in cotton wool.

I have been privileged to see letters which the senior Senator from Maine has sent in the past to Secretaries of Defense. They are scorchers. And they get action—inside 24 hours.

Why? Why do her suggestions, questions, requests stir up action? The answer is power. Senator Smith, demure in blue dress, standing a dainty five feet tall, wields immense power in the United States Senate. A whisper from the lady from Maine can be as strong as the next man's hurricane.

Wasn't it Senator Smith whose whisper started the fall of the ranting Senator Joe McCarthy? Wasn't it Senator Smith's whisper which almost killed the ABM? Wasn't it Senator Smith's whisper which last month killed the appointment of a new Selective Service Director over the President's bold voice?

The senior Senator from Maine uses power sparingly, and often out of public view. But woe betide the person who thinks the power is not there because it is not flaunted! Never has Senator Smith's power been more potent.

Witness the fact it will be Senator Smith who introduces President Nixon's bill to create a volunteer instead of a draft army . . . that it will be Senator Smith's vote which may determine the fate of stage two of the ABM. And it will be Senator Smith of Maine who will become the powerful chairman of the powerful Armed Forces Committee, if the Republicans win in November. Then, her voice will be the voice most listened to in regard to the nation's vastest expenditures. Her's may be the most influential, though soft, voice determining the defenses of the world's most powerful military system.

Margaret Smith speaks softly but incisively, behind her tidy desk in her unpretentious uncluttered office. Her calendar this day has 17 appointments listed—beginning at 7 a.m. They range from the President at 8:30 a.m. on through to delegations from Maine plumbers and heating contractors at 4 p.m. Behind her lie 33 years of ardous work in the hub of power. Yet today she looks well and vigorus enough for 33 years more.

"Smith of Maine" . . . three words that speak volumes.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

HIGHER EDUCATION OPPORTUNITY ACT OF 1970—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-282)

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate

the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal; I propose that we achieve it now.

Something is basically unequal about opportunity for higher education when a young person whose family earns more than $15,000 a year is nine times more likely to attend college than a young person whose family earns less than $3,000.

Something is basically wrong with Federal policy toward higher education when it has failed to correct this inequity, and when government programs spending $5.3 billion yearly have largely been disjointed, ill-directed and without a coherent long-range plan.

Something is wrong with our higher education policy when—on the threshold of a decade in which enrollments will increase almost 50%—not nearly enough attention is focused on the two-year community colleges so important to the careers of so many young people.

Something is wrong with higher education itself when curricula are often irrelevant, structure is often outmoded, when there is an imbalance between teaching and research and too often an indifference to innovation.

To help right these wrongs, and to spur reform and innovation throughout higher education in America today, I am sending to the Congress my proposed Higher Education Opportunity Act of 1970.

In this legislation, *I propose that we expand and revamp student aid so that it places more emphasis on helping low-income students than it does today.*

I propose to create the National Student Loan Association to enable all students to obtain government-guaranteed loans, increasing the pool of resources available for this purpose by over one billion dollars in its first year of operation, with increasing aid in future years.

I propose to create a Career Education Program funded at $100 million in fiscal 1972 to assist States and institutions in meeting the additional costs of starting new programs to teach critically-needed skills in community colleges and technical institutes.

I propose to establish a National Foundation for Higher Education to make grants to support excellence, innovation and reform in private and public institutions. In its first year, this would be funded at $200 million.

There is much to be proud of in our system of higher education. Twenty-five years ago, two Americans in ten of college age went to college; today, nearly five out of ten go on to college; by 1976, we expect seven out of ten to further their education beyond secondary school.

This system teaching seven million students now employs more than half a million instructors and professors and spends approximately $23 billion a year. In its most visible form, the end result of this system contributes strongly to the highest standard of living on earth, indeed the highest in history. One of the discoveries of economists in recent years is the extraordinary, in truth the dominant, role which *investment in human beings* plays in economic growth. But the more profound influence of education has been in the shaping of the American democracy and the quality of life of the American people.

The impressive record compiled by a dedicated educational community stands in contrast to some grave shortcomings in our post-secondary educational system in general and to the Federal share of it in particular.

—Federal student loan programs have helped millions to finance higher education; yet the available resources have never been focused on the neediest students.

—The rapidly rising cost of higher education has created serious financial problems for colleges, and especially threatens the stability of private institutions.

—Too many people have fallen prey to the myth that a four-year liberal arts diploma is essential to a full and rewarding life, whereas in fact other forms of post-secondary education—such as a two-year community college or technical training course—are far better suited to the interests of many young people.

—The turmoil on the nation's campuses is a symbol of the urgent need for reform in curriculum, teaching, student participation, discipline and governance in our post-secondary institutions.

—The workings of the credit markets, particularly in periods of tight money, have hampered the ability of students to borrow for their education, even when those loans are guaranteed by the Federal government.

—The Federal involvement in higher education has grown in a random and haphazard manner, failing to produce an agency that can support innovation and reform.

We are entering an era when concern for the quality of American life requires that we organize our programs and our policies in ways that enhance that quality and open opportunities for all.

No element of our national life is more worthy of our attention, our support and our concern than higher education. For no element has greater impact on the careers, the personal growth and the happiness of so many of our citizens. And no element is of greater importance in providing the knowledge and leadership on which the vitality of our democracy and the strength of our economy depends.

This Administration's program for higher education springs from several deep convictions:

—*Equal educational opportunity,* which has long been a goal, must now become a reality for every young person in the United States, whatever his economic circumstances.

—*Institutional autonomy and academic freedom* should be strengthened by Federal support, never threatened with Federal domination.

—*Individual student aid* should be given in ways that fulfill each person's capacity to choose the kind of quality education most suited to him, thereby making institutions more responsive to student needs.

—*Support should complement rather than supplant* additional and continuing help from *all* other sources.

—*Diversity must be encouraged,* both between institutions and within each institution.

—*Basic reforms* in institutional organization, business management, governance, instruction, and academic programs are long overdue.

STUDENT FINANCIAL AID: GRANTS AND SUBSIDIZED LOANS

Aside from veterans' programs and social security benefits, the Federal government provides aid to students through four large programs: the Educational Opportunity Grants, College Work-Study Grants, National Defense Student Loans and Guaranteed Student Loans. In fiscal 1970 these programs provided an estimated $577 million in Federal funds to a total of 1.6 million individual students. For fiscal 1971, I have recommended a 10% increase in these programs, to $633 million, for today's students must not be penalized while the process of reform goes on. But reform is needed.

Although designed to equalize educational opportunity, the programs of the past fail to aid large numbers of low-income students.

With the passage of this legislation, every low-income student entering an accredited college would be eligible for a combination of Federal grants and subsidized loans sufficient to give him the same ability to pay as a student from a family earning $10,000.

With the passage of this legislation, every qualified student would be able to augment his own resources with Federally-guaranteed loans, but Federal subsidies would be directed to students who need them most.

Under this plan, every student from a family below the $10,000 income level—nearly 40% of all students presently enrolled—would be eligible for Federal aid. When augmented by earnings, help from parents, market-rate loans or other public or private scholarship aid, this aid would be enough to assure him the education that he seeks.

The Secretary of Health, Education and Welfare would annually determine the formula that would most fairly allocate available Federal resources to qualified low-income students. Because subsidized loans multiply the available resources, and because the lowest-income students would receive more than those from families with incomes near $10,000, the effect would be a near-doubling of actual assistance available to most students with family incomes below $7500.

If all eligible students from families with an annual income of $4,500 had received grants and subsidized loans under the existing student aid programs, they *would have received* an average of *$215* each. Under our proposal, all eligible students from families of $4,500 annual income would be *guaranteed* a total of *$1300* each in grants and subsidized loans. This would constitute the financ-

ing floor; it will be supplemented by earnings, other scholarships and access to unsubsidized loans.

STUDENT FINANCIAL AID: LOANS

The Higher Education Opportunity Act of 1970 would strongly improve the ability of both educational and financial institutions to make student loans. Although most students today are eligible for Guaranteed Student Loans, many cannot obtain them. Because virtually all Guaranteed Loans are made by banks, a student is forced to assemble his financial aid package at two or more institutions—his bank and his college—and colleges are denied the ability to oversee the entire financial aid arrangements of their own students.

In order to provide the necessary liquidity in the student loan credit market, I am asking the Congress to charter a National Student Loan Association. This institution would play substantially the same role in student loans that the Federal National Mortgage Association plays in home loans.

The corporation would raise its initial capital through the sale of stock to foundations, colleges and financial institutions. It would issue its own securities —education bonds—which would be backed by a Federal guarantee. These securities would attract additional funds from sources that are not now participating in the student loan program.

The corporation would be able to buy and sell student loans made by qualified lenders—including colleges as well as financial institutions. This would serve to make more money available for the student loan program, and it would do so at no additional cost to the Government.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of the Treasury, would set an annual ceiling on these transactions. In fiscal 1972, I estimate that the N.S.L.A. would buy up to $2 billion in student loan paper.

Expanding credit in this manner would make it possible to terminate the payments now made to banks to induce them to make student loans in this tight money market. We would let the interest rates on these loans go to a market rate but the presence of the Federal guarantee would assure that this rate would result in a one to two percent interest reduction for each student. By removing the minimum repayment period we would not only enable students to pay back loans as quickly as they wish but we would make it possible for students to refinance their loans as soon as interest rates are lower.

We would continue to relieve all students of interest payments while they are in college but would defer rather than totally forgive those payments. This would be more than compensated for by extending the maximum repayment period from 10 to 20 years, easing the burden of repaying a student loan until the borrower is well out of school and earning a good income.

The added funds made available from these changes, which should exceed one-half billion dollars by 1975, would be redirected to aid for lower income students.

By increasing the maximum annual individual loan from $1,500 to $2,500, we would enhance the student's ability to avail himself of an education at any institution that will admit him.

Thus, the ability of all students to obtain loans would be increased, and the ability to borrow would be strongly increased for students from low-income families. The financial base of post-secondary education would be correspondingly strengthened. It is significant that this would be done at no cost to the Federal taxpayer.

CAREER EDUCATION

A traditional 4-year college program is not suited to everyone. We should come to realize that a traditional diploma is not the exclusive symbol of an educated human being, and that "education" can be defined only in terms of the fulfillment, the enrichment and the wisdom that it brings to an individual. Our young people are not sheep to be regimented by the need for a certain type of status-bearing sheepskin.

Throughout this message, I use the term "college" to define all post-secondary education—including vocational schools, 4-year colleges, junior and community colleges, universities and graduate schools.

Any serious commitment to equal educational opportunity means a commitment to providing the right kind of education for an individual.

—A young person graduating from high school in one of the states that lacks an extensive public junior college system—more commonly and appropriately known as community colleges—today has little opportunity to avail himself of this immensely valuable but economical type of post-secondary education.

—A youth completing 12th grade in a city without an accessible technical institute is now deprived of a chance for many important kinds of training.

—A forty-year-old woman with grown children who wants to return to school on a part-time basis, possibly to prepare for a new and rewarding career of her own, today may find no institution that meets her needs or may lack the means to pay for it.

We must act now to deal with these kinds of needs. Two-year community colleges and technical institutes hold great promise for giving the kind of education which leads to good jobs and also for filling national shortages in critical skill occupations.

Costs for these schools are relatively low, especially since there are few residential construction needs. A dollar spent on community colleges is probably spent as effectively as anywhere in the educational world.

These colleges, moreover, have helped many communities forge a new identity. They serve as a meeting ground for young and old, black and white, rich and poor, farmer and technician. They avoid the isolation, alienation and lack of reality that many young people find in multiversities or campuses far away from their own community.

At the same time, critical manpower shortages exist in the United States in many skilled occupational fields such as police and fire science, environmental technology and medical para-professionals. Community colleges and similar institutions have the potential to provide programs to train persons in these manpower-deficient fields. Special training like this typically costs more than general education and requires outside support.

Accordingly, I have proposed that Congress establish a Career Education Program, to be funded at $100 million in fiscal 1972.

The purpose of this program is to assist States and colleges in meeting the additional costs of starting career education programs in critical skill areas in community and junior colleges and technical institutes. The Department of Health, Education, and Welfare would provide formula grants to the States, to help them meet a large part of the costs of equipping and running such programs, in critical skill areas as defined by the Secretary of Labor.

THE NATIONAL FOUNDATION FOR HIGHER EDUCATION

One of the unique achievements of American higher education in the past century has been the standard of excellence that its leading institutions have set. The most serious threat posed by the present fiscal plight of higher education is the possible loss of that excellence.

But the crisis in higher education at this time is more than simply one of finances. It has to do with the uses to which the resources of higher education are put, as well as to the amount of those resources, and it is past time the Federal Government acknowledged its own responsibility for bringing about, through the forms of support it has given and the conditions of that support, a serious distortion of the activities of our centers of academic excellence.

For three decades now the Federal Government has been hiring universities to do work it wanted done. In far the greatest measure, this work has been in the national interest, and the Nation is in the debt of those universities that have so brilliantly performed it. But the time has come for the Federal Government to help academic communities to pursue excellence and reform in fields of their own choosing as well, and by means of their own choice.

Educational excellence includes the State college experimenting with dramatically different courses of study, the community college mounting an outstanding program of technical education, the predominantly black college educating future leaders, the university turning toward new programs in ecology or oceanography, education or public administration.

Educational excellence is intimately bound up with innovation and reform. It is a difficult concept, for two institutions with similar ideas may mysteriously result in one superb educational program and one educational dead end. It is an especially difficult concept for a Federal agency, which is expected to be even-handed in the distribution of its resources to all comers.

And yet, over the past two decades, the National Science Foundation has pro-

moted excellence in American science, and the National Institutes of Health has promoted excellence in American medical research.

Outside of science, however, there is no substantial Federal source for assistance for an institution wishing to experiment or reform. There is a heightened need in American higher education for some source for such support.

To meet this need, I have proposed the creation by Congress of a National Foundation for Higher Education. It would have three principal purposes:

—To provide a source of funds for the support of excellence, new ideas and reform in higher education, which could be given out on the basis of the quality of the institutions and programs concerned.

—To strengthen colleges and universities or courses of instruction that play a uniquely valuable role in American higher education or that are faced with special difficulties.

—To provide an organization concerned, on the highest level, with the development of national policy in higher education.

There is a need to stimulate more efficient and less expensive administration, by better management of financial resources that can reduce capital investment needs, and the use of school facilities year-round. There is also need for better, more useful curricula, while developing a new dimension of adult education.

There is a need to give students far greater opportunities to explore career direction through linking education with the world of work.

There is a need to develop avenues for genuine and responsible student participation in the university. Colleges of today and tomorrow must increase communications and participation between the administration and students, between faculty and students, where they are presently faulty, weak or nonexistent.

The National Foundation for Higher Education would be organized with a semi-autonomous board and director appointed by the President. It would make grants to individual institutions, to States and communities, and to public and private agencies. Its grants would emphasize innovative programs and would be limited to five years each.

A number of small, categorical programs presently located in the Department of Health, Education and Welfare—would be transferred to the Foundation. In addition to the more than $50 million now being spent in those programs, $150 million would be requested for the Foundation in fiscal 1972. Beginning with this $200 million budget, this Foundation would have the capacity to make a major impact on American higher education.

From the earliest times higher education has been a special concern of the National Government.

A year ago I asserted two principles which would guide the relations of the Federal Government to the students and faculties and institutions of higher education in the Nation:

"First, that universities and colleges are places of excellence in which men are judged by achievement and merit in defined areas. . . . Second . . . that violence or the threat of violence may never be permitted to influence the actions or judgments of the university community."

I stated then, and I repeat now, that while outside influences, such as the Federal Government, can act in such a way as to threaten those principles, there is relatively little they can do to guarantee them. This is a matter not always understood. No one can be forced to be free. If a university community acts in such a way as to intimidate the free expression of opinion on the part of its own members, or free access to university functions, or free movement within the community, no outside force can do much about this. For to intervene to impose freedom, is by definition to suppress it.

For that reason I have repeatedly resisted efforts to attach detailed requirements on such matters as student discipline to programs of higher education. In the first place they won't work, and if they did work they would in that very process destroy what they nominally seek to preserve.

As we enter a new decade, we have a rare opportunity to review and reform the Federal role in post-secondary education. Most of the basic legislation that now defines the Federal role will expire in the next fifteen months. The easy approach would be simply to ask the Congress to extend these old programs. But the need for reform in higher education is so urgent, that I am asking the Congress for a thoroughgoing overhaul of Federal programs in higher education.

The Higher Education Opportunity Act of 1970 would accomplish this purpose. In addition, it would consolidate and modernize a number of other Federal programs that affect higher education. Through it, I propose to systematize and rationalize the Federal Government's role in higher education for the first time.

In setting such an ambitious goal, we must also arouse the Nation to a new awareness of its cost, and make clear that it must be borne by State, local and private sources as well as by Federal funds. In fiscal year 1972, I anticipate that the new programs authorized by the Higher Education Opportunity Act alone will cost $400 million more than the Federal Government is presently spending for post-secondary education. If our goal is to be attained, there must be comparable growth in the investment of other public and private agencies.

The time has come for a renewed national commitment to post-secondary education and especially to its reform and revitalization. We must join with our creative and demanding young people to build a system of higher education worthy of the ideals of the people in it.

RICHARD NIXON.

THE WHITE HOUSE, *March 19, 1970.*

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 952) to provide for the appointment of additional district judges, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today, March 19, 1970, he signed the enrolled bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat, which had previously been signed by the Speaker of the House of Representatives.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON TRANSFERS OF CERTAIN APPROPRIATIONS

A letter from the Secretary of Defense, reporting, pursuant to law, on the transfers of appropriations under the Department of Defense; to the Committee on Appropriations.

PROPOSED HOUSING AND URBAN DEVELOPMENT ACT OF 1970

A letter from the Secretary of Housing and Urban Development, Washington, D.C., transmitting a draft of proposed legislation to increase the supply of decent housing and to consolidate, extend and improve laws relating to housing and urban renewal and development (with accompanying papers); to the Committee on Banking and Currency.

REPORT ON PURCHASES AND SALES OF GOLD AND THE STATE OF THE U.S. GOLD STOCK

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on purchases and sales of gold and the state of the U.S. gold stock, for the 6-month period ended December 31, 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON MOBILE TRADE FAIR ACTIVITIES

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on mobile trade fair activities, for the fiscal year 1969 (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Opportunity for Benefits Through Increased Use of Competitive Bidding to Award Oil and Gas Leases on Federal Lands, Department of the Interior, dated March 17, 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 Management Improvements Needed in U.S. Financial Participation in the United Nations Development Program, Department of State, dated March 18, 1970 (with and 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 Weaknesses in Award and Pricing of Ship Overhaul Contracts, Department of the Navy, dated March 19, 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 Audit of Federal Deposit Insurance Corporation for the year ended June 30, 1969—Limited by Agency Restriction on Access to Bank Examination Records, dated March 19, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT ON LEAD AND ZINC MINING STABILIZATION PROGRAM

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on lead and zinc mining stabilization program, for the calendar year ended December 31, 1969 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON DESALINATION PROGRAM

A letter from the Secretary of the Interior, reporting, pursuant to law, on the desalination program during the year 1969; to the Committee on Interior and Insular Affairs.

PUBLIC LAWS ENACTED BY LEGISLATURE OF GUAM

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a set of the public laws enacted by the 10th Guam Legislature (with an accompanying document); to the Committee on Interior and Insular Affairs.

REPORT OF FEDERAL JUDICIAL CENTER

A letter from the Director, the Federal Judicial Center, Washington, D.C., transmitting, pursuant to law, a report of that Center, dated March 16, 1970 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON APPLICATION DENIED BY THE DEPARTMENT OF TRANSPORTATION CONTRACT APPEALS BOARD

A letter from the Assistant Secretary for Administration, Office of the Secretary of Transportation, reporting, pursuant to law, on an application denied by the Department of Transportation Contract Appeals Board, during the calendar year 1969 (with an accompanying paper); to the Committee on the Judiciary.

REPORT OF NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, Washington, D.C., transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED AUTHORIZATION FOR POSTMASTER GENERAL TO ENTER INTO CERTAIN SERVICE CONTRACTS

A letter from the Postmaster General, transmitting a draft of proposed legislation to authorize the Postmaster General to enter into certain service contracts for periods not exceeding 4 years, and for other purposes (with an accompanying paper); to the Committee on Post Office and Civil Service.

REPORT ON STATUS OF CERTAIN PUBLIC BUILDING PROJECTS

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report covering status of public building projects authorized for construction and alteration pursuant to the Public Buildings Act of 1959, dated December 31, 1969 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

Resolutions of the General Court of Massachusetts; to the Committee on Armed Services:

"RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

"Resolutions memorializing the Congress of the United States to enact legislation providing for a comprehensive reform of the selective service system

"Whereas, The present selective service system keeps young men in a state of jeopardy for the unconscionable period of seven and one half years, with their fate controlled by a complex of regulations which are subject to constant change and which are applied by local boards in so capricious a manner as to make the ultimate decision on induction or deferment seem utterly arbitrary to the individual concerned; and

"Whereas, The present system discriminates against the poor, the less educated, and racial minorities, and works in favor of the wealthy and better educated, who can find draft havens in college, graduate school, teaching or other favored professions; and

"Whereas, The inequities of this system can only stir resentment among draftees toward those who enjoy draft exemptions and who in some instances rationalize their advantageous position through intemperate and indiscriminate criticism of the structure and goals of our government and society; and

"Whereas, Many draft exempt college students appear to be developing a culture which sanctions the use of any tactic to avoid the draft, and a large segment of this generation of potential leaders is thus maturing with a cynical view toward the obligations of national service; and

"Whereas, The inequalities of the system having contributed to the causes of justifiable campus protest, the same system can be and is used without regard for due process as a weapon to punish, protest and stifle dissent, diminishing public respect for military service while creating a vicious cycle of distrust and antagonism between the generations; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact a comprehensive reform of the selective service system, including adoption of a random selection system, establishment of national standards for determining eligibility, deferments and exemptions, shortening the period of uncertainty for individuals subject to the draft, eliminating the premium placed upon evasion devices and, in general, doing away with those features of the present system which have had the most unreasonably disruptive effects on the lives of our young people and the most dangerously divisive effects on our society as a whole; and be it further

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

"Senate, adopted, March 2, 1970.

"NORMAN L. PIDGEON,
"Clerk.

"House of Representatives, adopted in concurrence, March 4, 1970.

"WALLACE C. MILLS,
"Clerk.

"Attest:

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

Resolutions of the Senate of the Commonwealth of Massachusetts; to the Committee on Commerce:

"RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

"Resolutions requesting the Interstate Commerce Commission not to grant a discontinuance of Penn Central rail service

"Whereas, There is pending before the Interstate Commerce Commission an application of the Penn Central Railroad to discontinue rail service between Boston and Albany; and

"Whereas, If this is granted, there will be a termination of rail passenger service from Pittsfield and Springfield to Boston for the first time since 1841; and

"Whereas, if this is granted, rail commuters from South Station to Back Bay, Newtonville, Framingham and Worcester will be severly inconvenienced and forced to use other congested modes of transportation; now, therefore, be it

"Resolved, That the Senate of the Commonwealth of Massachusetts respectfully requests the Interstate Commerce Commission not to grant the desired discontinuance of railroad service by the Penn Central Railroad; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to John A. Volpe, Secretary of Transportation, to the presiding officer of each branch of Congress and to the members thereof from the Commonwealth, to the Interstate Commerce Commission and to the Penn Central Railroad.

"Senate, adopted, March 11, 1970.

"NORMAN L. PIDGEON,
Clerk.

"Attest:

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

Resolutions of the General Court of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

"Resolutions memorializing the Congress of the United States to protest to North Vietnam the mistreatment of American prisoners of war

"Whereas, There are thirteen hundred and thirty-two members of the armed forces of the United States listed as prisoners of war or missing in action and many missing in action may be in prison camps, and more than two hundred of them have been held more than three and one half years, longer than any United States serviceman was held prisoner in World War II; and

"Whereas, North Vietnam has shown itself to be very sensitive to public opinion in the United States, it would be very useful to let North Vietnam see something of the unity and the impatience of the American people over the long-standing proven mistreatment on camps; now, therefore, be it

of said servicemen in North Vietnamese pris-

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to protest to North Vietnam the mistreatment of United States prisoners of war held in North Vietnam; and be it further

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

"Senate, adopted, March 2, 1970.

"NORMAN L. PIDGEON,
"Clerk.

House of Representatives, adopted in concurrence, March 4, 1970.

"WALLACE C. MILLS,
"Clerk.

"Attest:

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

A joint resolution of the Legislature of the State of New Mexico; to the Committee on Public Works:

"RESOLUTION OF THE LEGISLATURE OF THE STATE OF NEW MEXICO

"A joint memorial requesting the Congress of the United States to make more funds available to the individual States for the maintenance of the Interstate Highway System

"Whereas, highway safety is a vital concern to New Mexico citizens, and official state figures have estimated that completion of our interstate system in New Mexico will result in 1,000 fewer accidents and 200 fewer deaths annually; and

"Whereas, the increased costs of maintenance are a further burden on a State which has been declared to have the lowest per capita gain in income, which has many declared economically depressed areas and which has chronic problems of poverty and unemployment; and

"Whereas, New Mexico is a corridor State, providing the citizens of our country with a transcontinental route through the mountains to the Pacific coasts; and

"Whereas, the ever increasing traffic on the interstate system is primarily a benefit to the coastal areas who have no other equally efficient means of access to the remainder of the country; and

"Whereas, the greatly increased flow of interstate traffic on the interstate highway system creates an accelerated deterioration of the high system and the need for greater expenditures for highway maintenance;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the Congress of the United States is requested to appropriate additional revenue to the maintenance funds for interstate highway systems and make such funds available to the individual States for meeting the increased costs of such maintenance; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States Senate, the Speaker of the House of Representatives, and to the New Mexico delegation to the Congress of the United States.

"Signed and sealed at The Capitol, in the city of Santa Fe.

"E. LEE FRANCIS,
"President, New Mexico Senate.

"DAVID L. NORVELL,
"Speaker, House of Representatives."

A resolution adopted by the Common Council of the City of Mount Vernon, N.Y. praying for the enactment of legislation declaring January 15 as a national holiday in honor of the memory of Dr. Martin Luther King, Jr.; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Charles D. Baker, of Massachusetts, to be an Assistant Secretary of Transportation.

By Mrs. SMITH of Maine, from the Committee on Armed Services:

Curtis W. Tarr, of Virginia, to be Director of Selective Service.

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

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

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

Michael Ray Adams, and sundry other graduates of the Coast Guard Academy, for assignment in the Coast Guard;

Philip K. Hauenstein, and sundry other officers, for promotion in the Coast Guard; and

Harlan D. Hanson, and sundry other members of the permanent commissioned teaching staff of the Coast Guard Academy, for promotion in the Coast Guard.

BILLS INTRODUCED

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

By Mr. HRUSKA (for himself and Mr. CURTIS):

S. 3606. A bill to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. PEARSON:

S. 3607. A bill to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment or expansion of commercial, industrial, and related private and public facilities and services, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. CHURCH (for himself and Mr. MONTOYA):

S. 3608. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans; to the Committee on Agriculture and Forestry.

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

By Mr. MONTOYA:

S. 3609. A bill for the relief of Virgilio Flores-Moreno; to the Committee on the Judiciary.

S. 3610. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; and

S. 3611. A bill to extend to Federal employees coverage under the program of hospital insurance benefits for the aged established by part A of title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

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

By Mr. HART:

S. 3612. A bill to amend the Fair Labor Standards Act of 1938 in order to require equal pay for equal work to individuals of both sexes in professional, executive, and administrative positions; to the Committee on Labor and Public Welfare.

By Mr. McGEE (for himself and Mr. FONG):

S. 3613. A bill to improve and modernize the postal service and to reorganize the Post Office Department; to the Committee on Post Office and Civil Service.

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

S. 3606—INTRODUCTION OF A BILL TO PROVIDE A SUPPLEMENTAL SUPPLY OF WATER TO THE MIRAGE FLATS PROJECT, NEBRASKA

Mr. HRUSKA. Mr. President, my colleague from Nebraska (Mr. CURTIS) and I are reintroducing legislation similar to S. 2976 of the 89th Congress and S. 655 of the 90th Congress, to provide a supplemental supply of water to the Mirage Flats project, in northwestern Nebraska, without imposing any additional reimbursement costs on the water users of the irrigation district.

The Mirage Flats project was constructed in the 1940's under the water conservation and utilization program. Construction was under the supervision of the Bureau of Reclamation. The project was expected to bring enough water from the Niobrara River to irrigate a total of nearly 12,000 acres.

However, there has never been enough water delivered to the farms in this project to meet the projected amounts or the requirements of sound agricultural operation. The original calculations made in 1939 were faulty as to the amount of water that could be diverted from the river, or else the flow of the river during the years since construction of the project has simply been less than during the earlier period on which the estimates of the engineers were based.

Whatever the reason, it is clear from the history of the project that the amount of water the project would produce was overstated, and the ability of the farmers to pay was overestimated, inasmuch as they have never been able to realize the full potential of the land, due to the lack of adequate water.

In other words, if these factors had been correctly calculated at the beginning, it is likely that additional water from wells or otherwise would have been included as a part of the original project. It is now again proposed by us that such adidtional works to provide supplemental water be constructed.

Mr. President, the Mirage Flats Irrigation District has prepared a detailed description of the problem, including summaries of actual delivery of water as compared with the amounts originally projected.

Mr. President, I ask unanimous consent that the description of the Mirage Flats water shortage problem be printed in the RECORD at this point, together with the text of the bill.

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

The bill (S. 3606) to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska, and for other purposes, introduced by Mr. HRUSKA (for himself and Mr. CURTIS), was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3606

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Interior is authorized to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska: *Provided,* That the Secretary of the Interior is authorized to use available funds to carry out the purposes of this Act, which funds shall be nonreimbursable and nonreturnable.

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

WATER SHORTAGE PROBLEM—MIRAGE FLATS IRRIGATION DISTRICT, HAY SPRINGS, NEBR.

The Mirage Flats Project was authorized under provisions of the Water Conservation and Utilization Act of May 10, 1939. Construction began in 1941 and was completed in 1949. Irrigation operations started in 1946. The project was designed to provide full irrigation service to 11,662 acres of highly productive land on the north side of the Niobrara River south of Hay Springs, Nebraska.

Project facilities include Box Butte Dam and Reservoir, Dunlap Diversion and the necessary canals, laterals, and drains to provide the planned project service. All have been well maintained and are in good operating order.

Except for two years early in the operation period, the project has not had the quantity of water needed practically or theoretically for optimum crop production. This has been true in spite of high irrigation efficiencies. Shortages at the farm turnout for the period 1948 to 1963 inclusive averaged 0.42 of an acre-foot per acre annually or 27 percent of the theoretical requirement. The following table shows the historical deliveries, theoretical requirements and shortages for the years 1948 and 1963.

HISTORICAL SURFACE WATER FARM DELIVERIES AND THEORETICAL REQUIREMENTS (ACRE-FEET)

Year	Historical farm delivery	Theoretical farm-delivery requirement	Theoretical shortage
1948	1.20	1.63	0.43
1949	1.41	1.41	.00
1950	1.47	1.36	.00
1951	1.01	1.06	.05
1952	1.60	1.81	.21
1953	1.12	1.61	.49
1954	1.00	1.44	.44
1955	1.00	1.96	.96
1956	1.04	2.27	1.23
1957	1.07	1.53	.46
1958	1.04	1.36	.32
1959	1.26	1.44	.18
1960	1.20	1.64	.44
1961	0.99	1.40	.41
1962	.82	1.56	.74
1963	.99	1.43	.44
1964	1.07	(2)	(2)
1965	.58	(2)	(2)
1966	.94	(2)	(2)
1967	.93	(2)	(2)
1968	.85	(2)	(2)
1969	1.04	(2)	(2)
16-year average (1948-63)	1.14	1.56	.42

[1] From historical records of Mirage Flats Irrigation District.
[2] Not computed.

Since Box Butte Dam was built, minor spills have occurred in only a few years early in the operation period. In some years the inflow to the reservoir was inadequate to provide any assurance of reasonable water supply by the beginning of the irrigation season. The policy on water operations has been to leave some water in the reservoir at the end of the irrigation season even though it is needed that season. This is done to avoid a severe shortage the following year in case the inflow to the reservoir is below normal and to even out the water supply from year to year. Maximum and minimum annual reservoir content for years since 1948 are as follows:

BOX BUTTE RESERVOIR

Year	Maximum content	Minimum content
1948	32,210	18,150
1949	31,550	12,870
1950	30,580	9,500
1951	25,070	17,800
1952	31,550	10,010
1953	26,350	8,610
1954	23,140	6,680
1955	21,530	5,530
1956	22,330	4,480
1957	26,640	12,780
1958	30,350	13,540
1959	27,830	8,020
1960	26,100	5,680
1961	21,770	4,360
1962	22,920	9,360
1963	24,530	7,820
1964	22,290	3,520
1965	18,270	8,480
1966	24,440	3,530
1967	23,790	8,340
1968	25,560	10,980
1969	23,550	2,950

To overcome this perennial water shortage, some irrigators have drilled their own irrigation wells. Because the irrigated farm units in the project are small, this solution by individuals is costly and most uneconomical.

A more practical solution is the one proposed by the Bureau of Reclamation. A few district wells would be used in conjunction with the existing surface water storage to provide all district lands with a full water supply.

With this relatively minor addition the project would be able to provide the service that was originally intended and the service that irrigators expected when they acquired the project units.

The landowners, operators, and directors of the Mirage Flats Irrigation District understood when the project originally started that they would receive an acre-foot and half of water annually at the farm turnout for each irrigable acre. As shown above, the surface water supply is inadequate. All of us feel that the Government should construct facilities to provide an adequate water supply for reasonable crop yields. We also feel that any construction cost for these added facilities should be paid for by the Government and not us water users. Two of Nebraska's governors, our two U.S. Senators, and three Representatives to the Congress support us in this position.

S. 3607—INTRODUCTION OF A BILL TO CREATE THE RURAL COMMUNITY DEVELOPMENT BANK

Mr. PEARSON. Mr. President, the economic and social development of our rural communities ranks high on the Nation's list of priorities. Indeed, within the last few years rural development has come to be seen not simply as a desirable goal, but as a national necessity.

The growing national consensus on the need to expand the economic and social opportunities in rural America stems not only from the fact that many of our rural communities are economically depressed and culturally deprived, but also from the recognition that the migration of millions of people from the countryside and the small towns into a relatively few metropolitan areas constitutes one of the root causes of what we have come to describe as the "crisis of the cities."

Considering that the overcrowding of people and the excessive concentration of economic resources is the cause of many of the problems which plague our cities, the prospect of a possible 50-percent increase in our population—from 200 million to 300 million—within the next three decades is, indeed, sobering and certainly lends an additional sense of urgency to the need to expand economic opportunities outside our metropolitan areas. Unless we do so, almost all the population increase in the decades ahead will occur in the metropolitan areas. And, indeed, experts predict that unless present trends are substantially altered, 60 percent of our people will be piled up into but four massive strip cities by the year 2000.

President Nixon has recognized the urgent need of a national policy of rural development and balanced population growth. And, in his state of the Union message he declared:

> What rural America most needs is a new kind of assistance. It needs to be dealt with, not as a separate nation, but as part of an overall growth policy for all America. We must create a new rural environment that will not only stem the migration to urban centers but reverse it. If we seize our growth as a challenge, we can make the 1970's an historic period when by conscious choice we transformed our land into what we want it to become.

The goal of rural development will not be quickly or easily accomplished. The policy approaches will be many and varied. And, in fact, at this stage there is much that we do not know about what needs to be done to achieve a more balanced geographical distribution of the Nation's growing population.

But certainly, Mr. President, one of the most basic needs of the rural development effort is that of credit. The economic development of rural communities will require access to large and reliable sources of capital and this need simply cannot be met fully either by traditional government programs or by regular lending institutions.

The legislation I introduce today, Mr. President, is designed to channel private capital into the rural community development effort through the mechanism of a specially designed government corporation.

This bill would create a Rural Community Development Bank which would be designed to offer credit and also technical assistance to both individuals and public bodies for the development of projects which would serve to strengthen and expand the economic base of rural communities.

Mr. President, the Rural Community Development Bank will be a self-financing corporation, created and operated at no expense to the taxpayer.

The bill provides for a capital stock subscription of $1 billion to be provided by the Federal Government. The initial Government subscription would be only 20 percent of this amount—or $200 million. As the business at the bank developed, it could expand its capital stock by yearly increments of no more than $200 million. This seed money, paid in by the Federal Government, would be financed through the sale of U.S. Treasury obligations in the private market. Therefore, this $1 billion capitalization by the

Federal Government would not actually result in a direct appropriation of tax revenues from the Treasury.

With this capital stock, the bank could then sell bonds and debentures in the private market to raise the funds which it could use to make loans. It would charge interest rates on its loans sufficient to cover all operating costs. Therefore, the bank would be completely self-financing.

The bank would be governed by a 13 member board, appointed by the President. Seven members of the board would be Government officials, including Federal, State, and local government. The remaining six members would be appointed from the private sector, including representatives from finance, industry, labor, and the general public.

The bill would also establish a 20-member advisory committee which would be broadly representative of industry, finance, commerce, community development organizations, and appropriate State and local and Federal Government officials.

Mr. President, the Rural Community Development Bank would be authorized to make loans to job-creating enterprises which would serve to expand and improve the community's economic base.

The bank would also be authorized to make loans to public and quasi-public bodies for the development of industrial sites and for the expansion and improvement of those public facilities and services necessary to support a community's overall development effort.

Under the provisions of this bill, the bank could make housing loans if it were determined that the housing was an integral and essential part of the community's development program.

Loans for recreational and cultural facilities would also be authorized. But, as in all bank-backed activities, it would have to be determined that the project would contribute to the overall improvement of the community.

No project would qualify for assistance from the bank if it were found to be inconsistent with State and local planning objectives or if it were inconsistent with existing Federal community development programs.

Mr. President, an important feature of the bill is the provision which authorizes the bank to provide technical advisory assistance to both private individuals and public bodies. Indeed, the offering of planning assistance to small communities might eventually become as important as the banks' credit services.

Small communities lack the expertise for conceiving, planning, and carrying out an effective developmental program. An institution such as the Rural Community Development Bank would be able to provide advisory assistance to these small communities and should help fill a great void that now exists. The bank would be authorized to charge appropriate fees for this technical assistance.

Mr. President, the Rural Community Development Bank would be authorized to make loans and offer assistance to communities in counties outside the standard metropolitan statistical areas and where at least 15 percent of the families in that county had poverty level incomes.

The board would also be authorized to exclude those areas which although not at the moment a part of a Standard Metropolitan Statistical Area would likely qualify for such a classification in the foreseeable future. In other words, the bank would not participate in community development projects which the board determined would likely lead to further metropolitan sprawl. The general objectives of this legislation would be violated if the activities of the bank were to contribute to "filling up the space," so to speak, between existing metropolitan complexes.

Mr. President, the creation of the Rural Community Development Bank would open up a major new source of private capital to help finance the economic development of our rural communities. This will not be a substitute for government credit and direct assistance programs. Rather it will help to fill an enormous credit gap which neither government nor regular commercial lending institutions can ever be expected to fully meet.

The board would also become an extremely valuable source of expertise in community development. This would be of particular value to private entrepreneurs and small communities. Moreover, the experience of and knowledge gained from the bank's activities would eventually make a valuable contribution to national planning efforts for rural development and population growth policies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

The bill (S. 3607), to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment or expansion of commercial, industrial, and related private and public facilities and services, and for other purposes, introduced by Mr. PEARSON, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 3607

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 "Rural Community Development Bank Act of 1970."

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that there is an urgent need for the development and redevelopment of many rural communities of the Nation, that the development of the economy of such communities is essential to maintenance of a stable and consistent economic level of the Nation, that such development would aid in reducing the necessity of migration to metropolitan areas and in achieving a broader geographical distribution of the Nation's growing population, that such development can be aided by the establishment or expansion of commercial or industrial enterprises, and public and related private services and facilities, that the financing of such undertakings, in addition to financing presently available, is needed for such community development, and that the capital needs for investment in rural development are too great in total and too large in individual amounts to be met in full by existing institutions.

It is the purpose of this Act to accelerate rural development in the Nation by

(1) assisting in the economic development of rural communities which can provide additional economic opportunities and aid in the reduction of outmigration, by providing financial assistance for the establishment and improvement of commercial and industrial facilities, supporting public and private development facilities in or accessible to such communities, and housing necessarily related to the undertakings financed under this Act;

(2) stimulating private investment in such facilities;

(3) seeking to bring together investment opportunities, public and private capital, and capable management;

(4) providing technical and other supportive assistance to aid in such economic development; and

(5) seeking to achieve these purposes primarily by the application of the financial, management, and technical assistance resources of the private sector.

DEFINITIONS

SEC. 101. As used in this Act—

(1) The term "commercial and industrial facility" means a fixed place of business, in or from which a manufacturing, processing, assembling, sales, distribution, storage, service, or construction business is carried on, including but not limited to—

(A) an office building or place of management,

(B) a factory, plant, laboratory, service center, or other workshop,

(C) a store or sales outlet,

(D) a storage, transportation, or shipping facility, and

(E) any combination thereof.

(2) The term "supporting private and public development facility" means an element of infrastructure, including recreational and cultural facilities, typically developed and owned by a public agency or private utility, or other service or facility made available to the public which is necessary to support economic development activities under this Act.

(3) The term "housing necessarily related" means housing of all types in or near a community which will provide living quarters for the personnel of any new or expanded industry when the governing body of the political subdivision in which development assisted under this Act will be undertaken, certifies that there exists a need for additional housing in or near the development.

(4) The term "rural communities" means any community, whether or not incorporated, in the United States and the Commonwealth of Puerto Rico (including such areas in Indian Reservations and native communities as are approved by the Bank after consultation with the Secretary of the Interior) which is in a county in which at least 15 per centum of the population had an estimated annual per family income below the poverty level as determined by the Bank after consultation with the Director of the Office of Economic Opportunity, but shall not include (i) any area within the boundaries of any Standard Metropolitan Statistical Area, as defined from time to time, (ii) any area included in a metropolitan planning district or metropolitan development district, or (iii) any other area including towns and cities in an otherwise rural county which the Bank determines, in

accordance with criteria developed by the Board, including growth pattern and economic potential, should be developed as a part of a metropolitan complex, or is a city which has available adequate resources and available financial support and other assistance for its development or redevelopment without assistance under this Act.

CREATION OF RURAL COMMUNITY DEVELOPMENT BANK

SEC. 201. There is hereby a corporation to be known as the "Rural Community Development Bank" (hereinafter referred to as the "Bank") which shall be an instrumentality of the United States Government. The Bank shall be subject to the provisions of this Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

DIRECTORS AND OFFICERS

SEC. 202. (a) The Bank shall have a Board of Directors consisting of thirteen individuals who are citizens of the United States of whom one shall be elected annually by the Board to serve as chairman. Members of the Board shall be selected as follows:

(1) The President of the United States shall appoint seven members of the Board who shall be officials or employees of government, including Federal, State, and local government. The terms of directors so appointed shall be for four years, except that (A) the terms of such directors first taking office shall expire as designated by the President at the time of appointment, three at the end of two years, and three at the end of four years after such date; and (B) any director so appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. At the discretion of the President, any individual who ceases to be an official or employee of government during his term as director may, notwithstanding that fact, complete his term.

(2) The President of the United States shall appoint the remaining six members of the Board from among representatives of the private sector. Of the six persons so appointed, three shall be from among representatives of business and finance, one from among representatives of organized labor, one from among representatives of community development organizations, and one from among representatives of the general public. The terms of directors so appointed shall be for four years, except that (A) the terms of such directors first taking office shall expire as designated by the President at the time of appointment, one-half of the members at the end of two years, and one-half at the end of four years after such date; and (B) any director so appointed to fill a vacancy occurring before the expiration of the terms for which his predecessor was appointed, shall be appointed for the remainder of such term and shall be chosen from among representatives of the same category as his predecessor.

(b) The President, by and with the advice and consent of the Senate, shall appoint a president of the Bank. The president of the Bank shall be the chief administrative officer of the Bank and shall perform all functions and duties of the Bank, in accordance with the general policies established by, and subject to the general supervision of, the Board; and shall engage such other officers and employees as the Bank deems necessary to carry out its functions. The appointment of the president and not more than two assistant presidents may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and they may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The President of the Bank shall be an ex officio member of the Board of Directors and may participate in meetings of the Board, except that he shall have no vote except in case of an equal division. No individual other than a citizen of the United States may be an officer of the Bank. No officer or employee of the Bank other than members of the Board and Advisory Committee shall receive any salary, other than a pension, from any source other than the Bank during the period of his employment by the Bank.

(c) Members of the Board and of the Advisory Committee may receive the sum of $100 for each day or part thereof spent in performance of his official duties, which compensation, however, shall not be paid for more than 75 days (or parts of days) in any calendar year and shall not be paid to any board member if he is a full-time officer or employee of the United States, or such payment is otherwise prohibited by law, such members shall be reimbursed for necessary travel, subsistence, and other expenses incurred in the discharge of their official duties without regard to the laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employed personnel of the United States.

ADVISORY COMMITTEE

SEC. 203. (a) There shall be an Advisory Committee of not more than twenty persons, selected by the Board of Directors on the recommendation of the president of the Bank, which shall be broadly representative of industry, commerce, finance, labor, community development and anti-poverty organizations, the Congress and government at all levels. The Committee shall meet annually and at such other occasions at the call of the president of the Bank, and shall advise the Bank on general policy and on such other matters as the Bank may direct. Members of the Committee shall serve for such terms as the Board of Directors may from time to time determine and they shall be paid their reasonable expenses incurred on behalf of the Bank.

(b) Any official or employee of the United States Government may accept appointment and serve on advisory committee established pursuant to this section, any other provision of law notwithstanding.

CAPITALIZATION OF BANK

SEC. 204. (a) Subject to the provisions of this section, the Bank is authorized to issue from time to time and to have outstanding Class A capital stock of an aggregate purchase price not to exceed $1,000,000,000. Shares of such stock shall be nonvoting and without par value.

(b) The Secretary of the Treasury is authorized to and shall subscribe for and acquire on behalf of the United States, upon request of the Board of Directors, the full amount of the stock of the Bank of an aggregate purchase price of $1,000,000,000. The subscription of the United States shall be paid as follows:

(1) Not more than 20 per centum shall be paid at the time the bank is organized, as authorized by Appropriation Act, and shall be available as needed by the Bank for its operations.

(2) The remaining 80 per centum shall be paid on call by the Bank only when required to carry out the provisions of this Act, except that not more than 20 per centum of such amount may be called in fiscal year, as authorized by Appropriation Act.

The Secretary of the Treasury is authorized and directed to pay the subscription of the United States to stock of the Bank from time to time when payments are required to be made to the Bank. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction $1,000,000,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes of which securities may be issued under that Act are extended to include such purpose. Payment under this paragraph of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States.

(b) Stock and other securities issued by the Bank pursuant to this section and section 206(b) shall be exempt securities under section 3 of the Securities Act of 1933 (15 U.S.C. 77c).

(c) As an addition to the capital and surplus structure of the Bank, there shall be issued to each contributor to the guaranty fund hereinafter provided for, a certificate identifying his or its interest therein, such certificates may as determined by the Board be redeemable in Class B stock of the Bank when the issuance of such Class B stock is authorized by the Congress.

OPERATIONS AND POWERS OF THE BANK

SEC. 205. (a) In order to carry out the purposes of this Act, the Bank is authorized to—

(1) make, participate in, or guarantee loans or provide other financing for real or personal property or for working capital to any public agency or private organization or individual for the establishment, expansion, or preservation of any industrial or commercial facility or supporting public or private development facility which is to be established or is located in a rural community, and housing related thereto;

(2) make, participate in, or guarantee loans or provide other interim financing for the construction or improvement of such facilities to building contractors, subcontractors, or other persons engaged in such work;

(3) provide or assist in the provision of insurance to protect any agency, organization, or individual receiving financing for a commercial or industrial facility or a supporting public or private development facility under paragraphs (1) and (2) against damage or casualty loss in connection with such facility;

(4) provide technical assistance to State and local governments in the preparation and implementation of comprehensive rural community development projects and programs, including the evaluation of priorities and the formulation of specific project proposals. The Bank may charge appropriate fees for its services under this subsection;

(5) undertake research and information gathering, and to facilitate the exchange of advanced concepts and techniques relating to rural community growth and development among State and local governments;

(6) develop criteria to assure that projects assisted by it are not inconsistent with comprehensive planning for the development of the community in which the projects to be assisted will be located or disruptive of Federal programs which authorize Federal assistance for the development of like or similar categories of projects.

(7) seek to bring together investment opportunities in such facilities, capital, and capable management;

(8) carry on such other activities as would further the purposes of this Act; and

(9) provide for the establishment of a guaranty fund to which the Bank may require each borrower to contribute such a percentage of the amount of loan, guarantee, participation, or other financial assistance extended by the Bank under this Act as the Board may from time to time determine.

(b) To obtain indirect participation by private and other public financial sources the Bank is authorized to—

(1) issue bonds, debentures, and such other certificates of indebtedness as it may determine and may issue such securities on a competitive or negotiated basis at the discretion of the Board of Directors;

(2) invest funds not needed in its financ-

ing operations in such property and obligations as it may determine;

(3) buy and sell securities it has issued or guaranteed or in which it has invested; and

(4) guarantee securities in which it has invested for the purpose of facilitating their sale.

(c) Whenever necessary to meet contractual payments of interest, amortization of principle, or other charges on the Bank's own borrowings, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it, the Bank may call an appropriate amount of the unpaid subscription of the United States in accordance with section 204(b)(2). Moreover, if it believes that a default on financing provided by it may be of long duration, the Bank may call an additional amount of such unpaid subscriptions for the following purposes—

(1) to redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it with respect to which the debtor is in default; and

(2) to repurchase, or otherwise discharge its liability on, all or part of its own outstanding borrowings.

(d) The Bank is authorized to establish a principal office and branch offices in such locations as it may determine. It may establish regional offices and determine the location of, and the areas to be covered by, each regional office. It may make arrangements with public or private organizations at the regional, State, and local levels, including banking organizations and other financing institutions, to act as agents or otherwise to assist the Bank in the conduct of its business.

(e) To carry out the foregoing purposes, the Bank shall have such additional powers as are necessary or appropriate in carrying out this Act.

OPERATING PRINCIPLES

SEC. 206. The operations of the Bank shall be conducted in accordance with the following principles:

(1) The Bank shall undertake its financing, technical assistance, and other operations on such terms and conditions and for such fees as it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Bank, the benefits to the rural community or to the residents of such communities, and the conditions under which similar financing might be available from private investors.

(2) The Bank shall consult with and shall seek to encourage local banking and other financial institutions to participate in its financing and other activities.

(3) The Bank shall, to the extent feasible, give emphasis in its activities to providing financing and other assistance to facilities owned in whole or in part by residents of rural communities or to facilities in which such ownership is made available to such persons.

(4) The Bank shall seek to revolve its funds by selling its loans, guarantees, and other investments to private investors whenever it can appropriately do so on satisfactory terms.

(5) The Bank shall be subject to the Government Corporation Control Act (31 U.S.C. 841 et seq.) in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 101 of said Act (31 U.S.C. 846).

(6) The Bank shall pay a return out of net income, after providing for reserves and operating expenses, at the rate of 2 per centum per annum on the amounts of Class A stock subscription actually paid into the Bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(7) The Bank shall not engage in political activities nor provide financing for or assist in any manner any project or facility involving political parties or used or to be used for sectarian instruction or as a place for religious worship, nor shall the directors, officers, or employees of the Bank in any way use their connection with the Bank for the purpose of influencing the outcome of any election.

(8) The Bank shall adopt such bylaws as may be necessary for the conduct of its business and the management of its affairs and may adopt such additional rules and regulations as are necessary and appropriate for carrying out the provision of this Act.

LIMITATIONS ON FINANCING

SEC. 207. The Bank shall not provide financing for any business or commercial facility or public development facility, nor shall it plan, initiate, own or manage such a facility, unless it determines that—

(1) other public or private financing could not be obtained on reasonable terms and conditions;

(2) adequate arrangements have been made to insure that the proceeds of any loan or other financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy and efficiency;

(3) the borrower or other recipient of financing has an adequate equity or other financial interest in or income from the facility to insure his or its careful and businesslike management of the project;

(4) the governing body of the city or, as appropriate, the governing body of the county, parish, or other political subdivision in which the facility is located or is to be established, or an agency or other instrumentality of such political subdivision designated by such body, has certified to the Bank its approval of (A) the establishment of the facility at the particular location, (B) the proposed standards of construction and design, and (C) provisions for the relocation of any residents or businesses to be displaced;

(5) the establishment, expansion, or preservation of the facility in the particular economic opportunity for residents of the location will contribute to the level of community and contribute to the general development of the community.

EXEMPTION FROM TAXES

SEC. 208. For the purpose of the Internal Revenue Code of 1954, the Bank shall be considered to be an instrumentality of the United States and exempt from Federal income taxes. Except as specifically provided in this Act, the Bank, including its capital and reserves or surplus and income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by the Bank under the provisions of this Act. The security instruments executed to the Bank and the bonds, obligations, debentures, issued under the provisions of this Act shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

ANNUAL REPORT

SEC. 209. Not later than one hundred and twenty days after the close of each fiscal year the Bank shall prepare and submit to the President and to the Congress a full report of its activities during such year.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 301. (a) The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting before the comma after the words "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association" the following: ", or debentures or other obligations of the Rural Community Development Bank".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following:

"(14) Debentures or other obligations of the Rural Community Development Bank shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is amended by inserting before the semicolon in the second proviso following "stock of the Federal National Mortgage Association" the following: "; or in debentures or other obligations of the Rural Community Development Bank".

S. 3608—INTRODUCTION OF A BILL RELATING TO FHA NEEDS FOR ADDITIONAL LOAN AUTHORITY TO GRANT REALISTIC AID TO NATION'S FARMERS

Mr. CHURCH. Mr. President, we are all aware of the increased costs of living in our country. It requires more money to buy a car than it did 9 years ago, it costs more to buy a house, it costs more to borrow money—it just simply costs more to live. America's farmers are no exception to the increased costs that face us all and because they are that rare creature of our system—a producer who cannot set the price for his product—they are especially in need of aid to help meet these rising costs.

The current limitation of $60,000 for farm ownership loans and $35,000 for operating loans was established in 1961 under the Consolidated Farmers Home Administration Act. Since 1961 changes in technology, in farming practices, in family farm size, and in the cost of operating a farm in general have changed dramatically.

Because the need for sufficient operating capital is a constant need of America's family farmer and because Idaho farmers who I have spoken to about this topic have overwhelmingly supported increases in FHA loan authority, I introduce today legislation to increase authority for farm ownership loans from the current $60,000 to $100,000 and to increase loan authority for FHA operating loans to $50,000. These increases are needed to allow smaller units to acquire acreage to remain competitive and to aid those with current financial problems to restructure their debts and continue in business. If we are to continue the American institution of the family farm, we must provide programs to assure an adequate flow of capital to make them economically stable units. Our agricultural programs must be made more attractive so that life in rural America will be as economically rewarding as life in our major cities. If we do not, the flow to our cities will continue and the problems produced by huge concentrations of population will grow. America has too great a stake in the viability of our rural economy not to enact legislation updating current programs.

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

The bill (S. 3608) to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans introduced by Mr. CHURCH, was received,

read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. CHURCH subsequently said: Mr. President, I ask unanimous consent that the name of the distinguished Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of the bill.

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

S. 3610—INTRODUCTION OF A BILL TO PERMIT INVESTMENT TAX CREDIT FOR SMALL BUSINESSMEN AND FARMERS

Mr. MONTOYA. Mr. President, I am today introducing a bill, for appropriate reference, to provide for the continuation of the investment tax credit for small businesses.

As a member of the Senate Select Committee on Small Business, I have become increasingly aware of the precarious position of the small businessman and the small farmer within our society. The small business community has borne the brunt of the administration's efforts to fight inflation. Unlike larger businessmen, the small businessmen do not find it easy to pass on to consumers increased costs which are incurred as a result of the inflationary squeeze and the investment tax repeal. The rising costs have put these people on the brink of economic disaster. Small businesses are being forced to pay interest rates that are significantly higher than those prime rates enjoyed by large corporations, and many cannot obtain credit at any price. Small business simply cannot survive in this kind of economic climate.

Yet, the small businessman has long been considered the backbone of our free enterprise system. Can we afford to forget this individual at this point in our history? Can we permit him to fall by the wayside when he has contributed so much to our Nation in the past? Mr. President, we must provide some relief from the increasing cost of inflation for the small businessman as well as for the small farmer.

Like the small businessmen, the small farmers also find themselves in desperate financial straits. The cost of living and the cost of production have skyrocketed. The cost of interest, taxes, and labor have likewise risen. But the prices which the small farmers receive in return have remained relatively constant. If we continue to permit our present economic policies to destroy these people, we will only be hurting ourselves, and we will also be encouraging heavier migration to our Nation's large cities, which even now cannot support their citizens.

For these reasons, I am today offering a new bill to allow a tax credit for investments of up to $15,000 for farmers and small businessmen. This type of legislation is not new to Congress. When the investment credit was suspended by Congress in 1966, an exception was made for small business investors. In the last session of Congress, the distinguished Senator from Indiana (Mr. HARTKE) introduced an amendment to the Tax Reform Act of 1969 which would have permitted an investment credit of $20,000. I joined the majority of my colleagues in the Senate in voting to adopt this amendment; however, as we all know, the provision was dropped in conference committee, and the bill was signed into law without recognizing the need to assist our Nation's small businessmen and farmers.

Mr. President, this important segment of our society is in desperate need of our help, and I urge my colleagues to join with me in approving as soon as possible the legislation I now introduce.

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

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

The bill (S. 3610) to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes, introduced by Mr. MONTOYA, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 49 of the Internal Revenue Code of 1954 (relating to termination of credit) is amended—

(1) by inserting after "pre-termination property" in subsection (a) the following: "and property to which subsection (e) applies", and

(2) by adding at the end thereof the following new subsection:

"(e) SMALL BUSINESS EXEMPTION.—

"(1) IN GENERAL.—In the case of section 38 property (other than pre-termination property)—

"(A) the physical construction, reconstruction, or erection of which is begun after December 31, 1969, or

"(B) which is acquired by the taxpayer after December 31, 1969.

and which is constructed, reconstructed, erected, or acquired for use in a trade or business, the taxpayer may select items to which this subsection applies to the extent that the qualified investment for the taxable year attributable to such items does not exceed $15,000. In the case of any item so selected (to the extent of the qualified investment attributable to such item taken into account under the preceding sentence), subsections (c) and (d) of this section, paragraphs (5) and (6) of section 46(b), and the last sentence of section 47(a)(4) shall not apply.

"(2) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified in paragraph (1) shall be $7,500 in lieu of $15,000. This subparagraph shall not apply if the spouse of the taxpayer has no qualified investment for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) AFFILIATED GROUPS.—In the case of an affiliated group, the $15,000 amount specified in paragraph (1) shall be reduced for each member of the group by apportioning $15,000 among the members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that—

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and

"(ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(C) PARTNERSHIPS.—In the case of a partnership, the $15,000 amount specified in paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(D) OTHER TAXPAYERS.—Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by sections 46(d), 48(e), and 48(f) shall be applied for purposes of this subsection."

S. 3611—INTRODUCTION OF A BILL TO EXTEND MEDICARE COVERAGE TO FEDERAL EMPLOYEES

Mr. MONTOYA. Mr. President, I am today introducing a new bill which would extend medicare coverage to Federal employees.

Health insurance protection for Federal employees was made available under the Federal Employees Health Benefits Act of 1959. Under this program, the Government provided regular employees with a number of health benefit plans in which they could enroll, and toward which the Federal Government, as an employer, would make premium contributions. In 1965, Congress enacted a national health insurance program for the aged—medicare—as part of the Nation's social security program. Federal employees, however, were excluded from coverage under this program despite considerable discussion of this possibility during deliberations on the various health insurance proposals before Congress in 1965.

In the years since 1959, about nine out of 10 Federal employees have elected to be covered under the Federal Employees Health Benefits—FEHB—program. The great majority of Federal civilian annuitants who have retired since June 1960 and their survivors have elected to continue their coverage under the FEHB program after retirement.

The program is financed on a current basis by premiums paid in part by employees and annuitants and in part by the Government. Employees and annuitants have a choice between high- and low-option coverage and a choice among a variety of plans. As a general rule, the Government contributes 50 percent of the cost of low-option coverage, and employees and annuitants bear almost all the additional cost of the extra protection under the high-option plans. About 86 percent of employees and annuitants have selected high-option coverage despite its higher cost to them, and, as a result, the Government is currently paying one-third or less of the program's cost.

Because of the limitations set by present law on the amount of Government contributions, an increase in premium rates is borne almost entirely by the employees and annuitants themselves. The gross benefit cost per capita has continued to rise because of the rising cost and increased utilization of health services and because of the increasing proportion

of annuitants in the covered group. For these reasons, the premiums have consistently been raised.

A major part of the difficulties arising from our failure to include Federal civil service employees under medicare stems from the considerable movement of workers into and out of Federal employment. Many workers contribute to both part A of medicare and to the FEHB program. Upon retirement, these individuals find they fall into one of three groups: Either they are eligible for protection under both programs but with no added advantage; or they are eligible under both programs but with considerable duplication of health insurance protection; or they are ineligible under either program.

In the past, during consideration of the initial medicare legislation and subsequent amendment, special attention has been given the proposal to extend medicare coverage to civil servants. In 1967, the House Committee on Ways and Means, in its committee report on H.R. 12080, Social Security Amendments of 1967, directed the Social Security Administration "to make a thorough study of all the various problems which up to now have precluded the coverage of governmental employees under social security."

This study, issued in January 1969, contained a number of suggestions for relating the FEHB program to medicare. I have tried to incorporate most of the recommendations—but with a few changes—in my bill which I am today introducing.

This bill would bring all Federal workers under the hospital insurance provisions of social security for purposes of becoming insured for part A—hospital insurance—medicare protection when they reach age 65. It would further extend part A and part B medicare coverage to all civil service retirees.

In order to insure that all Federal civil service employees and retirees continue to enjoy the high-quality health insurance protection they now have, my bill would permit them to continue under the same FEHB policy only with greatly reduced premium payments. Benefits under the FEHB health insurance plan would only be permitted under circumstances when retirees are not entitled to benefits under parts A and B of medicare.

The monthly rate of employee or retiree contribution, under my bill, is based upon a formula which would take into consideration the number of individuals enrolled in each family. An individual enrolled in the plan only for himself would not be required to pay any additional premiums under the FEHB program. Those covered under medicare and enrolled in the Government health benefits plan would be deemed to have elected the higher of the two levels of benefits.

This measure will eliminate the duplications in coverage under the two programs as well as assure that all Federal civil service employees and retirees at age 65 are fully protected under a high-quality health insurance plan. Mr. President, many of my constituents, including the National Association of Retired Civil Employees in New Mexico, have urged that legislation of this nature be enacted. I am certain that many other Members of Congress have also been made aware of this need. My bill would greatly improve the present health insurance plan for retired Federal employees, and I call on my colleagues in the Senate to join with me in approving this new program as soon as possible.

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

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

The bill (S. 3611) to extend to Federal employees coverage under the program of hospital insurance benefits for the aged established by part A of title XVIII of the Social Security Act, and for other purposes, introduced by Mr. MONTOYA, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3611

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 226 of the Social Security Act is amended (1) by redesignating subsection (d) thereof as subsection (f), and (2) by adding after subsection (c) thereof the following new subsections:

"(d) (1) Any individual who—

"(A) for any month does not, and upon filing proper application could not, satisfy the conditions specified in subsection (a) (2), and

"(B) upon filing (in such month) application for monthly insurance benefits under section 202 could not become entitled to such benefits,

shall be deemed, solely for purposes of subsection (a), to be entitled to such benefits for such month if he would have been entitled thereto if—

"(C) the term 'employment' (as used in this title and as defined in section 210) had included service (whether performed by such individual or by any other individual) which is deemed by section 3121(r) of the Internal Revenue Code of 1954, to constitute employment for purposes of the taxes imposed by section 3101(b) and 3111(b) of such Code, but only if such individual has filed an application under this subsection in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary.

"(2) The provisions of section 205(p) shall be applicable with respect to any determinations necessary to carry out the provisions of paragraph (1).

"(e) (1) Any individual who—

"(A) has attained age 65,

"(B) attained such age before 1980,

"(C) (i) is employed to perform service which is covered by a retirement system established by a law of the United States, (ii) is entitled, on the basis of service performed by him, to a pension or annuity under such a retirement system, or (iii) is the wife or dependent husband of an individual who meets the condition specified in clause (i), or (iv) is entitled to a pension or annuity under such a retirement system by reason of being the widow or widower of an individual who performed service which is covered by such system;

"(D) does not, and upon filing proper application could not, satisfy the conditions specified in subsection (a) (2),

"(E) is not, and upon filing proper application would not, be deemed (under subsection (d)) to be entitled to monthly insurance benefits under section 202, and

"(F) has filed application under this subsection in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary, shall be deemed, solely for purposes of this section, to be entitled to monthly insurance benefits under section 202 for each month, beginning with the first month in which he meets the requirements of this paragraph and ending with the month in which he dies, or, if earlier the month before the month in which he becomes, or upon filing proper application would become, entitled (without regard to the provisions of this subsection) to hospital insurance benefits under this section.

"(2) (A) For purposes of clause (C) (iii) of paragraph (1), the husband of an individual shall be deemed, for any month, to be the dependent husband of such individual if he has received, for each month in the six-month period immediately preceding such month, at least one-half of his support (as determined in accordance with regulations prescribed by the Secretary) from such individual.

"(B) the term 'retirement system established by a law of the United States', when used in paragraph (1), shall not include the insurance system established by this title, or by the Railroad Retirement Act of 1937.

"(3) In addition to any other funds authorized to be appropriated for any fiscal year to the Federal Hospital Insurance Trust Fund, there are authorized to be appropriated from time to time to such Fund such sums as the Secretary deems necessary for any fiscal year, on account of—

"(A) payments made or to be made during such fiscal year from such Trust Fund under part A of title XVIII with respect to individuals who are, but would not (except for the provisions of this subsection) be, entitled to hospital insurance benefits under this section,

"(B) the additional administrative expenses resulting or expected to result therefrom, and

"(C) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding provisions of this subsection had not been enacted."

(b) The amendments made by subsection (a) shall be effective on and after January 1, 1971.

SEC. 2. (a) (1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new section:

"(r) SERVICE PERFORMED BY FEDERAL EMPLOYEES.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), the term 'employment' (as defined in section 3121 (b)) shall be deemed to include service which—

"(1) is covered by a retirement system established by a law of the United States, and

"(2) is described in, and excluded from such terms (as so defined) by reason of, the provisions of paragraph (5) or (6) thereof.

(2) The first sentence of section 3122 of such Code (relating to Federal service) is amended by inserting after "section 3121(p) are applicable," the following: "and including service to which the provisions of section 3121(r) are applicable,".

(b) The amendments made by subsection (a) of this section shall apply with respect to service performed after December 31, 1970.

SEC. 3. (a) (1) Chapter 89 of title 5, United States Code, relating to health benefits plans,

is amended by adding at the end thereof the following new section:

"§ 8914. Special rules for retired employees

"(a) In the case of an employee or annuitant enrolled in a health benefits plan under this chapter who has attained age 65 and is (or upon the filing of appropriate application or applications could become) entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, or a member of whose family covered by such enrollment has attained age 65 and is so entitled, the monthly rate of contribution charged him under the plan for periods after December 1970 shall be reduced—

"(1) if he is enrolled in the plan for self alone, to zero; or

"(2) if he is enrolled in the plan for self and family—

"(A) to a rate equivalent to the monthly premium currently payable under section 1839(b) of such Act for any period for which he is entitled to benefits under such part A and at least one other member of his family covered by such enrollment is also so entitled;

"(B) to a rate equivalent to the difference between the rate being charged under the plan for enrollment for self and family and the rate being charged under the plan for enrollment for self alone, determined without regard to this subsection,

for any period for which he is entitled to benefits under such part A and no other member of his family covered by such enrollment is so entitled; and

"(C) to a rate equivalent to the rate being charged under the corresponding plan for enrollment for self alone, determined without regard to this subsection,

for any period for which another member of his family covered by such enrollment is entitled to benefits under such part A but he is not so entitled.

"(b) Any employee or annuitant who—

"(1) is enrolled in a plan described in section 8903 (1) or (2) of this title and has elected the lower of the two levels of benefits offered by such plan;

"(2) has attained age 65; and

"(3) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act;

shall, as of the first day of the first month in which he satisfies clauses (1), (2), and (3) (or January 1, 1971, if later), be deemed for all of the purposes of this chapter to have elected the higher of the two levels of benefits referred to in clause (1). An employee or annuitant who satisfies clause (1) through enrollment for self and family but does not satisfy clause (2) and (3) may elect for purposes of this subsection, under regulations prescribed by the Commission, to be considered as satisfying such clauses as of the first day of the first month in which any member of his family covered by such enrollment satisfies such clauses (or January 1, 1971, if later).

"(c) Nothing in this section shall affect any Government contribution provided for in this chapter or result in any change in such contribution from the amount it would be if this section had not been enacted, or affect any right or entitlement of an individual under or in connection with an approved health benefits plan described in section 8903 if such right or entitlement is available to employees and annuitants generally (or to employees and annuitants in a class or category of which such individual is a member) under or in connection with such plan.

"(d) If for any month (commencing with the month of January 1971) any individual is covered by an enrollment in a health benefits plan under this chapter, and for such month such individual is (or upon the filing of appropriate application or applications could become) entitled, for such month, to hospital insurance benefits under part A of title XVIII of the Social Security Act, then, for purposes of any claim by or on account or such individual for benefits under such plan, such individual shall be deemed to have received (as benefits under such plan) any benefits to which he would be entitled under the insurance programs established by parts A and B of such title XVIII if he were entitled to benefits under both of such programs for such month. Notwithstanding any other provision of law, in determining any claim for benefits under such title XVIII by or on account of any individual to whom the preceding sentence is applicable, such claim shall be determined in like manner as if such individual were not covered by an enrollment in a health benefits plan under this chapter."

(2) The table of sections of such chapter is amended by adding at the end thereof the following new item: "8914. Special rules for retired employees".

(b)(1) Section 8902(i) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this subsection, the determination of rates in the case of employees and annuitants who have attained age 65 shall be made subject to section 8914 in cases to which such section applies."

(2) Section 8906(c) of such title is amended by striking out "There" and inserting in lieu thereof "Subject to section 8914 of this title, there".

(3) Section 8906(d) of such title is amended by striking out "The amount" and inserting in lieu thereof "Subject to section 8914 of this title, the amount".

(c)(1) Section 5 of the Retired Federal Employees Health Benefits Act is amended—

(A) by striking out "There shall be withheld" and inserting in lieu thereof "(a) Subject to subsection (b) of this section, there shall be withheld"; and

(B) by adding at the end thereof the following new subsection:

"(b) In the case of a retired employee enrolled in the health benefits plan provided for under section 3 of this Act who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, or a member of whose family covered by such enrollment is so entitled, the amount to be withheld for periods after December 1970 shall be reduced—

"(1) if he is enrolled for self only, to zero; or

"(2) if he is enrolled for self and family—

"(A) to an amount equivalent to the monthly premium currently payable under section 1839(b) of such Act for any period for which two or more members of the family covered by such enrollment are entitled to benefits under such part A; and

"(B) to an amount equivalent to the amount which would be withheld in the case of an individual enrolled for self only, determined under subsection (a) without regard to this subsection, for any period for which not more than one member of the family covered by such enrollment is entitled to benefits under such part A.

"(e) If for any month (commencing with the month of January 1971) any individual is covered by an enrollment in the health benefits plan provided for under section 3 of this Act, and for such month such individual is (or upon the filing of appropriate application or applications could become) entitled, for such month, to hospital insurance benefits under part A of title XVIII of the Social Security Act, then, for purposes of any claim by or on account of such individual for benefits under such plan, such individual shall be deemed to have received (as benefits under such plan) any benefits to which he would be entitled under the insurance programs established by parts A and B of such title XVIII if he were entitled to benefits under both of such programs for such month. Notwithstanding any other provision of law, in determining any claim for benefits under such title XVIII by or on account of any individual to whom the preceding sentence is applicable, such claim shall be determined in like manner as if such individual were not covered by an enrollment in the health benefits plan provided under section 3 of this Act."

(2) The first sentence of section 3(c) of such Act is amended by inserting before the period at the end thereof the following: ", except that such rates shall be equivalent to the amounts withheld under subsection (b) of section 5 in all cases to which such subsection applies".

(3) Section 9 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Nothing in section 5(b) shall affect any Government contribution provided for in this Act or result in any change in such contribution from the amount it would be if such section had not been enacted, or affect any right or entitlement of an individual under or in connection with a health benefits plan provided for under this Act if such right or entitlement is available to retired employees generally (or to retired employees in a class or category of which such individual is a member) under or in connection with such plan."

S. 3613—INTRODUCTION OF THE "POSTAL REORGANIZATION ACT"

Mr. McGEE. Mr. President, I introduce for appropriate reference, a bill to amend title 39 to modernize the Post Office.

This bill, which I introduce on behalf of the distinguished ranking Republican member of the Committee on Post Office and Civil Service, Senator FONG, and myself, contains the elements for significant reform in the postal system without going so far as to divorce the largest civilian and public service agency of the Government from the supervision and control, to a reasonable extent, of the Congress elected by the American people.

This bill has been discussed in executive session of the Post Office Committee this morning and I will schedule further executive sessions as soon as is reasonably possible.

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

The bill (S. 3613) to improve and modernize the postal service and to reorganize the Post Office Department, introduced by Mr. McGEE (for himself and Mr. FONG), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSOR OF A BILL

S. 3216

Mr. KENNEDY. Mr. President, I ask unanimous consent, that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of S. 3216, a bill I introduced which is designed to provide Federal funds for programs that will seek out and treat victims of lead poisoning, and eliminate exposed wall surfaces that have been coated with lead-based paints.

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

SENATE RESOLUTION 373—RESOLUTION SUBMITTED EXPRESSING THE SENSE OF THE SENATE THAT LAWS RELATING TO STRIKES BY GOVERNMENT EMPLOYEES SHOULD BE ENFORCED

Mr. WILLIAMS of Delaware submitted a resolution (S. Res. 373) expressing the sense of the Senate that laws relating to strikes by Government employees should be enforced, which was placed on the calendar.

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

ADDITIONAL COSPONSORS OF A RESOLUTION, SENATE CONCURRENT RESOLUTION 58

Mr. HATFIELD. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON), I ask unanimous consent that, at the next printing, the names of the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. McGOVERN), the Senator from Utah (Mr. Moss), and the Senator from New Jersey (Mr. WILLIAMS) be added as cosponsors of Senate Concurrent Resolution 58, expressing the sense of Congress that the administration should reverse its high-interest-rate policy, and that the Federal Reserve Board should take steps to gradually roll back the prime interest rates to 6 percent.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 19, 1970, he presented to the President of the United States the enrolled bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

ANNOUNCEMENT OF HEARING ON S. 3354, A BILL TO ESTABLISH A NATIONAL LAND-USE POLICY

Mr. JACKSON. Mr. President, a hearing on S. 3354, a bill to amend the Water Resources Planning Act—79 Stat. 224—to include provision for a national land-use policy, will be held on March 24, 1970, at 9:30 a.m., in room 3110, New Senate Office Building. At this time the committee will take testimony from spokesmen for the design and planning professions, including representatives of the American Institute of Architects, the American Institute of Planners, and the American Society of Landscape Architects.

The purpose of the initial hearing will be to acquire an overview of land-use planning and management in the United States and other countries and to explore the potential for creative use of land-use planning and management concepts in avoiding future environmental problems. Additional hearings will be held at a later date to obtain the views of Federal and State policymakers and planning officials, industry spokesmen, conservationists and ecologists, and other interested individuals.

The projected expansion of our Nation's growth in the years ahead is well known.

The national land-use policy I have proposed is designed to establish a framework by which economic growth and environmental enhancement may proceed in a harmonious relationship. Its grant-in-aid provisions will leave the initiative to the States; Federal coordination and standards will assure protection of national environmental interests. It will avoid crisis-oriented approaches to environmental conflicts and allow individuals and firms to plan projects having environmental implications in an orderly manner.

I spoke on the need for comprehensive land-use planning in a recent address at Princeton University and ask unanimous consent that a copy of that address be printed at this point in the RECORD.

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

A VIEW FROM CAPITOL HILL

(Address of Senator HENRY M. JACKSON to the Princeton University Conference, Princeton, N.J., March 9, 1970)

It is a great pleasure to be with you for this the 100th meeting of the Princeton University Conference. It is appropriate that this centennial meeting should be devoted to "Ecology and Politics in America's Environmental Crisis."

There is a crisis and it very much involves politics, because dealing with America's "Environmental Crisis" will require some fundamental changes in the actions of government and enterprise—and in the relationship of the individual citizen to both.

Fairfield Osborn, to whose memory this conference is dedicated, recognized this at a time when the words "environment" and "ecology" were seldom heard. In 1953 in *The Limits of the Earth* he said:

"The tide of the earth's population is rising, the reservoirs of the earth's living resources is falling. Technologists may outdo themselves in the creation of artificial substitutes for natural subsistence . . ."

The issue Fairfield Osborn dealt with was the control and management of "change." This is the major issue today.

The "industrial revolution" and now, the "technological revolution," have raised the country's Gross National Product from $55.6 billion in 1933 to $952 billion in the fourth quarter of last year. In less than 18 months, barring a recession, we will reach and cross the trillion dollar mark. By 1978—in less than 10 years—we will have doubled our present Gross National Product to 1 trillion 800 billion dollars.

When our Federal Constitution was written, there were 4 million people in America. Today there are over 200 million and 300 million are projected for the year 2000, a short 30 years away. Population growth is not the whole story, however. The impact of the technological revolution on our society is far more dramatic. Look at these figures. While our population was increasing by 70 percent since 1945:

The horsepower of our machinery increased by 350%;

Aviation fuel consumption increased by 700%;

News print consumption increased by 170%. New industries propelled by new technology have been created and have become vital sectors of our economy.

75 years ago the first automobile was invented. Today we are producing nearly 10 million passenger cars each year.

Fifteen years ago there were only 200 computers operating in the United States. In another 5 years, ⅓ of all spending on new plant and equipment will go for data processing equipment.

All of these—population increase, economic growth, technological change—have brought overwhelming pressures to bear on our natural resource base. Everywhere, we are experiencing intensified conflicts between alternative and sometimes incompatible uses of the environment.

The question we face is can we live with the changes we have brougth about and the changes which are projected for the future?

Winston Churchill recognized better than most that man must be able to live with the consequences of his actions. In his words, "We shape our buildings and then they shape us."

This lesson of the interrelationship between man and his surroundings is written large in the landscape of the 20th Century America. It is only recently, however, that man people have read it with understanding.

Churchill's point was that there *are* alternatives. Man has the capacity of choice, of shaping his future, and of preserving those values which a free society deems important. He recognized that the quality of life and surroundings which we enjoy is a function of how well we design our social institutions, how wisely we write and administer our laws, and how we order our national priorities. In short, the quality of life for present and future generations is a product of past choices and, more important, the choices to be made in the days ahead.

In my view from Capitol Hill, I must report that I am not optimistic that the choices we are making today are going to lead to a quality environment and a better life for Americans. I am not sure that the commitments to expend effort and resources on environmental programs will be sustained, and I fear that the expenditures will be directed toward treating symptoms rather than the underlying causes.

The history of conservation and environmental concern has been a history of specific, isolated confrontations—a history of focusing on the issue or crisis of the moment, be it forest management, wilderness preservation, an oil spill or air pollution. A comprehensive management approach to environmental administration has not been achieved. Our institutions and procedures still condition us to fight brush fires.

Fortunately, we are now making some progress towards the development of intelligent long-range environmental policies, most recently in connection with the enactment of the "National Environmenaatl Policy Act."

Many of the environmental aspirations and desires of the American people were written into law in the Environmental Policy Act which the President signed as his first official act of 1970. This measure provides a congressional declaration of national goals and policies to guide all Federal actions which have an impact on the quality of man's environment. The act makes a concern for environmental values and amenitics a part of the charter of every agency of the Federal government. It establishes a high level overview agency—the Council on Environmental Quality patterned after the Council of Economic Advisors—in the executive office of the President. The Council's mandate is to identiiy the basic policy issues and alternatives for environmental administration. Finally, the Act calls for an annual report on the quality of the environment. This report will provide, for the first time, periodic baseline information on the state of the Nation's environment.

The most important feature of the Act,

however, and, I might add, the least recognized, is that it establishes new decision-making procedures for all agencies of the Federal government. Some of these procedures are designed to establish checks and balances to insure that potential environmental problems will be identified and dealt with early in the decision-making process and not after irrevocable commitments have been made.

Full implementation of the goals and policies declared by the Act will require additional specific Act of Congress.

A National Land Use Policy is, in my view, a next logical step in our effort to maintain a quality environment.

Land use planning is an essential tool of environmental management for the future. Most existing problems of population density, pollution, and congestion are directly or indirectly attributable to past shortcomings of land use management—to poor selections among alternative uses of land.

Regulation and control of the land in the larger public interest is essential if real progress is to be made in achieving a quality environment. It is essential because the land is the key to insuring that *all* future development is in harmony with sound ecological principles and environmental guidelines. The problems of the present look relatively insignificant when they are compared with the problems we will have in 10, 20, 30 years *if* we accept supinely the ultimate consequences of some current projections of future requirements.

Listen to these statistics which are thrown at us by government prognosticators:

By 1975 our park and recreation areas, many of which are already overcrowded, will receive twice as many visits as today, perhaps 10 times as many by the year 2000;

We must construct 26 million new housing units by 1978. This is equivalent to building 2½ cities the size of the San Francisco-Oakland metropolitan area every year;

Each decade, new urban growth will absorb 5 million acres, an area equivalent to the state of New Jersey;

Demands for electrical energy double every 10 years; by 1990 demands will increase by 284%.

In the face of these and similar projections the Federal government has done little to plan for and deal with the problem of accommodating future growth in a manner that is compatible with a quality environment. We have instead created conditions which encourage haphazard growth and compound environmental problems. These are some of the problems I see:

Public administration is oriented to an annual budget cycle which distorts resource allocation decisions in favor of short term considerations.

Where long-range planning is undertaken, it is most often intended to meet the problems posed by projected trends. It is seldom directed toward achieving desirable goals.

Public policies are too often defined and carried out in fragmented, narrow scope programs by mission-oriented agencies.

Because of these and other deficiencies in public administration, the alternatives available are narrowly limited when crisis become immediate. Largely they consist of efforts to reclaim a small portion of what is being lost in the growing tides of environmental change.

The pressures upon our finite land resource cannot be accommodated without better planning and more effective control. Our land resources must be inventoried and classified. The Nation's needs must be catalogued, and the alternatives must be evaluated in a systematic manner.

These and other concerns can only be met if governmental institutions have the power, the resources and the will to enter into effective land use planning, if plans at all levels of government are coordinated, and if public decisions on land use are backed up with effective controls in the form of zoning and taxing policies.

I have introduced legislation in the Senate to establish a "National Land Use Policy." While this measure does not purport to be the final answer, it does provide a focal point for analysis and for consideration of alternatives. As introduced, the bill has three major provisions. *First*, it establishes a grant-in-aid program to assist State and local governments in improving their land use planning and management capability. *Second*, States are encouraged to exercise "States rights" and develop and implement a State-wide "Environmental, Recreational and Industrial Land Use Plan." *Third*, the Federal government's responsibility for coordinating Federal land use planning activities, for improving Federal-State relations, and for developing data on land use trends and projections is enlarged and centralized.

The Land Use Policy bill I have proposed carries with it a big stick, because a big stick is needed. The bill would authorize the President to reduce, at a rate of 20% a year, Federal grant-in aid programs which have potentially adverse environmental impact *if* a State should fail to comply with the requirements of the bill.

The programs I have in mind are Federal Highway Trust Funds, water resource projects, funds for airports and other public works oriented projects. It is my view that it is grossly irresponsible for the Federal government to pay 90% of the cost of a State transportation system unless the States have:

1. inventoried their land resource base;
2. identified areas for development and preservation;
3. related transportation plans to an overall design for the future;
4. implemented land use controls to protect lakes, ocean beaches, and units of the National Park and Forest system.

One of the recurring and most complex problems of land use decision-making today is that existing legal and institutional arrangements are in many respects archaic. They weren't designed to deal with contemporary problems. Industry, for example, is unable to get effective decisions on plant siting and location without, in some cases, running an interminable gauntlet of local zoning hearings, injunctions, and legal appeals. In other cases, industry is welcomed into areas which should be dedicated to other uses under the banner of "broadening the tax base." Often this really means higher taxes, fewer amenities and more problems.

The land use policy bill I have proposed would require the establishment of industrial, conservation, and recreational sanctuaries. These sanctuaries would be established in advance of their need and on the basis of projected demands. Industrial sites would be located so that transportation and environmental problems would be minimized.

Another essential element of the bill is the planning and development of new towns. In the next decade, population growth will cause the growth of new communities all over the country. Whether this growth is haphazard and ill-planned or organized and directed depends on our willingness to act decisively now to formulate a new towns policy. The planned location and development of new towns can relieve pressures on existing cities and avert potential environmental degradation in new areas before it occurs.

As chairman of the Senate Interior Committee, I am particularly interested in the potential of the public lands for new town development and the Committee will be exploring this subject during the present Congress. I was delighted to learn that the session of the Princeton University Conference in May will be devoted to this subject. It is a logical extension of today's discussion.

Public interest in the environmental crisis has in recent months gathered remarkable momentum, producing an abundance of good intentions. I would remind you, however, as Princeton's Professor Marion Levy is fond of saying, that "good intentions randomize behavior."

To give physical expression to the manifest concern of legislators, students, conservation groups, lawyers and millions of citizens, adequate level of national investment in a coordinated, systematic and long-range program of environmental administration is needed. We must be prepared to pay for those best things in life that used to be free, including the land, air and water that sustain life itself.

It is far easier to gain a consensus that we must pay for environmental quality than to reach agreement on the proper sources of funds.

State and local governments, taxpayers and corporate executives, like Uncle Sam, frequently have arms too short to reach their pocket books.

Industry's contribution to the "effluent" society has been so important that many feel it must be forced to pay the costs associated with new and higher standards of environmental protection. Unfortunately, many of the industries whose contribution to the deterioration of our environment is greatest are also industries furnishing necessities with a highly inelastic demand; fuels, power of all sorts, transportation and agriculture. In these cases the costs will be passed on to the consumer in a way that may be just as regressive as, say, the general sales tax.

User taxes give the appearance of a kind of rough hewn justice that is often deceptive. If they are carefully designed to exclude necessities, it may be possible at least partially, to avoid the regressive aspects of some taxes and some programs forcing consumer borne industry price increases. This method, unfortunately, provides little incentive for innovative controls by industry aimed at stopping pollution as opposed to costly remedial programs to cope with it when it becomes manifest.

The difficulty of arriving at fair and proper methods for generating the considerable capital resources that environmental quality will require is inherent in a society with millions of poor people and, more generally, an uneven distribution of income.

It is all very well for affluent middle class Americans—public officials, college students, politicians, even corporate officers—to demand that the factories be shut down, that a "no-growth" policy be adopted, that we adopt a new national life style which rejects the materialistic consumptive philosophy we have held dear for so long. But I would add a word of caution. The 26 million people in this country classified as being below the poverty line don't share this view. Poor people, black and white, do not espouse it. They want jobs. They want material goods. They want to be able to send their children to college. They don't want to be the first to suffer under a State backed program of spartan rigor.

Their attitude is that they neither created the environmental mess nor profited from the exploitation of common resources. I must say I find myself in sympathy with their point of view. A real commitment to restoring the quality of the enviroment means new priorities; this in turn means that housing, poverty, education and other programs must compete with environment for the tax dollar.

A parallel consideration that is often lost amid the welcome enthusiasm to restore the quality of our surroundings is the uneven access to the environment we are hoping to

improve. Many of the programs on which it is relatively easy to gain agreement involve the restoration of areas that are enjoyed by middle and upper income groups, but have little present relevance to the life in the ghettos. Programs that bridge this gap—such as the Youth Conservation Corps I have proposed—are an essential corrective if we are not to exacerbate the disparities among income groups. It would be ironic indeed if regressive taxation were to become the instrument by which those least able to pay were to find themselves financing facilities they are least able to enjoy.

Dealing with the environmental problems we face will require some basic value judgments about the quality of life we desire and how it is to be attained. The great universities have many important roles to play in the days ahead in making these judgments. Some of our central environmental problems—such as the problem of air pollution—are vitally dependent on research and development that ought to be going on here and now. Economists can do much to bring to light the burden-sharing implications of alternative methods of financing environmental programs. Systems analysts can do much to illuminate the implications of choice under conditions of uncertainty. Agronomists and chemists can search for better methods of increasing agricultural production without reliance on chemicals that also pollute our land and water.

If university scholars are to help "clean up" the environment, they must be prepared to get their hands dirty. They must be more willing to recognize external constraints that cloud the purity of elegant research results, than has traditionally been true. They must resist the temptation to build elaborate theoretical models or retreat from methods to improve the environment to proliferating methodologies for studying it.

The universities are the nation's first and foremost centers for the advancement of learning and thought. President Goheen has noted that the university is distinguished from other institutions by its commitment to thought. "It does not seek victories; it does not work for profits; its production is not measurable. Its truest goals are not precise targets, but high ideals—the enrichment of the minds and lives of its students, the advancement of knowledge, the increase of understanding among men and the unending search for truth."

The commitment of the University is gravely needed in the task which lies ahead.

Thank you.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert L. Meyer, of California, to be U.S. attorney for the central district of California for the term of 4 years, vice William Matthew Byrne, Jr.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, March 26, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, March 26, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Warren K. Urbom, of Nebraska, to be U.S. district judge, district of Nebraska, vice Robert Van Pelt, retiring.

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

The subcommittee consists of myself, the Senator from North Dakota (Mr. BURDICK); the Senator from Mississippi (Mr. EASTLAND) as chairman.

ANNOUNCEMENT ON HEARINGS TO BE HELD ON JUDICIAL CONFERENCE OF THE UNITED STATES

Mr. ERVIN. Mr. President, I should like to announce that on April 7 and 9, the Judiciary Subcommittee on Separation of Powers will hold public hearings on the powers of the Judicial Conference of the United States and the judicial councils of the circuits.

At a time when some would push us toward creating new hierarchies in the Federal courts, these hearings are particularly appropriate. Before we grant any new powers to the Judicial Conference or to the circuit councils, we should first determine how those bodies have exercised the powers which they already enjoy.

If we find that the Judicial Conference has departed from the intent of the Congress and overstepped its authority, we should hold it responsible for its transgressions. If we find abuses of power, we should remember those abuses when we are asked to grant the Conference even more authority.

Mr. President, no student of the Federal judiciary should deny that the Judicial Conference of the United States and the circuit councils today are engaged in activities which were wholly unintended by the Congress when it created those bodies in 1922 and 1939. The aim of these hearings is to find out precisely how far the Conference and councils have deviated from their congressional purpose.

In addition, these hearings should add much to the existing body of research on the Conference and councils. The subcommittee has invited members of the Judicial Conference and other distinguished jurists and lawyers to testify.

Persons desiring information about the hearings should contact the Subcommittee on Separation of Powers at 1418 New Senate Office Building, Washington, D.C. 20510, telephone 225-4434. The hearings will be open to the public and will begin each day at 10 a.m. in room 2228, New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS

RURAL AMERICA ASKS TO AMEND THE WHOLESOME MEAT ACT

Mr. HRUSKA. Mr. President, it is my privilege to join as cosponsor of the bill introduced to amend the Wholesome Meat Act of 1967. For Senators who share with President Nixon and Secretary Hardin a concern for rural renewal and a desire for a proper urban-rural balance in our economy and population, I commend the bill to their attention.

The amendment is important indirectly to our small towns, to our farmers, and to our meatpackers, but it is especially and directly vital to the thousands of small meat processors whose businesses are threatened with extinction under the 1967 act. Our small towns need the employment and tax base which these businesses create. Our farmers need the custom services which these businesses offer. And, our meatpackers need these businesses as outlets for their retail meats. Without an amendment to the 1967 act, these advantages will be lost.

Mr. President, the amendment that I am cosponsoring will permit custom slaughtering of livestock to be done for farmers and ranchers by small meat processors who also cut and sell meat at retail.

Many Nebraskans have written to me expressing their concern that their custom slaughtering operations will be discontinued as a result of the 1967 act.

The problem is that the Wholesome Meat Act, as interpreted by the Department of Agriculture, has the effect of prohibiting the local butchers from providing custom meat services on uninspected meat for the farmer for his own consumption if the butcher is also engaged in the meat business. In the rural towns of Nebraska, and the Midwest generally, the local butcher is widely used for the slaughter of single animals for the consumption of farm families. This process saves the farmer the cost of maintaining proper facilities on the farm for sanitary slaughter, and saves him the time which the slaughtering and cutting would take. Having a local butcher to prepare animals owned by the farmers also helps save the farmers on their meat bills. Considering how low farm income is, compared with the income of most other segments of our economy, I do not think anyone would deny the farmer an opportunity to cut his expenses.

Mr. President, let me emphasize that this amendment will not in any way weaken the protection of the consumer who is buying meat at retail from the local processor. The amendment will give the Secretary of Agriculture full authority to control the sanitary conditions under which exempt custom slaughtering for farmers and ranchers is performed. The custom slaughtering operations will also be required to be kept separate from the retail marketing activities, and the products have to be clearly labeled. Custom slaughtered meats will have to be identified as "not

for sale." Finally, all of the retail meats being sold by the small processor must come from inspected slaughter plants.

For over 30 years, these small meat processors have been selling meat and performing custom operations for the farmers and ranchers. The combination of these activities, which involves the use of the same personnel, facilities, and equipment, has made it possible through the years for these small meat processors to operate at a reasonable profit while serving their customers.

However, thousands of the Nation's approximately 7,000 locker and freezer provisioners may be forced to close their doors before the end of the year if the Wholesome Meat Act is not changed. And, the reason is not that small meat processors cannot produce wholesome meat under sanitary conditions, but rather, apparently due to technical oversight, the act failed to recognize the problems of these local processors.

If the local operators must give up their custom service on uninspected meat for the farmer and restrict their activities to the buying and selling of inspected products, or if they must discontinue their meat business and only provide custom services, or if they must make the necessary equipment and facility changes to comply with the 1967 act, many operators will have to quit the business. Giving up either of the types of business in which they engage would reduce their income to an uneconomic level. On the other hand, upgrading their facilities to permit full inspection would cost far more than the potential income from those facilities would justify. Thus, none of the three choices available to many of these small meat processors permits them to continue in business.

I am told that where small operators have gone to banks to seek financing for the purchase and installation of upgraded facilities, they have been turned down. The fear of the bankers is that the standards being imposed would eventually force the borrowing processors out of business.

Mr. President, this we cannot permit. Economic development is the key to renewing rural America. This will require an expanded tax base, new employment opportunities, and greater utilization of local resources to stimulate local economic activity. In my opinion, the local lockers and processors are providing such needed tax base, are creating employment off the farm, and are utilizing local resources to stimulate economic activity.

If the smalltown meat processors are forced out of business, there will be many undesirable results. First, large sums of capital and many years of hard work invested by the owners of these businesses will be lost. Next, thousands of jobs in rural communities will be lost. Also, tax revenues now provided by these businesses will be lost. Moreover, thousands of farmers and ranchers will be deprived of needed slaughtering and processing services forcing them to devise their own facilities and use their own time for slaughtering. I am told that this could even result in increased black-marketing of uninspected meat.

Finally, Mr. President, this amendment will provide a continuing economic boost for the meatpacking industry. It is thought by some persons that most of the livestock slaughtered by locker plant slaughterers is for their own account and is sold to consumers in sides, quarters, and other cuts. This is not the case. Most of the livestock slaughtered by the local operators is owned by farm people and prepared for them for their own use. At the same time, nearly all the meat sold to consumers by these operators is inspected meat, purchased from meatpackers. These local operators are very good customers of the meatpackers; in fact, I am told that the volume of inspected packer meat purchased by the local operators is nearly $500,000 annually. If these local sales by the smalltown meat processors can be continued under the Wholesome Meat Act, this volume will certainly continue to grow. Meatpackers are a strong Midwest industry which needs this substantial and growing market.

I believe that the 7,000 small meat processors throughout our Nation are an important segment of our meat industry, and a vital business operation in our rural communities. Every appropriate effort must be made to keep this industry in business. The amendment which I am cosponsoring will resolve this crisis.

Mr. President, let me again emphasize that this amendment does not weaken the protection of the consumer who is buying meat from the local operator's retail market.

Mr. President, I think the reasons why the amendment must be adopted are strong and compelling. I urge Senators to adopt the amendment.

RAMIFICATIONS OF PRESENT U.S. POLICY IN VIETNAM

Mr. HARRIS. Mr. President, an important discussion of the ramifications of our current policy on Vietnam was recently presented by one of our most distinguished military figures, Gen. Matthew B. Ridgway.

In an article published in the New York Times last Saturday, General Ridgway warns us with stark clarity of the dangers to our larger interests which could result from any attempt to hold out for a military victory in Vietnam. He argues that adherence to the conditions given by the President on November 3 which were to govern the rate of our withdrawal could force us into an untenable choice between major military steps of a provocative nature and suspending and even reversing our withdrawal. By relying on conditions under the control of others to govern our own policy, we run great risks of losing what room for initiative we still have, being forced, instead, to react, always a step behind, to the initiatives of others.

General Ridgway argues that we "should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement and eventual complete withdrawal." He suggests that a negotiated political settlement is the only ultimate answer in Vietnam, and that we must face up to the difficult problems which that would pose for us. I have found the article instructive, and 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:

TOPICS: SETTLEMENT—NOT VICTORY—IN VIETNAM

(By Matthew B. Ridgway)

Many continue to argue that a military solution, or "victory," in Vietnam has all along been within our reach, that nothing less would serve our interests. I believe such a solution is not now and never has been possible under conditions consistent with our interests.

That would have required, and would still require, resort to military measures unacceptable to most of our people. But regardless of past policy decisions, were such a course to be pursued now the divisive influences throughout our land, comparatively quiescent, would be intensified.

The basic decision, which I believe is irrevocable and which was made and announced long ago, was to reduce our operations and to initiate disengagement and withdrawal according to a plan merely outlined.

Whether or not it includes an ancillary decision to complete withdrawal by a fixed date, I do not know, though I assume it does. For reasons of its own—and reasonable ones are not lacking—the Administration has not seen fit to announce it.

Last Nov. 3 the President set forth three conditions that would, he said, determine the rate of our withdrawal: progress in the Paris talks; the character of enemy operations; and the rapidity with which the South Vietnamese Army can assume full responsibility for ground operations. He warned that "if increased enemy action jeopardized our remaining forces," he would "not hesitate to take strong and effective measures," not spelled out but alluded to again in his Jan. 30 press conference.

Adherence to these conditions could result in relinquishing the initiative. Hanoi's stalling in Paris, or Saigon's unwillingness or inability to bring its army up to the requisite level of combat effectiveness, or an escalation of enemy action would then compel a choice between resort to "strong measures"—a reversion, it would seem to me, to the search for a military solution already publicly eschewed—or suspending and even reversing our withdrawal.

NONMILITARY OPTIONS

If this reasoning is sound, then it is relevant to examine our opinions, should events seem to demand dealing "strongly" with the situation.

We could decide: to halt and subsequently reverse the disengagement process; to resume bombing in North Vietnam on the same scale and against the same target systems as before; to widen the bombing to include key points in power grids, port facilities and utilities, even though located in population centers; to impose a sea blockade of North Vietnamese and Cambodian ports; to invade North Vietnam with ARVN or U.S. ground forces, or both; to use nuclear weapons.

Putting any of these measures into effect could result in: ending hopes for arms control; raising U.S.S.R.-U.S. tensions; causing heavy loss of life among noncombatant North Vietnamese; raising U.S. casualty rates and dollar costs; impairing our capability for quickly responding to other challenges elsewhere; seriously accentuating domestic criticism of Government policy. If there was a land invasion of North Vietnam by U.S.

ground forces, the posibility, if not the probability, would follow of massive Chinese ground force intervention as occured under similar conditions in Korea in 1950; and, if nuclear weapons were employed, world and domestic opinion would revolt.

I question that the execution of any of these options would serve our interests. Most of them, I believe, should be rejected. Certainly we should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement and eventual complete withdrawal.

This will present painful problems, but they must be faced. It raises serious military questions: How long will it take to increase the combat effectiveness of the South Vietnamese Army to a necessary level? If a long time, how much U.S. combat and logistic support will be needed, and for how long? If chiefly U.S. Air Force and Navy combat elements are needed, who is to provide security for their bases? And if reliance is to be placed on South Vietnamese forces, who will command them? How will U.S. base commanders and their troops react to such arrangements? These are a few of the military problems, quite apart from the political ones.

FOR A POLITICAL SOLUTION

A negotiated political settlement, which I think we would all prefer, and which I believe we must ultimately reach, will be unattainable unless we retain the initiative and face up to these problems now.

Regardless of how much this may tax the wisdom and determination of our Government an the patience of our people, our decision is, I believe, the prudent one, and we should channel its execution into the mainstream of our long-range national interests.

General Ridgway, now retired, was U.N. and U.S. commander in Japan, Korea and the Far East and later Army Chief of Staff. He points out that these are personal views without access to classified official studies.

MARCH IS AEROSPACE EDUCATION MONTH

Mr. PEARSON. Mr. President, as one who is particularly interested in the future of aviation, both by virtue of my position on the Aviation Subcommittee and as a Senator representing a State where considerable activity in the field of aviation planning and production is being undertaken, I invite the attention of the Senate to an increasing effort to inform high school and college students in Kansas and across the Nation of the basic concepts in aviation and space affairs. This is an important educational movement, in my opinion, not only because of the scientific knowledge gained, but because the public at large needs to learn about this science and its alliance to the humanities so that we all can intelligently enjoy a changing world.

Accordingly, I ask unanimous consent to have printed in the RECORD a proclamation by the Governor of my State designating March "Aerospace Education Month."

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

PROCLAMATION

To the people of Kansas, greetings.

Whereas, the State of Kansas has established itself as an innovative and resourceful leader in the field of education; and

Whereas, the growth of world aviation is reflected in the dynamic success and leadership of the Kansas aerospace industries; and

Whereas, the continued compatibility and cooperation of education and industry is evident in the existing ties manifested throughout the curriculum of all educational institutions:

Now, therefore, I, Robert B. Docking, Governor of the State of Kansas, do hereby proclaim the month of March, 1970, as Aerospace Education Month in Kansas, and urge all educational, industrial and civic leaders to take an active part in providing proper recognition of the field of aviation; support efforts to promote, within the educational institutions, programs directed toward the growth and development of aerospace education in the State of Kansas; therefore creating, for the youth of Kansas, a basic understanding of the social, political, technical and economical impact of the air age on everyday living and modern life; and demonstrate, for all to see, the sincere efforts of cooperation that exists between the aerospace industries and education, as evidenced by the work currently carried on by the Kansas Commission on Aerospace Education.

Done at the Capitol in Topeka under the Great Seal of the State, this 3d day of February, A.D., 1970.

By the Governor:

ROBERT B. DOCKING.
ELWILL M. SHANAHAN,
Secretary of State.
MALCOLM A. WILSON,
Assistant Secretary of State.

INQUIRY INTO OIL SPILL IN GULF

Mr. JACKSON. Mr. President, all Members of Congress are deeply concerned over the spreading oil spill from a Federal leasehold in the Gulf of Mexico off New Orleans.

The Committee on Interior and Insular Affairs is the unit of the Senate that has the initial responsibility for all mineral leasing activities on federally owned lands, including, of course, those authorized by the Outer Continental Shelf Lands Act under which the Chevron lease was issued. That act, which came out of the Interior Committee, has been on the books for some 17 years now, and it well may be that the statute itself, as well as its administration, needs to be reexamined. The Interior Committee also has been active in working out legislation for land and water pollution control and environmental quality control.

Accordingly, I have asked the Senator from Utah (Mr. Moss), chairman of our Subcommittee on Minerals, Materials, and Fuels, to initiate conferences with officials of the Interior Department to obtain the results of their on-the-spot investigations. Based on what we learn we will determine the next step, such as holding public hearings in Louisiana and in Washington. I may state that the committee is gravely concerned over statements made by Secretary Hickel after his return from a visit to the area as to apparent disregard by the lessee of safety and control regulations.

The committee wants to know what went wrong and why, and to see what legislation or other steps are needed to prevent any recurrence of the fire and subsequent spill with its attendant pollution and dangers.

EDUCATION BENEFITS FOR VIETNAM VETERANS

Mr. MATHIAS. Mr. President, the importance of education to the young man reentering civilian life as well as the special problems faced by many veterans with less than a high school education are all too clear. Yet the present program established under the previous administration has a rate of participation more than 25 percent lower than either of the prior first 3-year participation rates. The educational assistance allowance rates are most inadequate as they cover only 67 percent of the average tuition, board and room costs for public and nonpublic colleges. The 1966 bill fails to provide programs which seek out the veteran and respond to his particular needs.

Within the bills discussed by the joint conference are measures to amend the present program's ills. First, the necessity for rate increases cannot be questioned. The spiraling costs of living and education mean a significant rise is required. Next, training programs for the high school and elementary school dropout as well as the educationally disadvantaged veteran should be established for the man while he is in service and after his discharge. Innovative departures from present thinking can meet their needs. Finally, I urge a newly oriented and greatly expanded veterans "outreach" program to advise veterans of their benefits and how to obtain them.

In his column of March 11, 1970, Richard Harwood, of the Washington Post, discussed many of the problems associated with the 1966 bill. I ask unanimous consent that his article be printed in the RECORD.

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

DEFICIENT GI BILL OF RIGHTS ADDS TO VIET VETERANS' WOES

The military draft has been a scandal since the beginning of the Vietnam war. It has been structured and administered to exempt from the fighting and, most particularly, from the dying, the sons of affluent America.

The principal burden of this war has thus been borne by the poor and by boys of the lower middle class who have lacked either the money, the wit or the desire to avoid military service. For those who survive the experience—as more than 99 percent do—the system offers certain rewards and opportunities that are now the subject of desultory consideration within the Congress and within the Nixon administration.

It centers on the Vietnam "GI Bill," which was passed in 1966 as a pale copy of the World War II and Korean War models and which was designed, in theory, to permit the disadvantaged grunts who always do most of the dying in wartime to achieve a measure of upward social mobility and the better life that is presumed to go with it. Under the World War II bill, nearly 8 million veterans used government subsidies and scholarships to finish high school, go to college or get technical training. They emerged in subsequent years as the most successful elements of the new and broadened American middleclass.

Theoretically, the same opportunities are available today to the one million or so men who are being discharged each year from the military services. In practice, however, things are not working out all that well.

For one thing, the level of benefits for the Vietnam veteran has been relatively low. The 1966 version of the GI Bill offered a single veteran $900 a year for four years to buy whatever education and subsistence he could get for the price. That was $90 a year

less than Korean veterans received in 1952 and was far below the World War II allowance which covered all tuition charges—whatever they might be—and provided living allowances of $75 a month.

In 1967, Congress raised the annual educational subsidy to $1,170 and is now arguing over whether it ought to be raised again to either $1,500 or $1,170. Whatever figure is settled upon won't buy admission to any of the first-rank private schools in the country, unless the ex-soldier has independent means. Tuition alone at the Ivy League schools is between $2,500 and $3,000 a year, not counting books and living costs.

The Government's reasoning is that the public universities, with their lower tuition charges, are as good as the private schools and that not everyone has to go to Harvard. Whatever figure is settled upon—$1,200, $1,500 or $1,700—will still leave the ex-grunts living below the government-defined poverty line while they try to buy an education.

An even more serious problem is the uneven distribution of these benefits. Those who most need education and training get the least of it.

The estimates are that in an average year, the Pentagon is sending back to civilian life 44,000 men with a college education, 147,000 with one to three years of college, 630,000 high school graduates, and 174,000 men with less than a high school education.

On the basis of the experience thus far, nearly 60 per cent of the most-educated returnees and only 8 per cent of the least educated take advantage of the Vietnam GI bill.

By the most optimistic estimates, fewer than half of the Vietnam veterans are expected to ever apply for educational benefits. And these lost opportunities are going to be translated one day, John Steinberg of the Senate Labor Committee has said, in "a glut on the unemployment rolls, the welfare rolls, and the crime rolls."

What is needed, in the opinion of people concerned with this prospect, is a spectacular effort, led by the President, to encourage and help the veterans of Vietnam find the opportunities they never had before they were asked to take on the burden of that dirty war. Alan Boyd, who was then Secretary of Transportation, urged President Johnson to tackle the problem in early 1968. Nothing ever happened. President Nixon also has been urged tackled the job. His response many months ago was to appoint a commission with a reporting deadline of last Oct. 15. Nothing has ever been heard from that commission.

Meanwhile, thousands of returning veterans are going back each month to the lives of failure they have always known.

AIR POLLUTION FROM STATIONARY SOURCES

Mr. ALLOTT. Mr. President, in previous statements on environment problems I have noted that these problems often confront us with awkward choices.

They force us to choose not between good and evil, but between competing goods. This is especially true of air pollution problems because they are frequently linked to our problems of energy policy.

With no pun intended, air pollution problems are burning issues. The primary cause of air pollution is burning for the purpose of producing energy.

I have already spoken to the Senate on the subject of air pollution caused by transportation. Today I want to speak about some facets of the problem of air pollution from stationary sources, and the way this problem is complicated by our healthy economy's growing need for energy.

Since 1960 the electric power industry has nearly doubled its capacity to generate electricity. Yet in the same period the demand for electricity has grown even faster. Today the industry's reserves of power—the excess of capacity over peak demand—are only half of what they were in 1960.

As a result, during heat waves and cold snaps the electricity supply in some parts of the country is strained to the breaking point. And according to current projections, 10 years from now Americans will consume twice as much power as they use today. By 1990 the electric power industry must more than triple today's output.

Blackouts, shortages, and rationing of electricity could result if we do not drastically expand our generating capacity.

According to Charles F. Luce, chairman of Consolidated Edison Co., the company may have to black out selected residential neighborhoods in New York City this summer in order to meet power demands. This would be done by a procedure known as "selective load shedding" which shuts off selected areas for all but vital services.

To meet the new demands for service the electric power utilities are undertaking new building programs for generator plants. Or, more precisely, they are trying to build. Generating plants take space. Everyone wants more electricity but no one wants it generated near their homes or in spots that impinge upon areas of natural beauty.

A citizens' group concerned about conservation and possible contamination has delayed construction of a nuclear power plant along the Chesapeake Bay. Similar groups have moved to protect the unspoiled nature of historic Antietam Battlefield in Virginia, and the Storm King Mountain area north of New York City along the Hudson River.

It is impossible to generalize about these conflicts. Each case must be considered on its merits. But one thing is clear at the outset. The decade now beginning finds an increasingly sophisticated electorate confronted with increasingly complex and painful choices.

Powerplants often mar places of natural beauty.

Nuclear powerplants arouse fears of contamination near residential areas, and create thermal pollution by using huge quantities of water for cooling purposes. Thus there has been a lag in the construction of nuclear plants.

But coal-fired plants create air pollution wherever they are.

Even a modern coal burning plant with 1 million kilowatt capacity will discharge into the atmosphere 250 tons of sulfur dioxide and up to 80 tons of nitrogen oxides each day.

According to Presidential Advisor DuBridge:

> If we took all the sulfur out of all the coal and oil that is being burned each year in this country and took the sulfur out of the stack gasses, we would have a pile of sulfur which exceeds the total annual sulfur production in the United States.

The yearly emissions of sulfur oxides from coal-burning powerplants and factories are worth $300 million. They could be contained and marketed as sulfuric acid. Fly ash from coal burning also contains such rare metals as germanium and beryllium which could be recovered but which instead become air pollution.

Thus this form of stationary source pollution is not only very dirty, but very wasteful. And projections of future power demands indicate things are going to get very much worse.

The Chairman of the Atomic Energy Commission recently estimated that if we were to meet projected electric power requirements in the year 2000 using coal-burning plants, we would need 10 million tons of coal a day, and this would involve the daily movement of 100,000 railroad cars. Even if we were sure we had the coal reserves and railroad facilities, we would still fear the air pollution this would promise.

One way to limit air pollution is to require the burning of the most pollution-free coal. This would raise costs, but not intolerably. Fuel accounts for only one-seventh of the cost of generating and distributing electricity.

Another step is to insist on better pollution control equipment on each generating plant. This will not be painless.

The president of one of the Nation's largest electric power companies puts it this way:

> It is one thing to say that a utility company must spend $100 million on air pollution control equipment; it is another for the customers to realize that their electric bills must increase $15 million a year to make this expenditure possible.

Probably the most important step we can take will be in promoting the use of nuclear power. We should not do this until we can satisfy responsible citizen worries about safety. And we should not press ahead with nuclear reactors until we have made progress in solving the problem of thermal pollution and the disposal of radioactive wastes. Fortunately, real progress is being made on solutions to these problems.

As always in dealing with environment problems, the important thing is to remember that problems and decisions are connected by chains of consequences which, though not always visible, are always strong.

According to one estimate it would take $45 billion to get the American air pure again.

Industry is spending $200 million for air pollution control equipment—this in addition to $100 million on replacements for the approximately 3,000 precipatator installations in service. The private sector's bill will rise in the future.

Some Government estimates of the cost of air pollution control are encouraging. One study suggested that if industry and local governments share expenses, the cost to industry in cities over 50,000 might be less than one-sixth of 1 percent of production costs, and the cost to the citizens might be as low as 25 cents per month per household—or about one-ninth of 1 percent of personal per capita income.

Governor Reagan of California has

proposed establishing a statewide air monitoring network to measure air quality. There can be a Federal role in encouraging other States to do likewise.

The President proposes designating more air quality control regions. He also proposes federally established national emissions standards "for facilities that emit pollutants extremely hazardous to health, and for selected classes of new facilities which could be major contributors to air pollution."

Further, the President proposes extending Federal authority to seek court action so that the Government might intervene in both interstate and intrastate air pollution problems, where satisfactory efforts are not being made to bring air quality up to national standards. To give some teeth to this Federal intervention, the President proposes that "failure to meet established air quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day."

We need strict regulations of open-air agricultural burning.

We need alternatives to open burning for weed control along ditches and roadways—but these alternatives must not involve the use of chemicals which become a problem in their own right.

And we need close supervision of the use of heaters in large orchards.

It is important to remember that half of America's air pollution is produced in 1 percent of the territory. It is concentrated because the people are concentrated.

According to some studies, national standards for air pollution from stationary sources would be less efficient and as much as 50 percent more expensive than programs tailored to the localities where pollution is especially intense.

Thus one thing is certain. The attack on air pollution problems must be mounted by Federal, State, and local governments acting in concert. The administration is prepared to take the lead. I am confident that public officials everywhere will be responsive to this lead.

UTAH PARK AND RECREATION BILLS

Mr. MOSS. Mr. President, on the first day of the 91st Congress—January 15, 1969—I introduced two bills of great interest to my State of Utah—S. 26, to extend the boundaries of Canyonlands National Park, in southeastern Utah, and S. 27, to establish by law the boundaries of Glen Canyon National Recreation Area in Utah and Arizona.

On January 22, a week later, I introduced bills S. 531 and S. 532 to establish Capitol Reef National Park and Arches National Park in south central Utah.

On February 5, the Committee on Interior and Insular Affairs referred S. 531 and S. 532 to the Department of the Interior and the Bureau of the Budget for reports. On February 18, S. 26 and S. 27 were similarly referred. All referrals, therefore, occurred well over a year ago.

Although I have written letters and called personally to the National Park Service and to the Department of the Interior about these bills—not once, but several times—so far no departmental reports have been sent to Congress. Needless to say, I am tired of delay and indecision.

At my request, therefore, the chairman of the Subcommittee on Parks and Recreation (Mr. BIBLE) has scheduled hearings on the Glen Canyon and Canyonlands bills on May 5 and the Arches and Capital Reef bills on May 6 in Washington, D.C. It is to be hoped that the departmental reports will be forthcoming well before that date.

Hearings were held last session on the bill to expand the boundaries of Glen Canyon National Recreation Area. It is, on the whole, noncontroversial. The bill would set boundaries on an area of 1,142,433 acres of land and water—somewhat smaller than the 1,960,000-acre area established by administrative action.

The new boundaries extend northward, beyond the ones now in existence, to embrace a section of the country adjacent to the Maze, which lies north of the recreation area and west of Canyonlands National Park. The new boundaries would also exclude two tracts of public land withdrawn for reclamation purposes in the vicinity of Sit Down Bench and Warm Creek comprising approximately 7,836 and 4,946, acres, respectively. The location of these lands adjacent to both Lake Powell and nearby coal deposits make them adaptable for the development of steam powerplants, and, if development becomes feasible, the Department has indicated its willingness to negotiate leases for the lands needed. Private firms have expressed an interest in steam powerplant development in this area.

Enactment of the Glen Canyon Recreation Area bill was recommended by the Department of the Interior in the 90th Congress. Hearings were held on it by the Senate Interior Committee late in the second session, but no final action was taken because of the time factor.

At the time that Congress established the Canyonlands National Park in 1964, we recognized that the boundaries which we were setting did not encompass all of the unique and magnificent scenery which was of national park caliber. S. 26 proposes the addition of some of the spectacular areas which border the boundaries of Canyonlands, and which are equal with the present park area in scenic, scientific, or historic interest. It would add approximately 100,000 acres to the park bringing these fragile but superlative areas under the protection of the National Park Service.

The new areas include the Maze, a rugged labyrinth of canyons and eroded geological forms, some of which no white man has ever seen, part of famed Lavendar Canyon, part of Horseshoe Canyon, which contains some of the finest galleries of prehistoric pictographs in the world, and Dead Horse State Park which the Utah State Park and Recreation Commission at one time requested to be taken into Canyonlands National Park.

S. 531 and S. 532, as amended, would reduce in acreage the two national monuments—Capitol Reef and Arches—which were greatly expanded by Presidential proclamation on January 20, 1969, and would elevate both to the status of national parks.

Passage of all four bills would enhance the economic potential of southern Utah, but passage of the bills to establish Capitol Reef and Arches would be especially desirable for two reasons:

First, they would release for grazing lands now tied up in the expanded national monuments; and

Second, their passage would properly elevate to national park status two marvelous scenic national monuments. This was recommended by President Johnson and Secretary Udall. Enactment of these bills would establish in Utah five national parks—more than any other State in the Union.

The expansion of these two monuments, without prior notice caused understandable consternation among southern Utah livestock men who held grazing permits in the area.

After carefully studying the area, and balancing scenic and scientific values against grazing values of the lands involved, I drafted boundary adjustments which would incorporate the best of the scenery of the area within the boundaries of the proposed park, leaving the best of the grazing lands outside it. Three small tracts with remarkable features would be added, but most of the land under grazing permit; and the subject of the controversy, would be eliminated.

At Capitol Reef, the boundaries I recommend would eliminate approximately 56,000 acres, while adding only 29,000 acres. A net decrease of 17,000 acres. At Arches the new boundaries would add 1,600 acres and take out 10,560. A net decrease of 8,960 acres.

My amended version of the two bills would also make it possible for grazing permits, held at the time of enactment of the bills establishing the parks, to be continued and renewed during the lifetime of the holder's immediate family.

Hearings were held on both Capitol Reef and Arches in Utah about a year ago. Since that time nothing has happened. The livestock men who hold grazing permits within the boundaries of the enlarged national monuments do not know what the future holds for them. They are grazing at sufferance in the monuments and will not be able to graze their sheep or cattle on these grazing allotments in the future without my bills. They can make no plans—their families can make no plans.

It is only fair to them that Congress consider at once the bills which have been introduced to clarify the use of the land in question.

It is also important that the lands which are of national park status be so characterized so the people of the Nation will know them for what they are, and plan their vacations to see and enjoy them. As President Nixon has said:

> Increasing population, increasing mobility, increasing incomes and increasing leisure will all combine in the years ahead to rank recreational facilities among the most vital of our public resources * * *
>
> Plain common sense argues that we give greater priority to acquiring now the lands that will be so greatly needed in a few years.

Good sense also argues that the Federal government itself, as the nation's largest landholder, should address itself more imaginatively to the question of making optimum use of its own holdings in a recreation hungry era.

In this case, land acquisition is not the problem. These are Federal public lands. But designation and use are of pressing importance.

Enactment of these four bills would add greatly to our National Park System and to the outdoor recreation potential of the West.

I ask my Utah colleagues in the Senate and the House to help me in getting action on these bills this session.

POWER DAMS IN THE PACIFIC NORTHWEST

Mr. JORDAN of Idaho. Mr. President, one of our Idaho newspapers, the Lewiston Morning Tribune, and its editorial page editor, Bill Hall, recently had some very fine things to say about the question of providing power dams in the Pacific Northwest. The related question of protecting the environment was also considered in a commonsense way which I should like to call to the attention of the Senate. Bill Hall also mentioned the excellent questioning by the Senator from Oregon (Mr. HATFIELD), my colleague on the Committee on Interior and Insular Affairs.

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

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

[From the Lewiston (Idaho) Morning Tribune, Dec. 3, 1969]

A CHOICE FACING CONSERVATIONISTS

(By Bill Hall)

If conservationists are going to succeed in their struggle with those who want to dam the Middle Snake and other free streams, they must first put their own house in order. While some conservationists are fighting to save the Middle Snake from dams, others are fighting nuclear generation facilities. Yet the nuclear alternative to hydroelectric generation of electricity is the only hope of saving such streams from the concrete mixer.

Society is going to need, demand and get more electricity from some source. At this point there are only three plausible sources—fossil-fueled generators, nuclear generators and dams.

In this era of widespread concern for the environment, it is possible politically to decide which of the three is most helpful and least damaging to our lives and force the power producers to follow that course. In fact, most power producers appear now to have sufficient respect for the political muscle of conservationists and sportsmen to choose the line of least resistance.

But what do they do if there is resistance along every line? And there is. In this area, most of us who live along and play on the Middle Snake would naturally like to keep it as it is. And there are a good many others outside this immediate region who feel the same. They range from the national Hells Canyon Preservation Council, headquartered at Idaho Falls, to such conservation giants as Arthur Godfrey.

To be realistic and politically responsible—and most of them try to be—it is not enough to say to the power producers, "Keep your hands off the Snake." More electric energy is going to have to come from some source, so it is necessary, if those trying to have the Snake are going to succeed, to point to alternatives.

Except in a few remote locations where fossil fuel generation facilities might be operated without appreciable damage to the environment and to the lives of those in the vicinity, the only practical alternative is the much cleaner nuclear generators.

But nuclear generation is in its infancy and imperfect. Like the dams and their killing pools, it has its side effects too. Those include heating the streams in which their coils are cooled (although warming is a side effect of some dams, too) or clouding the atmosphere with huge quantities of water vapor from cooling towers.

In our opinion, the nuclear side effects, which are certain to be licked as this young power production technique matures, are already less offensive than taming a wild river. And the side effects from the cooling towers are more limited geographically than the damage from stilling 50 or more miles of a rushing river.

But that is only one opinion. Other conservationists disagree. That is the dilemma facing the power producers. It doesn't matter whether they have any intention of respecting conservationist opinion or not. They couldn't please the conservationists if they wanted to.

Robert W. Woods, executive editor of *The Wenatchee Daily World*, put it succinctly in a note to the Tribune: "The very conservationists whom you join in fighting High Mountain Sheep Dam are the ones preventing the electric companies from taking the nuclear power alternative you suggest."

That is not quite the case; there are a good many Hells Canyon conservationists who favor and advocate the nuclear alternative. But, on the whole, the comment is accurate. There is no general agreement among Northwest conservationists on which alternative should be followed. And there actually are a good many conservationists who are fighting *both* dam construction and nuclear power plants, and usually fossil-fueled plants for good measure. That is unrealistic.

If the conservationists are to have any political clout in saving the environment, they must, as a group, start talking out of one side of their mouth at a time. They are working at cross purposes. Every time a conservation group blocks a nuclear power plant, it automatically produces more pressure for Middle Snake dam construction. Conversely, every time the defenders of a natural Middle Snake win another round, they create more pressure for nuclear power generation.

An attempt must be made to resolve this conflict. The time has come for a Northwest conservation congress to set some priorities within the conservation movement. Those primarily interested in saving the free rivers must sit down together with those primarily interested in preventing the threatened construction of nuclear power plants in their back yards. If possible, they should achieve some unified position. It is not necessarily a black and white choice between writing off the Middle Snake or accepting a nuclear reactor that raises the temperature of the Columbia by two degrees. But there must be some agreement, at least advocating nuclear generation facilities placement away from populated areas, where the cooling towers will have less effect on local weather. If the Middle Snake and other streams are to be saved, there must be some nuclear power plants built somewhere soon.

As it stands now, there are undoubtedly those ready to go to bat against any nuclear generator anywhere, and perhaps the conflict among conservationists is irreconcilable. But a meeting of the minds could at least produce an agreement to disagree. It could draw the lines more clearly and perhaps signal the beginning of a debate within conservation ranks.

If that happens it would probably become an intra-regional dispute. Much of the growing need for new power in the Northwest is based on the burgeoning population of the Portland-Seattle area. It might one day become necessary for partisans of the Middle Snake to suggest that those who need the power be the ones to accept the consequences of the generation facilities. There is considerable inequity in cheapening the Middle Snake—and thereby the lives of those in this area—to enrich the lives of those in the Portland-Seattle area. It may be necessary to suggest that those who reap the benefits of the new source of energy be the ones to accept the inconvenience of manmade localized fog.

Whether agreement or a better focused, more responsible disagreement would be the result, some discussion must take place within the conservation movement.

In the long run, the nuclear generators will come whether some conservationists or the power company executives want them or not. There aren't many adequate hydroelectric sites left today. And, as Wendell J. Satre of Spokane, executive vice president of Washington Water Power Co., inadvertently admitted in a speech here Monday, a Middle Snake dam isn't that urgent a matter anyway. If it is built, he said, it will only be a drop in the bucket of regional power needs.

The nuclear alternative is already here and will dominate the future. If a Middle Snake dam is built, it will still be necessary to turn to nuclear plants for most of our power needs. So we ask again, is it necessary to build every last dam before turning in a big way to the nuclear alternative, or can we turn to it in a big way now and save the last few remaining free streams, including the Middle Snake?

Unless there is some agreement—not only by the power companies, but by conservationists—to accept the nuclear alternative now, there will be no saving the Middle Snake. The people will demand and get the new power they need from some source. If it doesn't come from nuclear power plants, it will come from a dam on the Middle Snake.

[From the Lewiston (Idaho) Tribune, Dec. 7, 1969]

WHEN ALL CAUSES ARE LOST CAUSES

(By Bill Hall)

Sloganeering is a favorite and frequently foppish undertaking in most social crusades. But there is considerable clout in the catchline of one birth control organization which proclaims, "Whatever your cause it's a lost cause without population control."

That's true of virtually every world problem today, from campus unrest to traffic congestion. Without some curb on population growth virtually every other social crusade is a stop-gap measure that, if it works at all, can only work for a few more years if the population continues to advance at the present rate.

The most obvious example is the improvement in food production techniques, where despite astonishing advances in the last decade, food production continues to fall behind the need. Not only the number of people but the percentage of the world's people, who are hungry grows larger every year. That, by itself, could be enough to spell disaster in another couple of decades.

The population now doubles about every 35 years. The span of time it takes to double the population has been steadily decreasing for several centuries now. Hence the population growing pains are starting to come faster than the ability to cope with them. Population is at this moment outracing the technology to deal with its many ramifications. But, no matter what the span of years, the population can only double and redouble so many times before no method can answer the

challenges it presents. You can double small numbers of people for centuries before reaching a figure of any consequence. But the dynamics of these statistics are such that soon you are doubling astronomical numbers and arriving at still more astronomical numbers. After a time you reach a figure that you cannot stand to double, a point where the earth simply will not tolerate any more bodies.

It is hard to say exactly what the intolerable level is, but, if we have not reached it, we are close. Another generation or two will bring us to the brink. See for yourself. Is too many people the 3½-billion mostly hungry souls today, or the 6-billion of the year 2000 or the 12-billion of 2035 when most children born today will still be alive?

Or take a more simple example and a more modest cause—traffic control in California. Double the number of automobiles now in California as a projection on what is likely in the year 2000. Can you imagine California with twice as many freeways and twice as many vehicles as today? And this is not some problem to pass on to a future generation. Most people approximately 40 and under will still be alive when that happens. And what about when you double that figure again for the year 2035 when most children born today will still be alive?

Perhaps in 20 or 30 years, you can ban private automobiles from the highways of California and require all citizens to move by mass transit. But what do you do in another 50 or 60 years when the mass transit vehicles become more numerous than the private vehicles of today?

Perhaps then you could start rationing travel. No one goes anywhere except by a state-issued permit?

How long does that go on though before traffic control becomes a lost cause? How long before everyone stays home, locked in his own cell in towering beehive cities, earning his living by remote control?

The more people get in each other's way, the less freedom they can be allowed for their own sake, and the more government must regulate their lives.

We face an Orwellian nightmare just around the corner unless we face up to the social ill that is at the root of all others, from war to pollution to race relations to generation gaps to hunger to conservation to housing to disease to sanity. At this point, every attempt to correct those ills is a lost cause.

[From the Lewiston (Idaho) Tribune, Feb. 22, 1970]

THE COMMON CAUSE OF POPULATION

(By Bill Hall)

Oregon's Sen. Mark Hatfield, in a series of incisive questions at a hearing in Washington, D.C., last Monday, made conservationists and dambuilders alike look beyond the present and examine the consequences of their proposals.

Hatfield made it plain that, if the population continues to grow, the development of more dams and mines cannot be avoided. He also made it plain, that, if the population continues to grow, no amount of dams or mines will be enough.

Until the population levels off, all of these little struggles, such as leaving the White Clouds natural or mining them and preserving Hells Canyon or damming it, are very temporary indeed. The total resources of this nation—developed and undeveloped—are limited. They will only serve a population so large, and we may already have exceeded the maximum practical population at our present rate of consumption per capita.

The indications are that most conservationists know that, although most of them have yet to make population control more than a secondary crusade to their pet projects.

Most of the dambuilders and mining engineers, on the other hand, seem to be operating on the unconscious assumption that the world will end in 20 or 30 years. They say that the Northwest will need three times as much power in 1990 as it does now, so the dams should be built. Assume those dams are built and the power needs of 1990 are met. What then about the power needs of the year 2000 or 2010, or even 2090? If power needs continue to triple every 20 years, the Northwest will, in 100 years, need 243 times as much power as it now requires. And what of 200 years from now, or 500?

Clearly, that is all quite impossible. Sooner or later, the population will be limited, probably by law, as an act of self-preservation.

But before the population can be leveled off to a point the nation can stand, there will be a period of buying time. Because of the lead time involved, once the decision is made to limit population, it will still take several years to fabricate the system of services to supply that optimum population.

And it is during that period that these battles over which resource is to be saved for all time and which is to be put to work for all time will be most crucial. Apparently, with that in mind, Hatfield wanted to know if the conservationists opposing dams in Hells Canyon are willing to accept nuclear generation, which also has unpleasant side effects.

It is not enough in this crisis circumstance to simply oppose the dams, and many conservationists are coming to realize that. The opponents of further dam construction must accept and advocate the lesser of several evils. They may have to choose between an atomic plant that fogs the air for five miles instead of a dam that slows 50 miles of river. Or they may have to accept and advocate the mining of materials used to produce solar panels for installation on the roofs of houses. And, for a few years, we may all have to tolerate the rationing of power.

It is irresponsible today for the power producers to say we must triple our power supply by 1990—period. And it is irresponsible to say you cannot build a dam or a nuclear alternative—period.

For the first time in history, man is capable of destroying himself—and not just with nuclear weapons, but simply by the overwhelming fact of his multitudinous presence. A given acre of land will support only so much humanity, and the same is true of the entire planet.

Until the population is limited, all of these struggles to save the White Clouds and Hells Canyon, and all of the contrary struggles to produce enough molybdenum or electric power, are certain to be lost. The White Clouds will be destroyed and the reserves of molybdenum will be exhausted. Hells Canyon will be dammed *and* the power will not go around.

Conservationists and dambuilders have a common cause in population control. Unless they succeed in unison in that effort, they will fail to achieve their separate goals of enough wilderness and power for all the years to come.

RATIONAL DECISIONS AND ARGUMENTS CRUCIAL TO GENOCIDE RATIFICATION: EXTRADITION OBJECTIONS ARE A CASE IN POINT

Mr. PROXMIRE. Mr. President, one of the points raised by those opposing Senate ratification of the Genocide Convention illustrates that much of the objection to the treaty is based essentially on emotional rather than a rational examination of the convention. Careful consideration of such points will show them to be invalid objections to ratification.

At the February meeting of the American Bar Association, Mr. Eberhard P. Deutsch, of the New Orleans bar, voiced his objections to ABA approval of the Genocide Convention. Mr. Deutsch has been a vocal opponent of ABA endorsement of human rights treaties for the past 20 years.

Mr. Deutsch spent much of his time pointing out what he considered to be pitfalls in article VI of the convention. This particular article states:

> Persons charged with genocide . . . shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. Deutsch argues:

> How can it be suggested that United States citizens may not be tried, under the Genocide Convention, in foreign courts? . . . Are we to enter into a convention which would sanction trial of our prisoners of war on charges of genocide, or under which we must permit members of our military forces to be extradited for trial in Vietnam or elsewhere, without the constitutional guarantees for the preservation of which they have risked their lives, and their buddies have made the supreme sacrifice?

I would fully share Mr. Deutsch's concern if, indeed, the Genocide Convention permitted our soldiers to be extradited to a foreign country and deprived of the "constitutional guarantees" for which they have fought. But the facts are, that the genocide treaty permits no such violation of the rights of our fighting men, or of any of our citizens.

Apparently, Mr. Deutsch has ignored the very next article in the Genocide Convention, which makes it clear:

> The Contracting Parties pledge themselves in such cases to grant extradition *in accordance with their laws and treaties in force.* (Italic added.)

The key words in this provision of article VII of the convention are "laws and treaties in force." The conclusion to be drawn from this is that American citizens cannot be extradited to a foreign country for trial on genocide charges unless the United States and that country have signed an extradition treaty.

We do not have an extradition treaty with North Vietnam or North Korea. No American citizen, military or civilian, could be extradited to North Vietnam or North Korea to face trial on charges of genocide. It is true that American POW's now in enemy hands could be tried in enemy courts on trumped-up charges of any kind of crime, including genocide. But that risks always applies to any American citizen unfortunate enough to fall into enemy hands. U.S. ratification of the genocide convention would not change this.

Mr. Deutsch's entire argument seems to be based more on emotional reaction to the Genocide Convention than on a carefully reasoned analysis. Typical of his approach is his statement that the Genocide Convention "seeks to metamorphose peoples who have no idea as to the meaning of freedom and human rights, into judges of the freedoms of the people of the United States of America."

Mr. Deutsch hopes that—

This Nation, under God, shall remain steadfast in its adherence to the ideals upon which it was founded, and in which it still leads the world along the paths of justice and freedom.

I can think of few more succinct arguments for Senate ratification of the Genocide Convention. Mr. President, this country must take the position of moral leadership in the battle for the protection of human rights. The Genocide Convention has been ratified by 75 other countries. America must tarry no longer in its decision to ratify the treaty.

THE DELIVERY OF UNCALLED-FOR AMOUNTS OF MILITARY MATERIEL TO THE GOVERNMENT OF CHIANG KAI-SHEK

Mr. HARRIS. Mr. President, I note with some alarm that efforts continue unabated with respect to delivering uncalled-for amounts of military materiel to the government of Chiang Kai-shek on Taiwan. In testimony before the House Armed Services Committee last week, a spokesman for the Office of the Chief of Naval Operations called for loaning three U.S. submarines to Taiwan, in spite of the fact that the administration itself had not deemed it necessary to request them. The committee accepted this argument and added this provision to the bill it reported.

Representative DONALD M. FRASER has taken the lead in fighting this attempt to introduce a new weapons system into an already tense area under provocative circumstances, and I would like to commend him for this effort.

There are several reasons why I believe it would be unwise to allow this action of the House Armed Services Committee to stand. Nationalist China at present has no submarines, and no trained submarine personnel. It would take a long period of time, perhaps as much as 2 years, to take the submarines in question from the reserve fleet, prepare them for active service, and train the necessary Chinese crews. Once in service with the Chinese Navy, the United States would retain little control over their use. It is one thing to use submarines to provide antisubmarine warfare training for Chinese surface ships and aircraft, and another to employ such vessels in ways which might increase tension in East Asia. These submarines would not increase Nationalist China's security, would cost a considerable amount of money and time to place into active service, and might make us the reluctant beneficiaries of the by-products of excess zeal on the part of the Nationalist Chinese.

Robert M. Smith, of the New York Times, has provided a useful summary of recent developments in this matter. I commend it to the attention of other Members of the Senate who may be distressed, as I was, to learn of this unnecessary initiative. I ask unanimous consent that Mr. Smith's article, which appeared on March 14, 1970, be printed in the RECORD.

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

[From the New York Times, Mar. 14, 1970]

LOAN OF THREE U.S. SUBS TO TAIWAN IS ASKED

(By Robert M. Smith)

WASHINGTON, March 13.—The House Armed Services Committee has proposed a loan of three United States submarines to Nationalist China.

The Administration, which proposed lending some vessels in the bill under discussion, had not included Taiwan on its list of recipients, and the addition seems likely to provoke a floor fight when the bill is considered in the House next Wednesday.

The Armed Services Committee, whose chairman is Representative L. Mendel Rivers, Democrat of South Carolina, sent to the floor an Administration-sponsored bill last month that extended the long-term loan of one submarine to Greece and one to Pakistan. The bill would also provide two destroyer escorts each to South Vietnam and Turkey.

In addition, however, the committee added the loan of two submarines to Turkey and of three to Taiwan.

Earlier this winter, a provision of the foreign aid bill that would have given Taiwan a squadron of Phantom jet fighters stirred such controversy that it was finally dropped.

Representative Donald M. Fraser, Democrat of Minnesota and chairman of the liberal Democratic Study Group, said today that he would offer an amendment to the committee's bill striking the loan of the submarines to Taiwan.

The Defense Department supports the loan of vessels to Greece, Pakistan, Turkey and South Vietnam but has not taken a position of those for Nationalist China.

The Defense Department's witness before the Armed Services Committee, Capt. G. M. Hagerman, director of the foreign military assistance division in the office of the Chief of Naval Operations, said that in his opinion the United States should lend Taiwan the submarines. The reasons he gave were stricken from the hearing report for security reasons.

Asked for its position on the loan this evening, the State Department said the issue was "under review."

"It has to be considered at a senior level," a department spokesman said.

VESSELS ON RESERVE

The action of the Armed Services Committee came to the attention of Capitol Hill today when the Democratic Study summarizing the bill's provisions and pointing out that it would reach the floor next week.

The submarines involved are diesel-powered and would come from the Navy's reserve fleet.

According to Captain Hagerman's testimony, Taiwan has no submarines and no personnel trained to operate any.

The committee's report on the bill said the submarines would allow Taiwan to mount an antisubmarine defense in an area where the United States was cutting back on its own naval forces.

"In the over-all defense of the western Pacific," the report said, "The Republic of China had undertaken a role in participating in antisubmarine warfare activities." He continued:

"Permitting China to have three submarines does not introduce a new weapons system into the area, but lets China replace the United States in the localization of the defense of any area where the Communist Chinese have over 30 whiskey-class submarines provided by the Soviets and flying the Red Chinese flag." "W" class Soviet submarines are medium-range patrol vessels, although some have been equipped with missiles.

"In addition to helping to meet their threat, the report added, "providing the submarines to China at this time will permit China to continue having submarines to use in antisubmarine warfare training, since the services the United States has heretofore provided for this training are being curtailed.

"The area for which China is exercising some antisubmarine warfare responsibility is one of the areas where we will be providing reduced protection due to the cutbacks in our Pacific surface and submarine fleet."

An aid to Representative Fraser said that the Congressman opposed the loan of the vessels to Taiwan becaus/ he felt it would introduce another weapon in an already tense area, and would be a provocative gesture.

SECURITY OF SAFETY AND CARGO

Mr. JAVITS. Mr. President, I am joining the Senator from Nevada (Mr. BIBLE) as a cosponsor of S. 3595, a bill to establish a Federal Commission on the Security and Safety of Cargo introduced on March 16. During the past several months the Small Business Committee, of which I have the honor to be the ranking minority member, has been conducting hearings and staff investigations into the problems faced by the shipper as a result of the wholesale theft of cargo from the Nation's airports, marine docks, and truck terminals. These losses have amounted to almost $1.5 billion. They represent a clear and present danger to the viability of the Nation's transportation system.

The bill introduced by Senator BIBLE embodies the imaginative concept of mobilizing the resources of the private sector in conjunction with the expertise of the Federal Government to develop a preventive program aimed at ending this assault by criminals on the free movement of commerce in the United States.

I have long advocated this approach, Mr. President, as I do not feel it in the best interest of carrier and shipper alike to add a new level of a Federal agency to cope with this problem. In the committee's hearings on July 23, 1969, I said:

This is the kind of a situation where innovation could pay off in a very big way.

Mr. President, this is exactly what Senator BIBLE's bill provides. I ask unanimous consent to have printed in the RECORD copies of recent articles indicating the severity of the problem being faced by the shippers and carriers as a result of this growing problem of crime at the airports.

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

[From National Jeweler, Dec. 1969]

HOW LONG WILL THE AIRPORT ROBBERIES BE TOLERATED?

Robberies of watches and watch parts at major airports continue to occur with distressing regularity and little if anything is being done to deal with this outrageous situation.

It is awesome at Kennedy International Airport in New York where the aircargo is huge and the pilferage correspondingly also of sizable proportions. It is only slightly better at La Guardia, at Newark, at Chicago O'Hare's and Logan Airport in Boston. The pickings are great at most of the airports.

This airport pilferage is big stuff for criminals. From January, 1967 to July, 1969, total imports of watches and watch parts reached close to $275 million, according to reliable sources. Out of this total, one-half of one

percent or, about $15 million, represents pilferage of watches or watch parts. Furthermore, close to a million dollars represents pilferage in domestic shipments of these products.

ELUDE SECURITY

Despite tightened security, uniformed and undercover police, all sorts of electronic and mechanical devices and everybody at the airports in a state of alert, almost everyday there is either small or large pilferage reported. On some days the haul reaches staggering proportions.

Why is this? Why can't the security lid be clamped down tight at Kennedy and other airports?

Try and pin down where and with whom the task of complete security lies and you'll get the biggest run-around you ever saw. It's buckpassing in the grand manner.

Start with the airlines. The airlines shrug off the pilferage query and refer you to the airports; the airports refer you to the Port Authority; the Port Authority, charged with operating and policing the airports, claim lack of personnel, and refer you to AOCI in Washington (Airport Operations Council International) a trade association of government bodies which own and operate principal airports in the 50 states and AOCI, without hesitation, turns you over to ATIA (Air Transport Association of America) also in Washington, and there, out of breath, you finally get the coup-de-grace and are referred to the end of the line, the FBI which deals with crime occurring in interstate commerce.

PASS THE BUCK

No wonder people like the American Watch Association, representing leading watch manufacturers, and others representing manufacturers and importers in other industries suffering airport pilferage losses, can't get to first base in achieving maximum security for shipments. Nobody wants to talk to you; everyobody says, "Go see the other guy."

Last summer Congress, after repeated appeals from the jewelry trade in New York and other cities initiated an investigation of airport crime. The Select Committee of the Small Business Committee, investigating crime against small business, summoned principals to Washington for testimony.

The AWA, whose members had been major victims in airport pilferage, were represented by its president, Gerard Ditesheim, accompanied by Lee Rosen of Elgin Watch. The following facts were put on the record by both of these men:

LIST STEPS

1. Out of total imports from January, 1967 to July, 1969 of $275 million, $15 million of watches or watch parts were pilfered.

2. At least $1 million of watches and watch parts had been pilfered in domestic commerce.

3. It is clear that the reason criminals are concentrating their attention on major watch brands is that these can be moved along underworld or underground channels with ease.

4. Instances were cited by both Ditesheim and Rosen when the airlines, notably Pan Am, was sought for cooperation and aid in reducing pilferage losses at the airports and Pan Am executives wouldn't even take the time to answer their mail.

5. Losses were so severe with one airline, Seaboard Airlines, used for imports from the Virgin Islands, that shippers had to abandon using this line altogether.

NOTORIOUS INSTANCE

Dietesheim cited a blatant dereliction on the part of Pan Am with few parallels in corporate apathy and misdirection. Bulova, Ditesheim recounted—incidentally not a member of AWA—deeply troubled by continued pilferage of its imported cargoes at Kennedy, in which Pan Am was the carrier, assigned one of its executives to discuss the thefts with somebody in authority at Pan Am.

"This executive's efforts to reach a Pan Am vice president," Ditesheim testified before the Select Committee of the Senate, "were unavailing. In each case the call was returned by someone totally without authority at Pan Am. Finally Bulova wrote an angry letter to Najeeb E. Halaby, Pan Am's president. The only answer was a runaround response from Pan Am's corporate insurance and claims manager. Pan Am was not even represented at the meeting which the Airport Security Council held in June, 1969 with some watch industry people."

Subsequently, after Bulova and others had given up on Pan Am, with a Congressional investigation going on, Pan Am came to life. The airline did respond, putting on the record an almost pathetic affirmation that it did care, that it was worried about airport pilferage and was working mightily to control it. But the damage had been done and the watch industry had had its bellyfull. It was not taking it anymore.

TRY REMEDIES

Many things had been tried to foil the crooks. Arrival days had been switched; packages had been revamped so as to disguise contents. Some of the watch companies adopted the subterfuge of having shipments addressed to individuals. It didn't work. Thieves were either tipped off or soon learned of what was being tried.

"Why?" asked Sen. Alan Bible of Nevada who chaired the Select Committee hearings in Washington last summer—"if you couldn't depend on airline or airport personnel, why didn't you pickup yourself? Why not do your own handling?"

"For the good reason that we tried but they wouldn't let us," Rosen answered. "They told us they don't want anybody from the outside coming in."

This order at a time when those already "in" at the airport possibly, directly or indirectly, were involved with pilferage!

EVASIVE ANSWERS

As the Select Committee learned for itself, obstacles to clearing up the pilferage situation at Kennedy and other airports were the ambiguous, self-serving statements issued by representatives of agencies and bodies who were looked to for aid, not evasions.

John J. Corbett, director of management services, Airport Operations Council International, Inc. of Washington, D.C., the trade association of government bodies which own and operate principal airports in the 50 states, was most bland and evasive in his gratuitous observation that "If cargo theft is increasing, it is because airport tonnage is increasing at a rate even faster than the passenger traffic." He added: "While passenger traffic is expected to triple over the next decade, air cargo will more than quadruple in the 70's."

NO BEARING

One might be expected to be thrilled at the prospects envisioned by this spokesman, but what bearing has it on speeding up aircargo protection?

Charles G. Baker, deputy undersecretary of the U.S. Department of Transportation, asked by the Select Committee to give his views on airport pilferage, begged off on the ground that a study was in progress and until the study was completed, he could not speak with authority.

Stuart G. Tipton, president of the Air Transport Association of America, also headquartered in Washington, an agency which, among other duties, is committed to air cargo procedures and protection, wasted no time. Queried on airport pilferage, in quick time, Tipton replied: "Thefts at airports involving interstate commerce is the concern of the FBI."

What is one to make of all this? Is it all going to be a lot of talk and Congressional hearings and there it will end?

EXPECT LEGISLATION

Gerard Ditesheim and Rosen, who have been indefatigable in meeting with airport and airline officials in New York and in Washington, believe that bills now in process will spell out some amelioration of the pilferage situation. Both men have their fingers crossed, but are hopeful.

Jim White of the Jewelers Security Alliance, an experienced professional in security matters, who long has been close to the mess at Kennedy and elsewhere, sees an organization like the Metropolitan Air Cargo Association, comprised of a cross-section of importers and exporters in New York, doing far more to correct conditions at Kennedy than any specific organization of jewelers. White, on behalf of JSA, has been working steadily with MACA and is optimistic about the results.

PUT ON TOES

Already, White underlines, there is evidence that, due to MACA, as well as AWA and other industry organizations, police sources at the airports have been put on their toes. To substantiate this, White points to recent apprehension of hijackers and recovery of over $700,000 loot in watch parts, which was waylaid moving out of Kennedy, also the apprehension of hijackers and recovery of their loot of around $70,000 in jewel air shipments, also taken from a truck, moving out of Kennedy.

It still doesn't tell us much about alleviating the pilferage situation at Kennedy, White admits, but arrests and recoveries of merchandise are omens of what lies ahead for security at the airports.

Perhaps even more hopeful is the way Congress now feels about the pilferage canker at the nation's airports. In a letter to National Jeweler, Sen. Alan Bible, who chaired the AWA hearings in Washington, wrote: "I am concerned with the extremely serious economic threat to smaller businesses and industries posed by the increasing incidence of air cargo theft. I feel that increased cooperation between carriers, the shipping public, and the Federal government—especially the Department of Transportation and the Civil Aeronautics Board—is essential if we are to begin combating the growing incidence of cargo theft."

Sen. Bible also advised that "in the very near future," his committee will publish a report on air cargo which will be made available to the jewelry trade. Meanwhile, the Senator noted, he had introduced a bill to amend Sec. 407 of the Federal Aviation Act which statute would require aircargo carriers to file statements of aircargo either lost or presumably stolen, such lists to be issued every six months, beginning with the date of effectiveness of the amendment. It is a move, holds Sen. Bible, signalling to the carriers that they'd better tighten up—or else.

It gets down to the nitty-gritty: If we are ever to arrive at reasonable security at Kennedy and other airports and if pilferage is to be kept to minimal levels, Ditesheim, Rosen, White and others recommend the following steps to all concerned:

1. Stop the buckpassing. Authorities and agencies set by State and Federal governments have their responsibilities well defined and they should function as intended.

2. The Port of Authority has the job of policing Kennedy and other New York metropolitan airports. It should be given the budget so that it can employ the personnel to oversee and police airports to the full extent of areas.

3. Much of the pilferage at airports arises from carelessness and loose procedure. For example, airlines will unload precious cargo and leave it unprotected, sometimes for hours, before the cargo is removed to Cus-

toms. Make the carriers speed up, not only unloading, but removal to strongrooms or to Customs area.

4. Customs also often passes the buck. It complains that it hasn't the personnel to process aircargo expeditiously. If this is so, increase the employes at Customs at the airports and give Customs no excuse for penalizing and often highly costly delays.

5. Experience has shown that looseness exists in the employment of aircargo handling personnel. Tighten up at this end and also extend the bonding of all employes at the airports.

6. Enact legislation that will make the air carriers more responsible for cargo from point of departure to point of delivery. At $7.50 per ton insurance rate the carriers can afford a more or less cavalier attitude about thefts of watches and watch parts.

SUMMING UP

As Rosen noted in testifying before the Select Committee, it isn't as if Kennedy security executives have to start from scratch. The mechanism for maximum security at Kennedy and other ariports has been explored and codified. Kennedy security has available to it an excellent manual which, if adhered to, materially would reduce cargo pilferage.

Underscored Rosen: "These security manuals are not completely used at Kennedy. And it is at Kennedy where we are having our losses."

The AWA, other jewelry trade association, the MCAA, whose membership deals with air cargo transport, join in a plea to the airlines and the airports and to their auxiliaries and supervisory bodies at State and Federal levels, to get going and correct an intolerable evil. Congress may or may not enact legislation; but whether Congress acts or not, decent regard for even minimal investment should move aircargo factors to effect much-needed reforms.

[From "Women's Wear Daily," Jan. 29, 1970]

SENATE COMMITTEE TO HEAR CLAIMS OF THEFT, PILFERAGE

(By Joel Elson)

PHILADELPHIA.—Hijacking and other apparel thefts are growing at an alarming rate with no end in sight.

Insurance, traffic, industry and Government authorities estimate annual losses suffered nationally through such depredations is in the neighborhood of $1 billion.

The U.S. Senate Select Committee on Small Business will soon hear apparel industry testimony on theft and pilferage of goods shipped by truck and rail.

Richard Tobey, president of Freight Traffic Services, Inc., Gladstone, N.J., told Fairchild News Service® that he is scheduled to present documented losses incurred by apparel manufacturers because of pilferage and theft.

His testimoney will cover attempts by trucking firms to raise rates by as much as 180 per cent; increasing number of carriers to limit their liability on claims for loss, theft or pilferage, and refusal my many motor carriers and freight forwarders to make pickups of clothing.

At the hearing Tobey will represent the Clothing Manufacturers Association of the U.S.A., the National Knitted Outerwear Association, the National Outerwear & Sportswear Association and the Fashion Apparel Manufacturers Association.

The situation is getting so bad, it was learned, that goods are being offered before they are stolen and the CMA has also asked for time to appear before the Senate hearing which is investigating organized crime to bring the whole delivery problem to the surface publicly.

And those clothing makers, which have been losing hundreds of thousands of dollars yearly, from hijacking and pilferage, can't reverse this despite the security precautions they take.

Many manufacturers see truckers, especially, too independent despite Federal and State regulations in effect.

But clothing factory officials also are starting to re-evaluate preconceived notions as to exactly where the theft and loss problem really begins.

By no means are they putting the entire blame for losses on the shoulders of the trucking fraternity.

Soft goods retailers are being thought of as quite heavy contributors to growing losses of goods shipped but which never reach the destination.

Manufacturers are no longer hiding their impatience with retailers and are taking the approach that stores can cut down losses by reporting concealed losses quicker on receipt of a shipment.

"Retailers have not been reporting enough packaging discrepancies—the goods come in short and that's it," FNS was told by Albert Ettelson, president of V-Lines Clothes Co. here.

Other garment producers want retailers to sign for deliveries less haphazardly and with more care and attention to the condition of packages.

Some manufacturers are of the opinion that the only course left open now is that used by H. Daroff & Sons, Inc., here.

This men's clothing producer, for some years now, has been filing lawsuits in State and Federal courts, on behalf of its customers, against trucking firms which fail to either deliver or explain the whereabouts of consignments to retailers.

That retailers are not willing to fork over hard cash for otherwise undelivered merchandise so that factories must try to get payment somehow is why many heads of plants are now seriously considering following similar legal action to recover damages.

CRIME IN THE DISTRICT OF COLUMBIA

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether this list grows longer or shorter depends on Congress.

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

WOMAN CHARGED IN FATAL STABBING IN DISTRICT

A Northwest Washington woman has been charged with homicide in the Tuesday night stabbing of a McLean man, police reported.

Irene D. Lusher, 44, of 518 H St. NW, was arrested in connection with the slaying of Moses Andrews, 55, who was fatally stabbed in the chest during an argument in the lobby of the D.C. Hotel, 806 K St. NW, at 10:15 p.m., according to police.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

Jimmy's Restaurant, 501 East Capitol St., was held up about 8:10 p.m. Tuesday by two youths, one brandishing a handgun. "Here's the bag. Put the money in it before I blow your head off," the gunman told the clerk, tossing her a paper sack. She handed him the bills and the pair fled on foot, heading north on 6th Street SE.

Maude V. Clark, of Washington, was robbed about 8:50 p.m. Tuesday as she was walking in the 900 block of Emerson Street NW. A teen-ager approached her from behind, grabbed her pocketbook containing only papers and cards and escaped into an alley in the 4900 block of Georgia Avenue. Miss Clark, who was thrown to the ground during the struggle over the bag, was treated for facial cuts at Washington Hospital Center.

Margaret P. Sweeney, of Washington, was robbed about 2:30 p.m. Tuesday at the Turkey Thicket, 10th Street and Michigan Avenue NE, by a young man who placed a hard object in her back warning, "Just keep quiet and you won't get hurt. All I want is your money. Don't turn around and don't make any disturbance." After removing the bills from her purse, the man fled toward Perry Street NE.

Joseph A. Pasternak, of 1629 Columbia Rd. NW, was held up about 4 p.m. Tuesday by five youths, one armed with a revolver. The gunman forced Pasternak to hand him the money and the youths fled into an apartment building in the 1600 block of Argonne Place.

Arthur F. Clark, of Washington, was treated at Rogers Memorial Hospital for injuries he suffered when he was beaten and robbed about 9 p.m. Monday near his home at 6th and M Streets NW. Two men attacked him from behind, beating him in the head and knocking him to the ground. One of them searched his pockets and removed $1, then fled with his companion.

Walter Woodland, of Washington, a student at Moten Elementary School, was robbed about 12:30 p.m. Tuesday by a 12-year-old boy who attacked him as he was walking beside the school. Brandishing a brick and a stick, the boy ordered Woodland to hand over his coat. Woodland complied and the boy fled from the scene.

Safeway food store, 801 17th St. NE, was held up about 6:50 p.m. Tuesday by two youths who entered the store and walked up to the office window. One of them pointed a handgun at a clerk and ordered, "Come here and give me the money." She placed the cash into the money slot, the youths grabbed it and ran from the store.

Rudolph Watson, of Washington, a driver for American Industrial Rental Service, Inc., was held up about 1:50 p.m. Tuesday as he was approaching his delivery truck which was parked in the 800 block of Kennedy Street NW. A young man holding a gun in his pocket told him, "Be calm, man. Give me all the money." He then ordered the driver to enter his truck and lie on the floor while he escaped.

Harrinauth Rupnarain, of 1411 K St. NW, was held up about 2:30 a.m. Tuesday by a man who offered him a ride in his car when he spotted Rupnarain waiting for a taxi at Kendall Street and New York Avenue NE. After driving Rupnarain to his home, the man pulled out a long-barreled revolver and, threatening to kill him, ordered his passenger to hand over his money. Taking a wallet and two records, the driver told Rupnarain to get out of the car and not turn back, then drove southwest on New York Avenue.

Richard Minor, of Silver Spring, was held up about 10 p.m. Monday as he was walking in the 1600 block of Montello Avenue NE. Two men passed him on the street, wheeled around and confronted him. "This is a stick-up. Give me your money," one of them told Minor and pulled out an automatic. After Minor handed them a paper bag full of money, the unarmed man urged his companion, "He has a gun. Shoot him . . . shoot him." Minor then handed the pair his pistol and they fled into an alley towards Meigs Place.

Francis V. McCoy, of Washington, was treated at George Washington Hospital for injuries he suffered during an attempted robbery. Two men attacked McCoy as he stepped off a bus at 46th and H Streets SE, knocked him to the ground and kicked him in the face and body. After searching McCoy unsuccessfully, the pair ran south on 46th Street.

Allen Gillem, of Washington, was admitted to Freedmen's Hospital in critical condition after he was attacked during an attempted holdup about 2 a.m. yesterday. Four men, one wielding a gun, approached Gillem and his female companion as they were leaving a sandwich shop at 8th and H Streets NE. "This is a holdup," the gunman said and forced the pair into the car. As the men sped away, Gillem and his companion jumped from the auto and escaped.

Kowloon Restaurant, 410 61st St NE, was held up about 8:30 p.m. Tuesday. One of two men seated at the counter drinking sodas pulled out a revolver and said to the cashier, "This is a holdup." The two men went to the rear of the restaurant and took the money from the cash register, then approached a customer, Willis Green, of Washington. "Give me your wallet," the pair told Green, and grabbing his billfold, ran from the building and drove off in a car parked outside.

Peoples Drug store, 6901 4th St. NW, was held up about 10:15 a.m. yesterday by a young man who asked the clerk for a bottle of cough medicine. He then drew a revolver and demanded money. Taking the cash in a paper bag, the gunman stood by the rear door, then fled from the store.

Emogene Carter, of Washington, a student at Springarn High School, 26th Street and Benning Road NE, was held up inside the school about 9 p.m. Tuesday by a man displaying a pistol who forced her to surrender her wallet containing $2.99 and ran from the school.

Alice Hamilton, 82, who operates a store at her home, 7510 Ox Rd., Fairfax, was beaten and robbed by four men, one of whom entered her store and purchased a quart of oil. He then walked outside, returning shortly with a handgun and three companions. The men beat Mrs. Hamilton to the floor, tied her hand to the counter and fled with her money and eight cartons of cigarettes. Mrs. Hamilton was found 15 minutes after the robbery by a candy delivery man.

STOLEN

A $2,500 diamond ring was stolen between 1 and 5 p.m. Tuesday from a room at the Washington Hilton Hotel, 1919 Connecticut Ave. NW, registered to John Hichew, of St. Louis.

Two watches, four pair of earrings, a pearl bracelet, two necklaces, a pin, a pair of cufflinks and a set of contact lenses, with a total value of $5,500, were stolen from a room at the Washington Hilton Hotel, 1919 Connecticut Ave. NW, registered to Aaron J. Kaycoff of Westfield, N.J., sometime between 9:15 a.m. and 4:45 p.m., Tuesday.

Two pocketbooks, three pair of shoes, eight dresses, four sweaters, four pair of gloves, four rings, six scarves, a bracelet, a watch pin, six pair of earrings and a suitcase, with a total value of $1,345, were stolen between 4:30 p.m. Monday and 8 a.m. yesterday from a car belonging to John D. Deardourff, of 436 New Jersey Ave. SE, while it was parked in front of his home.

A tape recorder, 50 tapes, an amplifier, three paintings, an electric mixer, an electric can opener and $400 cash, with an estimated total value of $565, were stolen between 10 a.m. and 5 p.m. Tuesday from the apartment of Madison Calvin Wilson, 1808 Newton St., NW.

A record player was stolen sometime between March 12 and March 17 from Powell Elementary School, 1400 Upshur St. NW.

Nineteen cases of Whiskey, valued at $1,247.70, were stolen between 6 p.m. Monday and 8 a.m. Tuesday from a Jacobs Transfer, Inc. truck, according to Thomas F. Foran, of College Park, a company supervisor.

A briefcase containing $3,500 in cash and several credit cards was stolen about 9:30 a.m. Saturday from a pickup truck belonging to Calvin O. Bayliff, of Arlington, which was parked in the 2500 block of Ontario Road NW.

ASSAULTED

Ronnie Gaines, of 648 E St. NE, was admitted to Rogers Memorial Hospital with gunshot wounds in the back and hip. Gaines was injured during a fight at about 11:15 p.m. Tuesday on the porch of his home with a man armed with a gun who fired three shots at him.

STABBED

Bernard Slaughter, of Washington, was admitted to Washington Hospital Center in serious condition after he was stabbed in the neck, arm and chest during a fight with a youth armed with a knife at about 11:30 p.m. Tuesday at North Capitol and Bryant Streets NW.

Matthew Louis Gattling, of 316 18th Pl. NE., was admitted to Rogers Memorial Hospital in critical condition after he was stabbed in the chest during a fight at 8:45 a.m. Tuesday with a man wielding a knife.

FIRES SET

A fire causing minor damage was started about 1:10 p.m. Tuesday when a stage prop and loud speaker were ignited in the stage dressing room at Hart Junior High School, 6th Street and Mississippi Avenue SE.

WOMAN HELD IN BANK ROBBERY TRY

A 37-year-old Washington woman was arrested at her home at 7:45 a.m. yesterday in connection with an attempted robbery Monday at a Northwest Washington bank branch where she has an account, police reported.

Police charged Evangelo Price, of 728 Ingraham St. NW., with an attempted robbery of the Riggs National Bank branch at 1913 Massachusetts Ave. NW.

A woman entered the bank about 2 p.m. Monday and passed a teller a note saying, in part, "Please, there's a bomb. Put the money in a bag," according to police. The teller said she ignored the woman, walked from the window and pressed the alarm button.

In other area court and police actions reported by 6 p.m. yesterday:

INDICTED

James T. Cogdell, 29, of no fixed address, and Russelle Lee, 22, of no fixed address, were indicted yesterday by a grand jury in U.S. District Court in Washington for first-degree murder, second-degree murder, attempted robbery while armed and lesser charges in the shooting death of Benjamin Caldwell last Feb. 8.

Harry Andenson, 22, of D.C. Jail, armed robbery and lesser charges in the $100 holdup of Whitaker's Wines and Liquors, Inc., last Dec. 29.

Marvin E. Appling, 18, James Belton, 20, Walter V. Miles, 22, all of D.C. Jail, and David Graham Jr., 21, of 3912 4th St. NW, armed robbery and lesser charges in the theft of $394 from Harry Friedman on Jan. 17.

Thomas H. Autry Jr., 27, of 611 Florida Ave. NW, possession of narcotics.

Warren Baylor, 27, of 1320 S St. SE, and Naomi E. Frazier, 34, of 1200 Delaware Ave. SW, unlawful possession of narcotics.

Frederick V. Benjamin J., 23, of 3808 Washington St., Kensington, unlawful possession of narcotics.

Reese Blakeney, 37, of 356 Anacostia Rd. SE, carrying a dangerous weapon and possession of narcotics.

Charles Chambers Jr., 24, of 6713 13th Pl. NW, first-degree murder and carrying a dangerous weapon in the Feb. 8 shooting of Charles A. Warner.

James Cooper, 37, of D.C. Jail, armed robbery and lesser charges in the gunpoint theft of $14 from George Gardiner on Sept. 15, 1969.

James E. Donnell, 53, of 1907 15th St. NW, second-degree burglary and grand larceny in the Jan. 24 theft of $917 after a break-in at the home of Areatha L. Jarvis.

William A. Howard, 31, of 1401 Fairmont St. NW, possession of narcotics.

Carl Ivey, 21, of 234 37th Pl. SE, second-degree burglary and grand larceny in the Feb. 3 theft of a vacuum cleaner, a television set, a radio and clothing, with a total value of $830, from Thomas E. Richmond.

Arthur S. Jones, 23, of Lorton Reformatory, escape from custody.

Tony Koonce, 18, of D.C. Jail, armed robbery, assault with a dangerous weapon and lesser charges in the Jan. 8 holdup of a Colonial Parking, Inc., lot.

Diane Lee, 18, of 1427 Holbrook St. NE, forgery and uttering.

Bernard R. Love, 25, of 6 Florida Ave. NW, second-degree murder and carrying a dangerous weapon in the Jan. 2 shooting of James L. Brown.

Joseph E. Peterkin, 20, of Palmer Park, robbery and assault with a dangerous weapon in the theft of $172 from Angela M. Bullard on Dec. 2, 1969.

Bernard A. Robinson, 30, of 816 N. Patrick St., Alexandria, possession of narcotics.

Sean D. Scott, 20, of 2501 25th St. SE, first-degree burglary, assault with intent to rape and assault with a dangerous weapon.

Ronald C. Thomas, 24, of 4819 Central Ave. SE, assault with a dangerous weapon and carrying a dangerous weapon in a Dec. 23, 1969, gunpoint attack on William A. Jones.

Barrington Williams, 43, of 5826 Colorado Ave. NW, sale and purchase of narcotics.

Luis E. Cardenas, of 105 E. Glendale Ave., Alexandria, false statements to the Immigration and Naturalization Service.

SENTENCED

Clarence Carter, 33, of Washington, was sentenced to serve five years and to pay a $1,000 fine yesterday by Alexandria Corporation Court Judge Franklin P. Backus and a jury after being convicted of possession of heroin. He was arrested last Aug. 29 in a residence at 712 N. Fayette St., Alexandria, while allegedly attempting to inject heroin into a companion.

ADDRESS BY SECRETARY OF TRANSPORTATION VOLPE BEFORE NATIONAL PRESS CLUB

Mr. PEARSON. Mr. President, the increasing impact of transportation on our Nation has long been widely recognized. However, only recently has it become apparent in the public mind that a harmonious relationship must be firmly established between the need to transport people and things and the need to insure an inhabitable environment.

The Department of Transportation, under the solid leadership of Secretary Volpe, has, in my opinion, taken important steps to improve and protect our environment, while administering a national transportation network of awesome dimensions and complexity. Indeed, John Volpe is faced with some of the most profound problems of our society—problems of mobility, job opportunity, regional planning, environmental protection, and many others. Although he and his associates have been on the job little more than a year, many people, including the Members of this body, have been impressed by his enthusiasm and determination.

Accordingly, I invite the attention of the Senate to a speech made yesterday by Secretary Volpe before the National Press Club here in Washington. It provides, in my judgment, a readable summary of what's happening in the transportation field.

I ask unanimous consent that the speech be printed in the RECORD.

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

REMARKS BY SECRETARY OF TRANSPORTATION JOHN A. VOLPE AT NATIONAL PRESS CLUB, WASHINGTON, D.C., TUESDAY, MARCH 17, 1970

Albert Gallatin, Thomas Jefferson's Secretary of the Treasury, advocated a Department of Transportation back in 1804—an idea that took 162 years to bear fruit. Cynics say that's par for Washington.

During those 162 years—while the country was growing—we acted like the Nation of "Do-it-Yourselfers" that we will always be, and entrepreneurs flung together the most extensive and expansive network of transportation facilities the world has ever seen. The only hitch, however, was that those were slower paced times and it wasn't necessary to give much thought to how one mode would link up with the others.

The "interface," as the systems boys call it, was somebody else's problem—the shippers and the passengers. And—back around the turn of the century when all this expansion was going on—nobody bothered very much about environmental side effects. After all, they argued, this country was so big that we could afford a little pollution. The cities were small, the spaces were wide open and the pace was slow.

But times have changed. Today the papers are filled with stories about congestion, pollution, urban decay and environmental disaster. We have become almost overnight, it seems, a land of massive cities and exploding populations. Our cars, trucks, planes and buses have multiplied along with the people.

The sheer dimensions of today's network of rails, highways and airways are hard to grasp. We have to talk in terms of billions of passengers, billions of ton-miles and tens of billions of dollars. It is the world's most complex and overall the most successful, network for movement of goods and people anywhere.

And yet, we are suddenly aware that it is not nearly good enough. We have come face-to-face with the inescapable fact that there is a vital public responsibility in this traditionally autonomous industry. And that is a responsibility, ladies and gentlemen, that this Administration intends to fulfill.

As we enter the decade of the seventies, the Department of Transportation finds itself astride the the most profound problems in modern society—problems of mobility, job opportunity, resource preservation, public health, regional planning, public education, recreation and environmental excellence. In short, what we do in Transportation will play an extremely significant role in determining the quality of life in these United States for a long time to come.

We can no longer make do with mere transportation "Networks," each spinning on its own merry way. We must create a balance, harmonious transportation system that meets a number of pressing social needs.

You all know what that means. We must cut out and eliminate these deadly pollutants from the air, up to 80 percent of which—in some areas—are attributed to motor vehicle exhausts. We must encourage—indeed, entice—much of the public to return to public transportation if we hope to make a dent in city traffic. We must make certain that the human element—not in some cases, but in all cases—gets top priority in the planning and building of new highways, airports and transit facilities. We must make transportation as safe as technically possible.

And we must get it in our heads once and for all that transportation is a utility which determines the effectiveness of schools, hospitals, job training and employment accessibility. Transportation can make or break our cities as they evolve into regional urban complexes.

I submit that we have made substantial progress along these lines during the last year. We are building momentum. We know where we are going and like the pioneers of old we are absolutely determined to get there. In that context I am delighted to announce here today that our Department—through the Federal Railroad Administration—has contracted with the Grumman Aerospace Corporation to start a project that will certainly inaugurate a new chapter in man's saga of mobility.

A letter contract has been signed calling calling for a $3 million engineering and technological studies' project for a 300 mile-per-hour tracked air cushion vehicle and an appropriate guideway. Grumman, the company that built the first lunar excursion module—the "Eagle"—will bring to the challenges of ground transportation all the experience and ability they have applied to our progress in outer space. We anticipate that this tracked air cushion vehicle contract will place us firmly in stride in developing a new generation of intercity ground transportation system.

In addition to this 300 mile-an-hour development project, we also expect to announce, at an early date, a contract for an actual demonstration tracked air cushion vehicle operating at 150 to 200 miles-per-hour.

This lower speed vehicle—which a number of firms are interested in—will operate over short distances up to 25 miles. We expect it to be in operation—in actual demonstration service—by late 1972.

So you see, we are looking to the future. But at the same time, we have done much in these first short fourteen months.

Let me sum up a few of our accomplishments that we feel are going to make a great deal of difference in the quality of life in this country.

First we recognized that we were taking over an organization that was less than two years old. It was a sort of conglomerate, with Federal Aviation Administration people thinking only about aviation, highway people thinking only about highways, and so forth. Our first mission was to impress upon everyone that transportation must be considered in its entirety. That no mode can stand alone.

And this philosophy has worked so well that we even have Frank Turner going out making speeches in support of the Airport/Airways Bill, and the Public Transportation legislation! And Jack Shaffer and Carlos Villarreal make speeches in favor of better highways!

Secondly, we worked to improve the organizational structure of the Department—to make our work more "relevant", if you don't mind an overworked word. Perhaps the most significant action along these lines was the creation of the office of the Assistant Secretary for Environment and Urban Systems. Dorm Braman, the former mayor of Seattle, has done an outstanding job in this post—serving, if you will, as the "conscience" of the Department.

Within this new format we have chalked up a number of accomplishments. We have taken steps to abate aircraft noise, both now and in the future. We have won agreement from the airlines that smoke from jet engines will be cut back by 1972, not by 1974 as they had originally planned. We have supported projects to find workable new sources of propulsion for cars, trucks and buses, such as steam, electric, and turbine engines. We worked closely with Detroit to get agreement on producing engines that would not require leaded gasoline. And we tightened emission standards for 1970 cars and began regulating truck and bus exhaust for the first time.

In the long run, of course, as traffic volume continues to increase 50 percent every decade, the sheer number of vehicles may well require that the internal combustion engine be phased out entirely. The research we are funding now will prepare us for that possibility, although some recent research indicates that the internal combustion engine *can* be completely cleaned up.

While we are on this subject, I don't think you can logically talk about pollution on one hand and not discuss safety on the other. The toll of death and injury on our highways is a national scandal. Vehicle crashes kill ten times more people every year than all the crime in this country. More than 150 highway deaths *every day*. They cost us $16.5 billion per year. And they deprive us of some of our most productive people, especially in the younger age group.

I said when I came into this Department that transportation safety was going to be at the top of our agenda. It was. It is. And it will be.

We intend to do everything necessary to ensure the safety of the motoring public and pedestrians as well. In this there can be no compromise, for who can estimate the potential of a life that is saved or the value of a life that is lost?

Another priority matter is traffic congestion on land and in the sky. Keep in mind that we are adding 10,000 new vehicles to our roads every day—a pace that highway construction cannot keep up with by any stretch of the dollar or of the imagination. In aviation, keep in mind that in 10 years the number of annual air passenger miles will be triple what they are today.

The state of our airways is critical. We drafted and sent to the Hill an Airport/Airways Bill that will invest $15 billion over the next ten years in facilities, equipment and manpower to ensure the safety and convenience of the airborne public. That Bill sailed through the House—by a vote of 337 to 6. It zipped through the Senate by a tally of 77 to 0. (We win 'em big!)

These figures indicate the broad support for action to build 900 new airports, update some 2,700 existing fields, and modernize the air traffic control and navigation system. The Bill goes to conference committee tomorrow and we hope to have it on the President's desk shortly.

We are also looking ahead to favorable action on our Public Transportation Bill of 1970.

I need not tell you gentlemen that the urban bus and the rapid rail systems of this country are in a perilous state. Some 235 transit companies have gone out of business in the last few years. Fares have gone up and service has declined to a condition that is far from what the American public deserves and expects.

We have invested nowhere near as much money in public transportation as we have in highways. We have invested nowhere near as much money in public transportation as we should have. As I tell them up on the Hill day after day after day, we've got one heck of a lot of catching up to do!

In fiscal 1968 we spent about $190 million for public transit, while we were spending over $4 billion on highways. This is not to say that we have to halt highway building. The way America is growing, we need all the carefully-planned, compatibly-built highways we can get. America's highway system has strengthened the economy, broken down travel barriers and brought all Americans closer together. It's a great asset.

What we need to do now, is give similar emphasis to the problems of public transportation. And when I say now, I mean now.

We propose to invest $3.1 billion over the next 5 years to save and upgrade these vitally needed systems and to ensure the social health and mobility of our metropolitan regions. The Senate has agreed that the job must be started at once and it passed our Bill by a vote of 84 to 4—again a massive demonstration of bipartisan support and confidence.

Passage of the Bill won't be as easy in the House, of course. (That's where the money comes from.) But we are getting more optimistic all the time. I think the American people realize that we cannot move today's millions of commuters and shoppers and students and job seekers by leaning so heavily upon the private automobile. Total dependence on the private auto for urban mobility is unfair, unrealistic—in fact—unworkable.

That brings me to a final point of emphasis—one that sums up all the rest. And that is our commitment to the American heritage—the great environment so rich and full of opportunity—which has given this country so much.

I am personally committed—as my agency heads are—to make certain that from now on our fabulous system of transportation contributes substantially to the fulfillment of human needs and environmental needs—instead of just shifting boxes and bodies around the country.

A reasonably good job has been done in the past—but we are committed to excellence. We are determined to do a better job than has ever been done before.

In the area of human needs, we have taken firm steps during this past year to assure an increase in the hiring of minority workers on Federally-funded transportation construction projects. We have expanded the Highway Act of 1968 and now are determined that no highway or other Federal-aid transportation project can proceed until replacement housing is available—built, if necessary.

Regarding the environment, we have acted to save the Everglades from the threat of a giant airport, relocated a highway scheduled to run through the historic French Quarter in New Orleans and two weeks ago I decided that Franconia Notch in New Hampshire would not be ruined by an untimely highway. These are just examples.

Ladies and gentlemen, America's transportation capability will grow. It is fatuous to think otherwise. But I am emphatic when I say that this growth will take place within a different framework—and with different criteria—than we have used over the past 200 years. We can do no less.

We are not out to condemn land, to build ugliness, to dislocate people. I am a builder by profession, and it has always been my personal creed to leave the land a little better than it was when I found it. In addition to that, I am a human being. And each of these gentlemen here with me today recognizes that transportation is, in the final analysis, a servant to the people.

Working together, we pledge that we will provide leadership that will bring all Americans a proper balance between mobility and serenity.

FORD FOUNDATION ANNUAL REPORT

Mr. PERCY. Mr. President, in the Ford Foundation annual report for 1969, Mr. McGeorge Bundy, president of the Ford Foundation, reviews the provisions of the tax reform bill passed in December 1969, and its effect on foundations.

Mr. Bundy feels that the new law will permit and protect the effective continuation of the basic programs of the foundation. He comments on both those provisions that he feels will benefit foundations as well as those provisions that he feels will harm the work of foundations such as the 4-percent tax on net investment income.

I believe that the fair and objective comments on the tax reform bill by the president of one of the leading foundations in the country will be of great interest to Senators.

I ask unanimous consent that Mr. Bundy's remarks be printed in the RECORD.

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

THE FORD FOUNDATION ANNUAL REPORT 1969, OCTOBER 1, 1968, TO SEPTEMBER 30, 1969

The opening days of a new decade—even for those engaged in the business of philanthropy—offer a tempting invitation to survey the recent past, examine the present, and record some first, quick judgments about the years ahead. Within this institution, the processes of forecasting, self-examination, and change are almost constant, and these opening pages of our annual reports have generally been used only to underscore the more important actions and developments of the preceding year. I am this year departing from past practice not only because a new decade is beginning but because foundations in America are entering a new era. There has been a change in the governmental and social climate in which foundations will do their work during the Seventies.

On December 30, 1969, President Nixon signed into law the Tax Reform Act of 1969 which, among its many other provisions, includes the first extensive legal framework we have had in this country for the work of foundations. We must defer final judgment until the statute is fully developed in regulations and by interpretation, but my current belief is that the new law will permit and protect the effective continuation of all the basic programs of this Foundation. I believe it is essentially right that foundations as a class should have the framework of permanent safeguards against abuse which the new law aims to provide.

Our main task is to help to make the new law work, and especially to cooperate in the complex process by which a new statute is brought to life in detailed regulations. It is never easy to adjust to a new law, particularly to a wide-ranging one which must gradually be amplified in operation and interpretation. Within the past few weeks we have begun what is likely to be an extended period of transition, seeking to determine, in cooperation with government, the precise kinds of adjustments in programs and procedures which may be necessary to ensure full compliance with the Congressional purpose. As understanding is being sought, patience will be required. Already we are deeply indebted to the responsible administrative authorities and their dedicated legal staffs, in the Treasury Department and in the Internal Revenue Service, for the priority, time, and sober thought they have accorded our problems.

At the outset it is important to understand what the new law provides and what it seeks to accomplish. In the sixty-five pages devoted to foundations in the new law Congress gives new meaning to the term "foundations," puts an "excise tax" on them, set rules that regulate their philanthropic expenditures and programs, requires full reports on what they do, and removes some of the tax incentives for their establishment and growth. Most parts of this new law on foundations we regard as constructive, necessary, and long overdue; others give us concern; a few may not serve the public interest.

I

The first and least controversial set of provisions comes from studies and recommendations of the Treasury Department. They are designed mainly to prevent the misuse of foundations for the financial or business advantgae of those who set them up.

The new law contains stringent regulations against what is called "self-dealing," a process by which some foundations have been used by controlling parties to their own financial advantage. The law also requires a gradual divestiture by foundations of controlling interests in particular companies. This rule is consistent with long-standing Ford Foundation policy; in the last fifteen years we have reduced our holdings in Ford Motor Company stock from 88 per cent to 25 per cent, and, as a matter of sound investment policy, we expect to continue that process. The stock in the hands of the Foundation is non-voting.

The new law also sets a minimum that endowed foundations must pay out each year for philanthropic purposes. The minimum required payout (fully effective in 1975) will be 6 per cent of assets or full net investment income, whichever is higher. We think this payout requirement is high enough to remove all doubt that a foundation is in fact serving charitable purposes. We believe that foundations as a whole already pay out sums comparable to what the new law requires. Our own policy in recent years has been to pay out at a substantially higher rate than 6 per cent. We supported this requirement.

We did raise serious questions before the Congress about a different provision of the new law. This provision makes it far less attractive for donors to make gifts of appreciated property to private foundations for endowment purposes than to make such gifts to colleges, universities and publicly-supported charities. As a result, a rich man considering a capital gift of $10 million in appreciated property will find that giving to a foundation as against a charity more favored under the law could mean a difference in the donor's tax of as much as $3.5 million. Colleges and universities correctly emphasized their heavy dependency on large gifts—often in the form of appreciated securities—from a limited number of donors, and as a result the law as enacted preserves the benefits of such gifts as far as they are concerned. Foundations were treated differently and, as it now stands, the provision seems likely to have a sharply limiting effect on their establishment and growth. We doubt that this provision will serve the public interest.

Foundations in the past have been encouraged on two grounds: first, because they produce multiplier effects in the application of private wealth to public purposes; second, because American society needs all the diversity it can get—private as well as public—in support of its educational, scientific, and social enterprises. In the decades ahead America will need at least as much philanthropic ingenuity and diversity as it has enjoyed in the last century; we believe it will be shortsighted, therefore, to shrink or limit the growth of foundation resources currently available to the nation.

II

A second set of requirements in the new law relates to what foundations actually do with their grants. The Treasury made no recommendations in this area; the legislative devices were all shaped by the Congress. The Act establishes new controls over three classes of activity—grants to individuals, private foundation funding of voter registration drives, and work that might influence legislation. It also imposes on foundations a new kind of "expenditure responsibility" under which they must accept and discharge certain duties of monitoring which hither-

to have been the responsibility of the Internal Revenue Service.

In each case the Congress faced a very difficult legislative task—to prevent actions that were obviously undesirable while permitting other actions, outwardly similar, that are just as obviously good. Thus, in the field of individual grants, it is obviously wrong that a foundation should be free to make arbitrary grants to relatives or hangers-on of its managers or trustees, but it is equally obvious that the right to make awards and fellowships to selected individuals is one of the most constructive powers of organized philanthropy. The Congress eventually found its solution here in the requirement of an "objective and non-discriminatory basis" for awards under procedures to be approved by the Treasury. Since a well-intentioned but easily misunderstood action of the Ford Foundation (travel and study awards to former members of the staff of the late Senator Kennedy) was responsible for much of the legislative concern with individual grants, we are glad that this workable solution was found.

In the case of voter registration, the Congress approved the use of foundation funds where such activity is carried on widely (in five or more states) by a charitable organization that is nonpartisan and does not get more than 25 per cent of its support from any one exempt organization. While this provision may prove to be unduly restrictive, especially in its very broad geographical requirement, it does attempt to strike a balance between two important needs—first, the need for access to charitable funds in the course of registering those not yet fairly represented in our democratic process, and, second, the need to protect those who seek public office against any arbitrary intrusion of tax-exempt money into a particular political campaign.

The hardest task of accommodation may come on the question of "influencing legislation." Here the Congress has written new language for an old problem. The law has long prohibited charitable organizations from devoting any "substantial" part of their activity to influencing legislation. The new law extends these restrictions to all such activities, even though "insubstantial."

This new language presents particularly sensitive questions of interpretation for Treasury regulations. Clearly it is not in the public interest that private foundations should engage in the activities that most of us have in mind when we talk of lobbying, propaganda, and electroneering. But in the present-day world, where all manner of issues relate to government, there is almost no subject a foundation touches that may not sooner or later have an effect on legislation. In this Foundation every program area selected by our Board of Trustees for current action is at least indirectly related to the governmental process. In housing and welfare, in education and family planning, in civil rights and criminal justice, in agricultural research and public broadcasting, in the lively arts and in strengthening state government, and certainly in the struggle to ensure equal opportunity, we meet the governmental process every day.

Furthermore, the government itself often wants foundation help on particular projects for which public money is not available, and for our part we are constantly seeking to help in the processes by which new and better public policies may be discovered.

As a current example of this mutual interaction, let me take a particularly happy joint venture—"Sesame Street," a children's television program which is the most successful effort yet made to convert the power of television to the purpose of learning. In supporting this program, which is the product of the extraordinary leadership of Mrs. Joan Ganz Cooney, the government and the foundations have had equal shares. The initial entrepreneurial energy came from Lloyd Morrisett (then at Carnegie Corporation and now leading the Markle Foundation). The Ford Foundation joined Carnegie in initial support of the venture, but the largest single source of funds has been the United States Office of Education. Our initial interest in "Sesame Street" was precisely in the possibility that if it should be successful, it could open a prospect of revolutionary progress in learning among children of many ages. A single season of triumph cannot be definitive on issues so large, but the promise for good in "Sesame Street's" achievement does lie exactly in the prospect that it will influence our national process of learning. That process is mainly supported by public funds, so it is necessarily a largely *governmental* process.

Finding ways to protect this kind of endeavor, while preventing real abuse, was a most important part of the legislative process of 1969, and it may also be the most important part of the process that lies ahead in the interpretation of the new law.

III

The third element in the new law is the imposition of a 4 per cent "excise tax" on the net investment income of foundations. Why Congress insisted on this tax is not clear. In a year of general tax revolt, and of suspicion of all instruments by which the rich may reduce their tax payments, we can only surmise that the tax derives from a feeling that foundations should pay a share of the high cost of government "just like everyone else." The Treasury recommended a smaller audit fee, without net revenue consequences, to cover the full cost of expanded government auditing of foundations. We joined with other foundations in strongly seconding the audit fee principle.

We hope that in due course the Congress will reconsider this decision. The money received from the 4 per cent excise tax will be just that much money that is not available for charitable work of all sorts. A tax on foundations is not a tax on the rich; it is a tax on charity. As such it runs directly contrary to the historic tradition under which charitable organizations have been required to meet their public obligations *not* by paying taxes but by putting their full effort—100 per cent of it, not 4 per cent—into work that is a contribution to society. The significance of the tax lies less in its immediate threat to foundations than in its meaning for the whole American tradition of private giving, and especially for the concepts of pluralism and diversity in American life.

But if in due course the audit fee principle is to be adopted, those of us who work for foundations will have to do a better job than we have done thus far of explaining what we are doing and why. One of the lessons of the year is that the Congress and the foundation world began with a limited understanding of each other's interests and concerns. Since it is the responsibility of any sector of our society to explain itself to the elected government, we must recognize that the fundamental failure here is the failure of the foundations. No group is above regulation, and there is no safety in any notion of an immunity conferred by some divine right of private charity to do just as it pleases.

This is in some ways an uncomfortable conclusion. It remains as true as ever that the freedom of foundations is their most precious asset, and it is certainly true that government regulation could destroy that freedom. The present reality, however, is that the freedom of foundations requires enough regulation to provide confidence, in Congress and in the country, that serious abuses are being prevented. Our problem is to ensure that we are sufficiently understood, and sufficiently supported by Congress and the public, to make that regulation reasonable—a support to our freedom and not an obstacle to it.

One difficulty is that foundations have been perceived as much bigger and more powerful than they really are. We have faced this problem with others; I have written in earlier reports of the trouble the Ford Foundation has in explaining to hard-pressed college presidents that we are just not big enough to solve all their problems. Similarly we have had painful problems in these last two years with all sorts of sponsors of valuable work who believe that foundations can and should make up for any shortfall in the appropriations of government. So we should not have been surprised when it appeared that some responsible legislators had come to believe that foundations are very big and getting bigger—a vast tax-exempt force above and beyond the law.

The fact of the matter is that in the last ten years foundations as a class have been growing in total size at a rate substantially less than that of the Gross National Product. More important, the budgetary problems of carefully programmed foundations have grown more severe with each passing year. In our own case, we have perhaps $240 million a year for carefully programmed activities in education, research, the arts, public broadcasting, domestic, social, urban, and environmental problems, and the plight of depressed societies abroad—fields which need literally billions more than they have. Our annual effort measures against the work of Federal, state, and local government as less than one part in a thousand.

The new law calls for full disclosure every year both to the government and to the public of detailed information about foundation income, expenses, operations, and organization. In any fair appraisal of that law the extensive reporting requirements must be viewed as among its most important and therapeutic provisions. If, as I believe, the central problem of responsible foundations in their relations with government is to dispel mystery and misunderstanding, and to ensure widespread and accurate knowledge of their philanthropic purposes, then full reporting to public authorities and interested citizens should be regarded as an opportunity, not a burden.

In the end, however, we must justify our continuing freedom, and our privilege of tax preference, not only by the way we keep the new law and report on our work, but also by the affirmative value of our record of achievement. We are proud of that record. We are determined not only to make sure that it is better understood but to sustain and extend it.

DEATH OF DR. RICHARD WEINERMAN

Mr. KENNEDY. Mr. President, 3 weeks ago the Nation lost one of its most distinguished and dedicated servants in the field of public health. The crash of the Swissair air jet outside Zurich, in circumstances strongly suggesting sabotage, took the lives of 47 people, including Dr. E. Richard Weinerman and his wife, Shirley Basch Weinerman.

The sudden tragedy of Dr. Weinerman's death is compounded by the fact that his life was cut short at its prime, at a time when he had reached the peak of his profession as a scientist and scholar in public health.

At his death, Dr. Weinerman was professor of medicine and public health at Yale University. In the course of his distinguished career, he had become a world-renowned authority on problems of international health and comparative

health care, and an expert in the field of medical economics.

In addition, for the past 16 months, Dr. Weinerman had served on Walter Reuther's Committee of One Hundred for National Health Insurance. As a member of the technical committee of that group, Dr. Weinerman was playing a major role in developing Mr. Reuther's national health insurance proposals, especially in the crucial area of changing the organization and delivery of health services. As a member of the Committee of One Hundred, I had the honor and privilege of working with Dr. Weinerman. To be so cruelly deprived of his magnificent talents at a time when this aspect of his work was nearing fruition, is an extraordinary loss to all of us concerned with the quality of health care in America.

Earlier this month, in a moving eulogy delivered at a memorial service in the Battell Chapel at Yale University, Dr. I. S. Falk eloquently recorded many of the distinguished achievements of Dr. Weinerman during his career. I know that Dr. Falk's address will be of interest to all of us in Congress, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks, along with the obituary notice that appeared in the New York Times.

The death of Dr. Weinerman leaves the nation the poorer, and I extend my deep sympathy to his friends and his family with these appropriate words:

Where the light of the life of him shines
on the generations that will live,
Death only dies.

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

IN MEMORIAM: E. RICHARD WEINERMAN, JULY 17, 1917, TO FEBRUARY 21, 1970, AND SHIRLEY BASCH WEINERMAN, JANUARY 22, 1918, TO FEBRUARY 21, 1970

We—colleagues, students, friends and family—are gathered, in a spirit of affection and regard, to express our sadness for the untimely death of E. Richard Weinerman and his wife Shirley Basch Weinerman on February 21, 1970 near Zurich, Switzerland. They died in the explosion of an airplane en route to Tel Aviv, the beginning of a journey for professional studies in Israel and in other countries. Their death was all the more tragic because, reportedly, it came not through some mechanical failure but from the deliberate sabotage of the airplane, an act of ruthless and wanton violence in Arab commando efforts to cripple the Israeli economy. Forty-seven innocent persons were killed, and we lost respected and beloved friends.

We are gathered to express not only our sorrow on their death but our appreciation of them and their lives. We are grateful for all they did for us personally as well as professionally, for Yale, for many other institutions here and elsewhere, and for people throughout our country and in other lands. And we are conscious of the good that will undoubtedly come in years ahead from the foundations they helped lay and the contributions they made for health progress and human welfare everywhere.

Here at Yale, our Department of Epidemiology and Public Health and our Medical Center have lost a brilliant colleague who in his eight years with us was making important contributions to strengthen our institutions and our programs. Many other health and welfare institutions and associations in New Haven, in Connecticut and in many other places have lost a greatly valued participant in their undertakings. Students here—in public health, in health services administration, in medicine, in Pierson College (of which Dr. Weinerman was a Fellow) have lost an inspiring teacher and a devoted and indefatigable guide and counsellor. These are great losses to our education and professional worlds, and we shall have to devise ways to overcome them.

To the families—parents, brother and sister, and the children—of the Weinermans whose loss is not redeemable we extend our condolences and our deep sympathy as we share their sorrow.

E. Richard Weinerman was educated at Yale (AB 1938) and at Georgetown University School of Medicine (MD 1942). He had postgraduate training at Beth Israel Hospital in Boston, the Charles V. Chapin Hospital in Providence, and the Drew Field Regional Hospital in Florida. During World War II he served as Captain in the U.S. Army Medical Corps and was Chief of a Combat Shock Team in Europe.

After the war, he had brief tours of duty as a medical officer in the U.S. Farm Security Administration (1946–47) and in the U.S. Public Health Service (1947); and he rounded out his training in medicine by further formal preparation at the Harvard School of Public Health (MPH 1948). Then, he taught medical economics at the School of Public Health of the University of California (1948–50), while himself achieving special certification under the Board of Preventive Medicine and Public Health (1949) and Board eligibility in the specialty of Internal Medicine (1948–50); and he got his first experience in civilian medical care administration as a Medical Director in the Kaiser Foundation Health Plan in Oakland (1950–51).

He engaged in diverse studies in his post-war interim period—studies which were to foreshadow his major future interests both for the decade in which he engaged as an internist in the private group practice of medicine in Berkeley (1952–62) and for the last eight years he was to spend at Yale. There was a study on education for the health professions in New York State (1947–48), a community health survey in Boston (1948), a survey of hospital facilities in the San Francisco area (1948), and a number of surveys and evaluation studies of prepaid group practice plans and of health and welfare programs in various parts of the country (1949–62).

Two special undertakings were important for the long term interests which they generated. The first of these was the preparation of a report on "The Quality of Medical Care in a National Health Program" for a committee of the American Public Health Association (1949). This was a brilliant formulation of concepts and also of guidelines for action toward safeguarding quality of medical care. It set forth the foundations on which have rested most of the studies on quality of care which others have pursued since then. Dr. Weinerman achieved national recognition through this publication. He continued to be absorbed in this subject in all the years ahead of him.

The second that was to have major influence on his future interests was his study—under a fellowship awarded by the World Health Organization—of teaching and research programs in social aspects of medicine in European universities (1950). This experience introduced him to comparative international developments and experiences; and it was the beginning of his international studies of medical care. His report on "Social Medicine in Western Europe" was well received at home and abroad, and it gave him stature in the international field.

In the years when he was teaching at Berkeley and was engaged in the private group practice of medicine, Dr. Weinerman pursued a variety of special studies. He also participated eloquently, effectively and with enthusiasm and vigor in annual and special meetings of national and sectional professional associations; and he came to be increasingly in demand in professional circles for his clarity of mind and eloquence of expression. At one of these meetings his perspectives on the medical care problems of the day and on their treatment so impressed the Dean of our Medical School and the Director of our Hospitals that they proposed inviting him to Yale to undertake what already had been found a frustrating task—to improve the outpatient services of our hospitals. Others among us joined with them; and he was offered and accepted our invitation; but he came here not with a single but with a triple appointment—as Director of Ambulatory Services and as Associate Professor of both Medicine and Public Health. Three years later he was promoted to full professorship. Another three years later he was relieved of the demanding administrative duties and he moved full-time into the academic posts, free to concentrate on teaching, research and community engagements.

Throughout his years at Yale, Dr. Weinerman's interests were almost boundless, and his professional activities were so extensive as almost to defy description. When still responsible for the direction of the Ambulatory Services of the Hospitals, and for their reorganization and improvement, he found time to pursue—with continuing support from the U.S. Public Health Service—extensive researches on the development of records and statistics systems that might be useful elsewhere as well as here. He and his colleagues on this project prepared an impressive report which has been widely circulated. He also found time to design and inaugurate the Family Health Care Unit as an operational demonstration on the teaching of comprehensive medical care to medical students and on the delivery of comprehensive care to an aggregate of medically indigent families in the local community. He and his associates in this demonstration developed a flow of publications reflecting their experiences, the lessons they were learning, and the results being achieved that could be usefully applied in other settings. He also engaged, jointly with an associate, in comparative studies of comprehensive care programs in various American university medical centers. Then—as a member of a Yale University committee—he utilized these and other studies in helping to design the new program of comprehensive medical care which is now taking shape for the University community.

During his early years at Yale, even while responsible for a large administrative program, he carried a heavy load of teaching—to students in medicine, in public health and in nursing, and he participated through lectures and seminars in other divisions of the University. Nor did he curtail his activities either in national, regional and local associations or in university or community health and welfare agencies around the country. On the contrary, with each passing year, he was giving of his time and energy to an ever-widening spectrum of involvements. And, when a few years ago our present Dean established a Committee on Community Health Services, Dr. Weinerman was appointed chairman and became formally responsible for leadership in coordinating the expanding involvements and relations of the Yale New Haven Medical Center with old and new community health service programs.

During his first years at Yale, medical care was becoming progressively more and more expensive and inadequate throughout the United States. The strains were becoming excessive in New Haven as in most urban areas, and they were precipitating steeply rising demands on the emergency rooms and the

other ambulatory clinics of hospitals. What should be the role of a teaching medical center as a community resource, beyond what it required for its role as a teaching and research center? Dr. Weinerman drew upon the proposals of many others and on his experiences here to formulate a model. The teaching medical center should strive toward becoming the inner central core of specialized services, ambulatory and inpatient; it should be circled by less specialized but organized community facilities which are backstopped by and which lean upon this inner core; and the core and its community circle should be embraced by an outer circle of state-wide regional organized facilities which are also regionally interrelated. This model is being widely accepted and used.

In the search for rational organization of medical care resources, Dr. Weinerman participated with many groups—some concerned with communitywide programs, others with special undertakings for the urban poor. In New Haven, he gave assistance in the development of our Community Health Center Plan; and he devoted much time and effort to the design and inauguration of the Hill Health Center and of other local programs to serve the poor and nearpoor.

When in 1968 he left the Ambulatory Services and moved into the full-time academic post in the Department of Epidemiology and Public Health, Dr. Weinerman gave himself over even more intensively to the academic tasks. In the field of Health Service Administration, this meant a broader and more extensive program of graduate education, new courses and seminars, a larger staff, more time devoted to fund-raising for the support of students as well as of faculty, and—especially—more time to teaching and participation with the graduate students and post-doctoral fellows. In the field of medical education, it meant participating in the development of new and more flexible curricula for medical students, and even more and more extensive involvement in teaching the social aspects of medicine and the place of the next-generation physicians and other medical personnel in community medicine.

He saw more clearly than many of his colleagues what is ahead nationally. The steadily growing health manpower shortage and technological complexity of medicine compel that the provision of medical services shall be by and through organized medical groups; that the future of medical service lies with comprehensive group practice; and that the days of solo practice are rapidly approaching an end. And so his involvement was progressively more and more with the patterns of group practice, the interlocking of ambulatory group practice in the community with the specialty and inpatient resources of the medical center. In this area he was applying the extensive knowledge he had acquired through twenty years of study in this field. And his broad and deep knowledge made him much in demand in other communities which sought his counsel—in California, Appalachia, Cleveland, Washington and New York, in various university medical centers and schools of public health, in the Office of Economic Opportunity, in the Indian Service, in Alaska, and elsewhere.

The emerging crisis in medical care is financial as well as technological. Costs, rising steeply, are pricing medical care beyond the reach of tens of millions who are dependent on their private resources; public programs of Medicare and Medicaid and of other services are straining the resources of state and Federal government. In response to a nationwide need, Dr. Weinerman associated himself with others who have been undertaking to design a national program of health insurance which could have the promise of solving the fiscal problems while at the same time dealing with needed technological improvements. He joined the recently created Committee for National Health Insurance which is dedicated to these dual objectives, and he undertook to work on the most difficult aspect of these problems—the design of professional and fiscal incentives for the improvement of the medical care system. Only a few weeks before leaving for Geneva he completed a position paper on this subject which one day, when published, will be regarded I believe as the most imaginative and scholarly treatment ever accorded this complex and important subject.

Three years ago, with support from the Commonwealth Fund, he had rounded out his much earlier studies of social medicine in Western Europe by parallel studies in Eastern Europe—in Czechoslovakia, Hungary and Poland—published last year by Harvard University Press. This year, hoping to broaden his knowledge and understanding of national systems throughout the world, he resumed his comparative international studies of medical care systems by planning surveys in other countries with other kinds of systems—in Israel, Japan and New Zealand. This undertaking came to an abrupt end after only preparatory steps for advance consultations at the World Health Organization in Geneva.

Interspersed among these many activities were many more: Help in developing a new journal (Medical Care), participation in the Connecticut Regional Medical Program, membership in the Advisory Committee on Medicaid for the Connecticut Department of Welfare, and others. And there were extracurricular lectures, seminars and conferences.

Over the years there were nearly a hundred professional publications—journal articles, reviews, monographs—and in addition many for non-professional audiences. There were papers on social policy that helped to crystallize the thinking of many and to influence private and public programs. There were keynote addresses which set the tone and guided the agenda of large and influential audiences. And their diversity reflects the interests of an inquiring mind and of a spirit dedicated to all that contributes to health and well-being.

These activities and contributions were widely appreciated, and Dr. Weinerman received many acknowledgements in professional circles. In addition to membership or fellowship in the more than a dozen professional associations, he was National President of the Public Health Honor Society, Delta Omega (1964–65), and also Chairman of the Medical Care Section (1965–66) and of the Program Area Committee for Medical Care (1968–), American Public Health Association. He won professional and fiscal supports for his undertakings from the Public Health Service of DHEW and from the Commonwealth, the Milbank and other private foundations. He had almost innumerable accolades from associations and institutions which he helped.

Richard Weinerman was not alone. His professional life was shared by a devoted wife.

Shirley Weinerman, educated at Smith College (AB 1939) did not start as a technical expert in public health but came to be a knowledgeable professional associate. She was active in many civic programs, a volunteer worker in local agencies, and for years an active and devoted member on the Board of Directors of the New Haven Visiting Nurse Association. Over their years together, she travelled widely with her husband. Her mastery of French, reflected in her participation in the Alliance Francaise, extended their reach in many countries. She participated in their inquiries and observations and in the preparation of their reports. Last year she was a joint author of the volume they published on "Social Medicine in Eastern Europe."

But more than a professional associate, Shirley Basch Weinerman was the other half of the Weinerman team, ever working together. Their home was a place for the sympathetic maintenance of personal relations for their own family, and for never-ending hospitality to all who were part of their personal and professional lives.

The true tests of a man's contributions in science and in its applications is whether he adds substantially to durable knowledge, or whether his studies change the understanding or the course of further evolution. By these tests, E. Richard Weinerman stands well-recorded in the history of our fields. Neither our perspective of needs and problems, nor the course of developments in the disciplines of medical care and health services administration, were the same again after each major series of his publications. His technical studies widened and deepened our understandings; his formulations for planning, organization and performance for the availability of good medical care gave new "anchor points," as he liked to say, and new directions to the efforts and undertakings of many.

That there were resistances to his proposals—whether in our own institutions at Yale or on the larger scene—were no surprises to him or to others; rather, these were understandable elements in the dynamics of change and evolution in the well-established practices of society. There were times of discouragement, but not for very long. His spirit of dedication kept him on course.

Early in his professional life, he had come to see clearly that the physician could serve not only his individual patients but all society. Early, he recognized that this called for improvement in the institutions of society—whether in the availability of personal health services for the individual, in the organization of the services or their delivery or their orderly financing; whether in assurance of food for the hungry or malnourished, or housing for those without good shelter; whether in protection of the environment for all, or in education toward better opportunity in life and living. Early, he set himself on a course toward study and understanding and—even more—toward action for beneficient achievement. And, looking ahead, he devoted himself unremittingly to the students of this generation who are to be our future.

The Weinermans were warm persons who liked their fellow man, and who received friendship even as they gave it. They were dedicated to humanitarian causes, with special dedication to the problems and needs of the poor and the underprivileged. All this shown through.

We—friends, colleagues, students and family alike—express our sorrow upon our loss. We commit ourselves again to clear-purposed goals, as did the Weinermans, for progress in human welfare. (I. S. Falk, Professor Emeritus of Public Health (Medical Care), Yale University School of Medicine, New Haven, Connecticut.)

[From the New York Times, Mar. 2, 1970]

DR. WEINERMAN, YALE PROFESSOR: PUBLIC HEALTH EXPERT AND WIFE DIE IN SWITZERLAND

Dr. E. Richard Weinerman, a professor of public health at Yale University, and his wife, Shirley, were among the 47 victims of the Swissair jet crash Saturday near Zurich. Dr. Weinerman was 52 years old; his wife was 51. They lived at 5 Eastland Road in Hamden, Conn.

Dr. Weinerman, who was on sabbatical leave to study health care systems in Israel, Japan and New Zealand, had stopped in Geneva en route to Israel to discuss his research with officials of the World Health Organization and to use the organization's library. Dr. Weinerman recently had published a book on health care systems in Eastern Europe following a trip to that area.

Although Dr. Weinerman specialized in methods of improving health care, his experience also included service with several United States Government agencies, private practice in internal medicine and involvement in education and administration.

WORKS ON THE COAST

Dr. Weinerman, a native of Hartford, graduated from Yale, and, in 1942, received his medical degree from the Georgetown University School of Medicine.

Upon graduation from the Harvard School of Public Health, in 1948, Dr. Weinerman became associate professor of medical economics at the University of California's School of Public Health, at Berkeley, and later became special resident in internal medicine at San Francisco Veterans Administration Hospital.

In 1962 he returned to New Haven and was director of ambulatory services for Yale-New Haven Hospital. He left that post in 1968 to head the health services section of the department of epidemiology and public health in Yale's School of Medicine.

Dr. Weinerman was a member of the Connecticut advisory committee on Medicaid and the Committee of 100 for National Health Insurance.

He also was the author of numerous articles on health care. Mrs. Weinerman, a Smith College graduate, was not a specialist in public health, but she assisted her husband in his writing.

Dr. Weinerman leaves a son, Jeffrey; a daughter, Dianne; a brother, Robert; his parents, Mr. and Mrs. David P. Weinerman, and a grandchild. Mrs. Weinerman leaves a sister, Mrs. Clifford Barger, and her parents, Mr. and Mrs. Charles Basch.

A memorial service will be held tonight at 7 o'clock at the Emmanuel Synagogue in West Hartford, Conn., and on Monday at 11 A.M. in Yale's Battell Chapel.

DIRKSEN LIBRARY KICK-OFF DINNER A BIG SUCCESS

Mr. HRUSKA. Mr. President, on February 27, the Everett McKinley Dirksen Library Fund sponsored a dinner to inaugurate the campaign to raise $2 million to construct an appropriate wing to the Pekin City Library to house the late Senator's papers and memorabilia and to establish an endowment fund for fellowships.

It was a gala event and all of us who attended had a wonderful time. The entertainment was excellent and the speeches were short. It was a great tribute to a great man—a man we all miss in the Senate.

Coming to Washington at their own expenses and donating their talents were Dinah Shore, Wayne Newton, Frank Sinatra, and Danny Thomas. Mr. Frank Sennes took three days of his time to direct the show.

These entertainers have given much of their time and talents to help raise moneys for charitable causes. The library fund is indebted to them.

For many of us, it was the first time we had seen Louella Dirksen in some time. She came up from her Florida home to be with us to pay tribute to her husband.

She gave a short speech which not only was quite appropriate but masterfully presented. One could not help wondering just how much help she might have given Senator Dirksen with his legendary speeches.

Mr. President, I ask unanimous consent that Mrs. Dirksen's remarks be printed in the RECORD.

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

Thank you Congressman Michel, and thank you Danny Thomas, Frank Sinatra, Dinah Shore and Wayne Newton for being with us tonight.

I remember, Frank, how the Senator used to laugh when the girls mauled you as you went thru the Mayflower lobby, taking a snip from your tie for a souvenir. He almost got to that place in the last few years but the fair sex would settle for a kiss. But I do want you to know how many hours of fun and happiness you have given us over the years.

And you, Howard Devron and your orchestra are bringing back fond memories to me. May you delight Washington audiences for many years to come.

Thank all of you for coming to this Everett McKinley Dirksen Library Fund dinner. I know you wouldn't be here if you hadn't been a friend of Everett Dirksen. I'm sure only his secretary Mrs. Gomien knew the full extent of his friendships. Also I'm sure the future generations thank you.

When this library was conceived it generally come about from the students who were asked to write themes or theses on the cause for the imbalance of the three branches of government in the last forty years—and the libraries have nothing.

This library will house the thinking of Everett Dirksen as well as many of the legislators who have thought as has he in the last half of this century.

Our forefathers framed the Constitution so that each branch would have equal power and be a check on each other. Since I have been in Washington the Executive has interpreted the laws which the Legislative have made until they were completely out of context.

The Judicial have usurped powers far beyond their domain. The reasons for these will be available to students and perhaps they will set our country straight so that once more the power will be in the hands of the people.

The plans for the Library will also call for a quiet place of meditation surrounded by a garden where I am sure David Burpee will see that there are some of the Senator Dirksen smiling marigolds. Thank you once again, and I love all of you.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the letter addressed to Mrs. Dirksen and signed by President Nixon be printed at this point in the RECORD. These words of the President have been echoed many times, not only by Senator Dirksen's colleagues, but by people everywhere who admired and respected him.

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

FEBRUARY 24, 1970.

Mrs. EVERETT MCKINLEY DIRKSEN,
Washington, D.C.

DEAR LOUELLA: My very best wishes go to all of those who attend the Everett McKinley Dirksen Memorial Library and Congressional Research Center dinner. It is fitting that a center housing an important part of the story of our time should be named after one who contributed so much to that story. In life, Everett Dirksen was a man of great oratorical eloquence; now, the record of his life and times will speak with a different eloquence to scholars and students from all over the world.

This memorial has my wholehearted support. Senator Dirksen's thirty-five years in Congress—sixteen in the House, nineteen in the Senate—saw tremendous changes in our nation and the world. I am gratified to know that future generations will have a chance to study those changes as they were recorded by Senator Dirksen and other congressional leaders. His memorable voice is now stilled, but his great heart will live on through his words and inspire generations to come with the patriotism that was his pride and his power.

With warm personal regards,

Sincerely,

/s/ DICK.

Mr. HRUSKA. Mr. President, the dinner was a sellout, with 900 persons present. Representative ROBERT MICHEL, who represents the district where the library will be constructed, did a splendid job as master of ceremonies. I ask unanimous consent that his remarks be printed at this point in the RECORD.

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

Good evening, Ladies and Gentlemen, I'm Bob Michel, the late Senator Everett Dirksen's Congressman.

May I at the very outset welcome all of you and thank you for your being here. It's so wonderful to see so many of you from all walks of life and all sections of the country.

My first contact with the Senator goes back to high school days, when in his early budding political career, he spoke to our civics class. Little did I realize in those days that I would be called upon to speak, as I did last June 10, at the ceremony on the Capitol grounds when we planted and dedicated a small oak tree in Senator Dirksen's honor. In time it will be one of the giant trees. Nothing could be more appropriate to memorialize him on the Capitol grounds, for it symbolizes his love of nature and like a mighty oak, he was a towering figure in the United States Senate.

Tonight we're here to launch the building of another living memorial. All will agree that he was a great scholar and what more fitting tribute could there be than constructing a library in his honor.

It is my pleasure now to make several acknowledgments and introduce the distinguished guests here on the dais, and move the program along. So, without further ado . . .

Mr. HRUSKA. Mr. President, the program was impressive. The armed services color guard presented the colors, and the Reverend John T. Tavlarides, dean of Saint Sophia Greek Orthodox Cathedral, gave the invocation. His words were an inspiration to all of us. I request unanimous consent that they be printed at this point in the RECORD.

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

O Lord, our Lord, what a Great Lord You are! You have blessed us with memory, and through memory we recall Everett McKinley Dirksen this night.

We recollect his strength and his deeds and we are enriched. We take the good he worked as substance, and we make a place of letters and history as tribute.

We seek to render proper tribute to You, also, Lord, by being in Your "Mind", acting in Your "Image" and loving in Your "Likeness". We long to be as You.

And in this spirit we offer this food, our gifts from Your gifts, for blessing and as sign of commitment to reform society, to transfigure man, to change what is to what will be.

If we have memory, and we have life—our memories and our life spring from You.

For Memory we thank you and for Life we glorify You.—For Everett Dirksen's life and our own existence we praise You, and shout, "O Lord, our Lord, what a Great Lord you are!" Amen.

Mr. HRUSKA. Mr. President, Senator HOWARD BAKER described the library and the reasons for the endowment fund. The fund will be used to establish fellowships for students and professors of Government who are concerned that the legislative branch of our Government maintain equal power with the other branches so that each might serve as a check on the others.

All of us are aware of the effort and diligence that it takes to make such a dinner successful. My friend, Kim Karabatsos, who also was very close to Senator Dirksen, was the general chairman. He and his charming wife, Betty, are to be congratulated for an outstanding job. Both, I am proud to say, are Nebraskans.

The President and Mrs. Nixon were the honorary chairmen. Cohosts of the events were Mr. and Mrs. James S. Kemper, Jr., of Chicago—Mr. Kemper is national chairman of the Fund—and Mr. and Mrs. Ben Regan of New York. Mr. Regan, until his untimely death last week, was a very close friend of Senator Dirksen. It was most unfortunate that his illness precluded the Regans' attendance, for he is well remembered in Washington, having given the annual birthday party for Senator Dirksen.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

PROTOCOL TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION

The PRESIDING OFFICER (Mr. HOLLINGS). In executive session, under the previous order, the Senate will proceed to vote on Executive I, 91st Congress, First Session, the protocol to the Northwest Atlantic Fisheries Convention.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both conventions at the same time.

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

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on both conventions.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive I, to 91st Congress, first session, the protocol to the Northwest Atlantic Fisheries Convention?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Arizona (Mr. FANNIN), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 78, nays 0, as follows:

[No. 106 Ex.]

YEAS—78

Aiken	Griffin	Montoya
Allen	Gurney	Moss
Allott	Hansen	Muskie
Bellmon	Harris	Nelson
Bennett	Hart	Packwood
Boggs	Hartke	Pastore
Brooke	Hatfield	Pearson
Byrd, Va.	Holland	Pell
Byrd, W. Va.	Hollings	Percy
Cannon	Hruska	Prouty
Case	Inouye	Proxmire
Church	Jackson	Randolph
Cook	Javits	Ribicoff
Cotton	Jordan, Idaho	Saxbe
Cranston	Long	Schweiker
Curtis	Magnuson	Scott
Dole	Mansfield	Smith, Maine
Dominick	Mathias	Sparkman
Eagleton	McCarthy	Stennis
Eastland	McClellan	Stevens
Ellender	McGee	Symington
Ervin	McGovern	Talmadge
Fong	McIntyre	Thurmond
Goodell	Metcalf	Tydings
Gore	Miller	Williams, Del.
Gravel	Mondale	Young, N. Dak.

NAYS—0

NOT VOTING—22

Anderson	Fulbright	Smith, Ill.
Baker	Goldwater	Spong
Bayh	Hughes	Tower
Bible	Jordan, N.C.	Williams, N.J.
Burdick	Kennedy	Yarborough
Cooper	Mundt	Young, Ohio
Dodd	Murphy	
Fannin	Russell	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Executive J, first session, 91st Congress, the Convention on the Privileges and Immunities of the United Nations.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Arizona (Mr. FANNIN), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 78, nays 0, as follows:

[No. 107 Leg.]

YEAS—78

Aiken	Griffin	Montoya
Allen	Gurney	Moss
Allott	Hansen	Muskie
Bellmon	Harris	Nelson
Bennett	Hart	Packwood
Boggs	Hartke	Pastore
Brooke	Hatfield	Pearson
Byrd, Va.	Holland	Pell
Byrd, W. Va.	Hollings	Percy
Cannon	Hruska	Prouty
Case	Inouye	Proxmire
Church	Jackson	Randolph
Cook	Javits	Ribicoff
Cotton	Jordan, Idaho	Saxbe
Cranston	Long	Schweiker
Curtis	Magnuson	Scott
Dole	Mansfield	Smith, Maine
Dominick	Mathias	Sparkman
Eagleton	McCarthy	Stennis
Eastland	McClellan	Stevens
Ellender	McGee	Symington
Ervin	McGovern	Talmadge
Fong	McIntyre	Thurmond
Goodell	Metcalf	Tydings
Gore	Miller	Williams, Del.
Gravel	Mondale	Young, N. Dak.

NAYS—0

NOT VOTING—22

Anderson	Fulbright	Smith, Ill.
Baker	Goldwater	Spong
Bayh	Hughes	Tower
Bible	Jordan, N.C.	Williams, N.J.
Burdick	Kennedy	Yarborough
Cooper	Mundt	Young, Ohio
Dodd	Murphy	
Fannin	Russell	

The PRESIDING OFFICER (Mr. HOLLINGS). Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

ORDER OF BUSINESS

Mr SCOTT. Mr. President, as in legislative session, I ask unanimous consent that the period for the transaction of routine business be extended for the conduct of further morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection.

The Senate will be in order.

TRIBUTES TO SENATOR YOUNG OF NORTH DAKOTA ON 25TH ANNIVERSARY OF SENATE SERVICE

Mr. SCOTT. Mr. President, I would like to call to the attention of my colleagues that today the Senator from North Dakota (Mr. YOUNG) is celebrating his 25th anniversary of service in this body. Twenty-five years ago the Senator took the oath of office after having been appointed on March 12, 1945, by Governor Anadahl to fill the vacancy caused by the death of Senator Moses. He was elected at a special election in June of 1946 and has been reelected each 6 years since that time. With his reelection in 1968, he became the longest serving U.S. Senator in North Dakota's history.

I commend the wisdom of the people of North Dakota in sending the Senator to the Senate to represent not only their interests but the Nation's interest as well, and I congratulate my distinguished friend and colleague on this day and express to him my thanks and appreciation for his help to me, to his party and to his country.

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

Mr. SCOTT. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to join the distinguished minority leader in the remarks he has just made about our outstanding colleague, the Senator from North Dakota (Mr. YOUNG).

MILT YOUNG and I are neighbors. We have problems in common. We work together to try to find solutions to those problems, both as they affect national security and the agricultural economies of our respective States.

He is one of the ranking Members of this body. He serves with great integrity and devotion. I am proud to call him friend, because I look upon him as one of the truly outstanding Members of this body.

I salute him on this particular anniversary.

Mr. HATFIELD. Mr. President, I wish to join the minority leader and the majority leader in paying special recognition to our colleague from North Dakota, Senator YOUNG. From time to time we in the Senate pay tribute to great and good men posthumously, but I think it is of far greater importance to give recognition to great and good men like Senator YOUNG when they are present to hear it.

I pay this tribute to him not only because of his service to his own people of North Dakota but on behalf of the people of the State of Oregon where his name is well known. My constituents have often said to me, "If you have any questions or if you have need of counsel for what is in the best interest of agriculture in Oregon, then ask Senator YOUNG of North Dakota." I think that is a tribute to a man who is recognized for his national leadership in this particular field.

I am very delighted on this occasion to congratulate you on 25 years of service in the Senate, and wish you another 25 years of service.

Mr. CURTIS. Mr. President, I wish to join my colleagues in paying tribute to our beloved friend, the distinguished Senator from North Dakota (Mr. YOUNG). This involves something more than just pleasantries. Every Member of this body is aware of his dedication to tasks assigned him and realizes the very important load he carries on the Appropriations Committee and how well informed he is on matters coming within his jurisdiction.

As a member of the Committee on Agriculture and Forestry, I can say that American agriculture is very much indebted to Senator YOUNG. His primary business, outside of his public service, is that of farming. We need the ideas, support, and influence of people who are part-time farmers, people who are interested in farming; but actually there is no one who can contribute to the deliberations as much as someone who understands what it is to be totally engaged in agriculture.

So, not only in behalf of all the people generally of the country, I want to speak out in behalf of the people of rural America and express for them our congratulations and best wishes for his excellent service and also our deep appreciation for what he has done and what he is so well equipped to continue to do.

Mr. JAVITS. Mr. President, I would like to join in congratulating MILT YOUNG, as a window box farmer from New York. Aside from his service to agriculture, as he just reminded us this morning with very sage observations before the Republican conference, he has been a wonderful friend. He tolerated me for a long time on the Appropriations Committee, notwithstanding some heretical ideas, and he is the soul of friendship for Senators, and I think for all people. His heart is a very big one.

When you serve in an area that can make you case hardened and cynical, and you retain the freshness, spontaneity, warmth, and feeling for our people and their problems that MILT YOUNG retains, then our farm communities are still producing for us some really great men. I join all my colleagues in congratulations.

Mr. HOLLAND. Mr. President, I came to the Senate in 1946. My recollection is that my distinguished friend from North Dakota preceded me by a little over a year. I think he came here in 1945.

Is that correct?

Mr. YOUNG of North Dakota. Yes.

Mr. HOLLAND. At any rate, he was friendly and helpful to me from the beginning. We have had assignments which are quite similar. Both of us have served for many years on the Committee on Agriculture and Forestry together, and for years on the Appropriations Committee. We have been on numerous subcommittees together. For instance, in the subcommittee over which I preside, the Subcommittee on Appropriations for Agriculture, Senator YOUNG was for years the senior Republican, and he is still a faithful member of that committee. He has been attending it faithfully through about the last month when we have been conducting hearings on the 1971 appropriation budget for agriculture.

I just want the RECORD to show my great appreciation of Senator YOUNG. There is no more loyal and faithful man in attending to his Senate duties than he is. There is no better friend of agriculture, and I mean all agriculture, whether in North Dakota or elsewhere, than he is. There is no more careful man in passing upon the numerous items of appropriations for those funds than he is.

I think he is a fine Senator by any standard, and I want the RECORD to say so. Above and beyond that, I want to say I have been happy to count him as my good, generous, and wonderful friend.

I have had a chance to visit him in North Dakota on two occasions. He made my visits there very enjoyable. He has visited us in Florida on occasion. He has always been warmly welcomed there and has always been very responsive to our needs there, whatever they might be.

I think he is a great Senator, an American Senator in the finest tradition, and beyond that, a great American.

Mr. STENNIS. Mr. President, I am

one of those fortunate enough to have served with our friend from North Dakota. I want to say first, with emphasis, that I have never known a Senator who did a better job in representing his State and the people and the interests of his State than Senator MILTON YOUNG.

I had the privilege of serving on an appropriations subcommittee with him before I became a member of that committee. That was as an ex officio member of the Public Works Committee. Later, on the Appropriations Committee, I served with him on several subcommittees. He has a fine knowledge of this Government and all its workings, and exercises a sound and skillful judgment. Moreover, we are strengthened here, too, because he stands for something in the Senate that is worthwhile and worthy.

It has not only his personality and his mind behind it, but his fine force of character as well; and I hope these first 25 years are just the first half of 50 years, rounded out.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the many fine tributes that have been paid today to our distinguished friend and colleague, the senior Senator from North Dakota, on this anniversary occasion.

As others have pointed out, no one in the Senate is held in higher esteem or greater affection. For those privileged to know him, it is easy to understand why North Dakota voters have returned Senator YOUNG to the Senate in five successive elections and the last time, in 1968, by the highest percentage of vote of any Republican Senator in the Nation who was opposed.

As a rather junior Member, I wish to express my personal appreciation for his wise guidance and counsel and wish for him many more years in the Senate.

Mr. YOUNG of North Dakota. Mr. President, all these kind and gracious comments from my colleagues on the 25th anniversary of my being sworn into the Senate come as a most pleasant surprise.

It does not seem like I have been here 25 years. Time has a way of going very fast here. It is a busy life but a pleasant and very satisfying experience. Probably the thing I enjoy most about my job in the Senate is being able to help people.

If I have achieved any success as a Senator, it is due to the helping hands of the Members of this body. In all these 25 years I do not know of a single instance where, if I had a problem or something I was deeply concerned about, any Senator ever declined to give me a full opportunity to present my case. Invariably, if I had a good case they helped me take care of it.

The Senate is often spoken of as an exclusive club. Perhaps in some ways it is but I would like to characterize it somewhat differently. I have never known a group of people where there was more sincere friendship, consideration and a truly Christian spirit than that which exists among this membership. There are no party lines here when it comes to friendship. There is no better example of this than the tributes paid me today by my friends Senator MIKE MANSFIELD, the majority leader of the Senate, and Senator HUGH SCOTT, the minority leader. There is a relationship between Members of the Senate—whether they be Republicans or Democrats—that few people would understand unless they had the privilege of serving here.

Mr. President, I am most grateful to my colleagues for the many kind thoughts expressed to me on the occasion of my 25th anniversary in the Senate.

JUDGMENT ON MYLAI

Mr. STENNIS. Mr. President, when General Peers filed his report concerning the inquiries he had made in the Army concerning the alleged massacres in South Vietnam, I as a member of the Armed Services Committee, commended that report and the Army for what appeared to be a very fine job of self-examination, that shows a high purpose as well as clearly realizing the problem and discharging their duty in connection therewith.

I pointed out then, as I do now, that our Armed Services Committee has been keeping up with this matter all the time. We expect the Army to continue to make reports to us on this question as in the past. We expect to withhold any action of any kind as long as they are carrying out their duties, and when these trials are all over, we will then make a judgment on what our responsibilities are in view of all the facts and the manner in which the army has handled the affair.

I ask unanimous consent to have printed in the RECORD at this point an editorial entitled, "Judgment on Mylai." published in today's New York Times, and an editorial entitled. "Songmy: the Army Brings Charges," published in today's Washington Post.

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

[From the New York Times, Mar. 19, 1970]

JUDGMENT ON MYLAI

The United States Army has faced up to the horror of Mylai with remarkable vigor and candor in the report of a panel of inquiry headed by Lieut. Gen. William R. Peers.

After a self-examination that is perhaps without precedent in a military organization, the Army board has conceded that, in the words of General Peers, "a tragedy of major proportions occurred" in the Vietnamese hamlet of Mylai on March 16, 1968. On that date more than 100 civilians—men, women and children—allegedly were killed, tortured and raped by members of the Americal Division.

The Pentagon made plain its determination to avoid future Mylais by filing charges against fourteen officers, including the Superintendent of West Point, who commanded the Americal Division at the time, for suppressing information about the mass killings. The guilt of the men so charged of course remains to be proved. But these accusations, together with charges already brought against ten men accused of direct involvement in the alleged atrocities, should help make clear to every G.I.—and to the world—that the United States does not condone and will not tolerate the behavior attributed to some American soldiers at Mylai.

General Peers said he has also recommended a tightening of regulations dealing with war crimes and quick reporting of atrocities, as well as improvements in training. The grim lesson of Mylai will not have been mastered until every American soldier, and especially every officer, has understood the horror of what unquestionably took place there and has recognized his own responsibilities under rules of war that were sternly enforced by American judges at Nurenberg and Tokyo after World War II.

[From the Washington Post, Mar. 19, 1970]

SONGMY: THE ARMY BRINGS CHARGES

"Our inquiry clearly established that a tragedy of major proportions occurred there on that day." Thus Lieutenant General William R. Peers confirmed, at a Pentagon news conference on Tuesday, the finding of his panel's investigation into the Songmy incident—the alleged mass killings by U.S. military personnel of civilians in the Vietnamese village. The Army has already brought criminal charges against ten men in connection with the events in Songmy. Tuesday, with General Peers and Army Chief of Staff General William C. Westmoreland, standing by, Secretary of the Army Stanley Resor announced that charges have also been brought against 14 officers—two generals included—for allegedly participating in or contributing to the concealment of the Songmy events from higher authority. Among those charged with failure to obey lawful regulations and dereliction of duty was Major General Samuel W. Koster, who was division commander at the time.

Wisely, in our view, General Peers, whose panel heard some 400 witnesses, persistently refused to discuss specifics in relation to the newly charged men, and Secretary Resor made the relevant point clear: the men were "entitled fully to the presumption of innocence which applies in our system of justice." There will be time enough to comment on the outcome of these cases and of the cases of those men accused of actual participation in the tragedy of Songmy. What seems worth observing now is that there is much reassurance to be gained from the manner in which the Army has proceeded thus far. Those who feared a "whitewash" by any investigating group other than a non-military one, and those on the other side who have persisted in viewing the reports of Songmy as part of a traitorous and vengeful deception foisted on the public by critics of the Vietnam war, should now be obliged to reconsider their views. The dignity and sobriety and apparent dead-earnestness with which the Army has pursued the facts and the forces behind this hideous affair offers much hope that we will arrive at the truth of what happened and be able to act on it justly in the context of the Army's effort. Perhaps that is a small and belated consolation in relation to events at Songmy—but it is an indispensable outcome to those events, and we are impressed with the Army's attempt to achieve it.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. STENNIS. Quite briefly. I understand the Senator from Alabama is quite pressed for time.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator's 3 minutes have expired.

Mr. STENNIS. I ask unanimous consent for 1 additional minute, for the Senator from Oregon to ask a question.

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

Mr. HATFIELD. I should like to ask the Senator, whether as chairman of the Armed Services Committee, he is totally satisfied with the procedure the Army used in notifying these officers and other

men who are now under indictment; as to the reasons for calling them to Fort Meade, without prior notice as to why some of their families were informed only through the news media.

I was concerned as to whether they used the right procedures, and I would just like to know, as a matter of inquiry, whether the Senator is satisfied.

Mr. STENNIS. No, I have not known of the fact until the Senator mentioned it. I have been busy holding hearings the last 2 or 3 days. I regret any shortcomings there may have been to that effect, but I am sure that if they are in error, they will make amends.

Mr. HATFIELD. I would urge the chairman of the Armed Services Committee to make such inquiry, because I believe these military people have certain rights as American citizens and as human beings, and I would like to be assured that the procedures used took into consideration these factors. I am not so certain that they did.

Mr. STENNIS. I will be happy to make inquiry and give the Senator a report.

FCC COMMISSIONER KENNETH A. COX

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article that appeared in the New York Times on Sunday, March 15, 1970, regarding Commissioner Kenneth A. Cox of the Federal Communications Commission.

Mr. Cox is a prominent attorney from Seattle, Wash., who did an outstanding job when he was counsel to the Senate Commerce Committee.

The article is very thoughtful, realistic in tone, and I commend it to my colleagues.

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

WILL POLITICS CALL THE TUNE ONCE AGAIN?

(By Jack Gould)

To expect President Nixon not to seek a Republican majority on the Federal Communications Commission is patently unrealistic. But there is a special case arising in June which would give the White House an opportunity to demonstrate that it appreciates the future of communications is far too important for it to follow the usual rule of subjecting a regulatory agency to patronage politics.

In June the FCC stands to lose the services of Kenneth A. Cox, widely regarded as the ablest member of the body in terms of sustained dedication, knowledgeableness and competence in the social, legal and technical phases of all branches of communications. Because Cox's term is up in June and he is nominally a Democrat, the White House is expected to name what will be the third Republican to the FCC since President Nixon took office, giving the Republicans a 4 to 3 majority.

Preferably, the FCC should be neither a political toy nor a stepping-stone to lush jobs in the communications industry. Career commissioners are very novel; Rosel H. Hyde, recently retired, was the last one. But living on a commissioner's salary of $22,000 a year in the face of business offers many times that sum has made the FCC practically a revolving door.

A commissioner's party affiliation shouldn't be the Administration's sole concern. Other factors are more important, including training and diversity of outlook and background. Cox most nearly meets these criteria. In Washington he is an oddity; he genuinely prefers public service over private law practice and enjoys extensive respect from Republicans and Democrats alike for his integrity and diligence. It is no secret that many broadcast lawyers, knowing that Cox ultimately might vote against their clients, nonetheless call on him first because he is so searching in his questioning and is regarded as so completely fair. Often he drives his fellow commissioners and FCC staff personnel up the wall by doggedly insisting on minute detail. He is one of the very few commissioners to come up from the ranks; he used to be chief of the FCC broadcast bureau and knows the ropes.

Cox, 53, is an interesting contrast to his colleague and friend Nicholas Johnson. Both men often are allied in broadcasting matters and frequently are joint dissenters from the majority. Johnson, who is 35, and whose term expires in 1973, in effect has gone outside the commission to lecture and write articles and a book on the sins of broadcasting, the shortcomings of the FCC, the rights of viewers and the freedom of the airwaves. He has stirred up the academic community to a degree, has been instrumental in blocking some questionable deals, and has garnered more publicity than any other commissioner in many years, especially for one who is not an FCC chairman.

There is no doubt that Johnson has had an influence and will continue to have, but he is also paying a price for it. He will learn, as did Newton N. Minow, the former FCC chairman of "vast wasteland" fame, that you can talk your heart out to the literate public but that they represent only a minute fraction of the viewing audience and seldom respond consistently to your views. Moreover, it is easier for them simply to turn the set off rather than draw up a petition. After a while the curse of repetition also sets in and everyone knows what you're going to say.

Meanwhile, Johnson has mobilized the broadcasters against him, and when it comes to lobbying in Congress or around the White House, no eager citizens group is in their league. Johnson may surprise everyone, but you can get bets in Washington that Dean Burch, the new FCC chairman, may soon take the play away from him. Many activists find Burch refreshingly open-minded and, as he gets deeper into his job, he may come up with some quite unexpected votes. And you can get even more bets that Johnson will not be interested in a second seven-year term. Not when one is very restless, still under 40, and nationally known to some extent.

In contrast, Cox believes that progress in communications is best achieved by working within the agency. He is no slouch at writing punchy articles and making tough but good-humored speeches, but he is wary of overdrawn rhetoric that may temporarily make good reading and headlines but that succeeds primarily in thwarting or delaying a commission consensus on a reform measure. As a former counsel to the Senate Commerce Committee, which introduces broadcasting legislation, his forte is practical persuasion rooted in all the facts he can find.

On the sociological front, Cox's most vociferous critics are probably the cable-TV operators, those in operation and those who would like to be. Cox agrees with many observers that the average monthly fee of $5 for connecting a set to a master antenna is not going to last too long. He suspects that, in the case of new systems, the charge could rise substantially. If the fee were to go up to $10 a month, as many observes believe is possible, it would mean a master antenna connection would cost more every year than the price of some black and white TV sets. Where does this leave the poor in the ghettos, Cox wonders.

Actually, Cox has voted with the FCC majority in greatly liberalizing opportunities for cable-TV, providing there are controls in the public interest. The little-publicized Cox is akin to an electronic ecologist, making sure that blue-sky promises of progress do not conceal threats to existing resources.

President Nixon will find Cox's shoes hard to fill. That such an able servant may have to leave purely as a matter of superficial politics is one reason why the future of communications has been badly snagged. Today's modern commissioner must take into account economics, technology, social repercussions, law, media monopoly, frequency allocation, etc. In Cox, the public has a valuable proxy with 10 years of familiarity with such problems, and one who has expressed the willingness to give the rest of his active career to their resolution. It is a rare gain, and it must be hoped that the White House will take this fully into account between now and June.

NISEI: THE QUIET AMERICANS

Mr. MAGNUSON. Mr. President, today I wish to discuss one of the great triumphs of a people—the growth, development, and acceptance of Americans of Japanese ancestry in the United States.

Last year on June 7, 1969, a California historical landmark was dedicated at Gold Hill in Eldorado County, to mark the site of the Wakamatsu Tea and Silk Colony, the first recognized settlement of Japanese immigrants to the continental United States. This observance marked the 100th anniversary of the arrival of the first Japanese to establish permanent residence in this country.

Just prior to the close of the first session of the 91st Congress I was presented with a copy of a book entitled, "Nisei: The Quiet Americans." The book was written by Mr. Bill Hosokawa and published by William Morrow & Co. Mr. Hosokawa, an associate editor of the Denver Post, who was born and raised in Seattle, Wash., and who graduated from the University of Washington, has written a definitive 100-year history about the trials, tribulations, and successes of Americans of Japanese ancestry in the United States.

If my colleagues would think back about 28 years—for some of us will remember very well—Japanese-Americans in 1942 were subjected to the most shocking acts of racial prejudice, and ignorant shortsightedness in the history of this Republic. In 1942 nearly 110,000 Americans of Japanese ancestry were ordered by our Government to evacuate their homes, leave their place of business and occupation, and were forced to enter "detention camps." Principally under pressure of the U.S. Military Establishment in 1942, President Franklin D. Roosevelt signed Executive Order 9066 which launched the removal of Japanese aliens and Japanese-American citizens from supposedly strategic coastal areas. For 3 years, this unseemingly order was enforced. The author of the book, Mr. Hosokawa, his family, and thousands of his friends were sent to relocation centers on the very slim and inaccurate charge that Japanese-Americans were a dangerous element in the United States and a threat to our national security. Mr.

Hosokawa has emerged years later to write an important historical account of the course of events preceding and following the Executive order to evacuate Japanese-Americans to relocation centers.

I believe it is of immeasurable importance that we place in the record once and for all that the order to commit American citizens of Japanese ancestry, as well as Japanese aliens who, unfortunately, had no rights to citizenship because of Federal laws denying them naturalization privileges, to detention camps was a mistake, and one of our Government's most grievous errors of World War II.

Our inability to resolve the prejudice confronting Japanese-Americans did not stop there. Since 1789, as aliens of "racially ineligible" to naturalization, Japanese immigrants had no rights to citizenship. Citizenship was denied Japanese aliens until 1952 when, largely through the efforts of the Japanese American Citizens League, they realized their goal—the successful enactment of the Immigration and Nationality Act of 1952. This act eliminated race as a barrier to naturalization and also allowed, for the first time since 1924, a token immigration quota to Japan and other Asian nations, which negated the Oriental Exclusion Acts. I authorized the law. Discriminatory language for Asian immigrants was further eliminated and signed into law by President Johnson in 1965, when the racist national origins systems of allocating immigration opportunities was also abolished. Also, this one.

The book, "NISEI: The Quiet Americans," which I recommend to my Senate colleagues, carefully traces the history of Japanese immigration and their early struggles in the United States from 1869 to 1941. Then Pearl Harbor came and the war hysteria reached its peak with the decision to evacuate thousands of Japanese people, mostly American citizens, to so-called relocation camps. The camps lacked the brutality and the ovens of Buchenwald. But they were complete with armed guards, fences, and provided only a harsh garrison-type life.

Despite the searing knowledge that their rights were being denied them, as were the Jews in Europe, the evacuees clung to the ideals of America and refused to accept their plight as a permanent one. It is tragic that there was no legal right to confine them, yet the highest tribunal in the land upheld the evacuation order based on military considerations. The genesis of this decision is rather vague; many had a part to play in it—including many leading periodicals, the attorney general of California, and a military zone commander, Gen. John L. DeWitt.

Some of the main ingredients that provided the fuel to the evacuation order are the same elements today which continue to threaten our internal security and therefore our essential liberty; they are—public prejudice, congressional myopia. It must be eliminated from American society if we are to continue the growth and development of America as a free and democratic society.

Japanese-Americans have proven their patriotism by volunteering in World War I, serving honorably and with a zeal equal to all other ethnic groups in America. Then again in World War II, they served not only in the Pacific, but also in the very famous 442d Regimental Combat Team. Japanese-Americans formed a tremendously effective unit of fighting men, and fought valiantly and paid the supreme sacrifice with life and limb in France and Italy. According to the author's account, "in seven major campaigns, the 442d suffered 9,486 casualties; more than 300 percent of its original infantry strength—including 600 dead. More than 18,000 individual decorations for valor were won by the Japanese-Americans who served in the 442d." I would like to point out here that during the Second World War, when Japanese-Americans were fighting for America's freedom, their families, and friends were living in detention camps, away from their jobs and their homes—with their bank accounts frozen and their basic rights diluted.

Americans of Japanese ancestry have continued to fight for America's freedom, in the Korean war, and now in the Vietnam war. And, at home, they have through the years overcome the bigotry and prejudice of the past and risen to influential positions in public and private life. We, of course, have the good fortune to have in the Senate one American citizen of Japanese ancestry, Senator DANIEL K. INOUYE.

Senator INOUYE received a Bronze Star and a Distinguished Service Cross during his tour of duty in World War II as a member of the 442d Regimental Combat Team. He now serves the people of Hawaii and the Nation in this great deliberative body and I am proud to be among his colleagues.

As individuals, the book points out that Japanese-Americans have continually demonstrated that they are loyal and patriotic Americans. As a group, however, for a time in the early years, they are disorganized and as such weak in terms of the influence they could exert to improve their status in Washington, D.C. The beginning of a long and successful fight came with the establishment of the Japanese American Citizens League—JACL. Founded as a national organization in Seattle in 1930, the JACL had a slow start, but began to pick up steam during the tumultuous years of World War II. It was not until 1941 under the direction of National President Saburo Kido and the present Washington Representative Mike Masaoka that the JACL began to move more forcefully. Through the years, the JACL has worked quietly but effectively for equality of opportunity, citizenship, and the repeal of discriminatory alien land rights legislation.

The efforts of Japanese-Americans to secure the rights accorded all Americans is a story all Americans should know about. And the NISEI, as the American-born children of Japanese immigrants are called, have not ceased to fight for equal protection—and a better life for their children. For example, in this past congressional session, Senator INOUYE successfully managed passage of a bill to repeal a section of the Internal Security Act of 1950. That section, title II, permits the Federal Government to establish detention camps during periods of a declared threat to national security. This section, commonly called the concentration camps provision, is responsible for many rumors among minority groups, such that if they get out of line in the eyes of certain officials, they will be interned under the provisions of this law. This session, the House of Representatives will take up its version of Senator INOUYE's bill, introduced by Representative SPARK MATSUNAGA, also a decorated World War II combat veteran. It is my hope that the House will quickly pass the bill to repeal the anachronistic title II of the Internal Security Act.

In contemplating the long hard struggle of Japanese-Americans, and other minorities in this country, I am moved to read a portion of a statement made in this Chamber back in 1964 that was of great importance to all Americans. As you all know, in that year the great 100-day debate took place concerning the Civil Rights Act. Immediately prior to the historic vote, there was great uncertainty as to whether it would pass. A large block of uncommitted Senators, led by that great institution in American politics, Everett McKinley Dirksen, held the key votes. The late Senator finally decided to vote for passage of the measure, and with him came, I am sure, additional votes to assure passage. Allow me to read a portion of his remarks on that eventful day of June 1964. It serves to illustrate what eternal vigilance and responsibility we in the United States Congress must exercise if we are to prevent a repetition of the Japanese-American tragedy of 1942. He said:

> I am involved in mankind, and, whatever the skin we are all involved in mankind. Equality of opportunity must prevail if we are to complete the covenant that we have made with the people, and when we held up our hands to take an oath to defend the laws and to carry out the Constitution of the U.S.

Then, characteristically, Senator Dirksen quoted an English poet, John Donne, to emphasize his point:

> Any man's death diminishes me, because I am involved in mankind.

Relating the poet's thoughts to his own, Senator Dirksen said:

> So every denial of freedom, every denial of equal opportunity for a livelihood, for an education, for a right to participate in representative government diminishes me.

The 100-year history of Americans of Japanese ancestry does not read comfortably. They have in the past been denied the freedom for which we are supported to stand. Fortunately the Congress has removed from the law books practically all the discriminatory legislation. Still, racial prejudice continues to be one of America's most serious shortcomings. Even today as I speak there are acts of discrimination, and bigotry, occurring in the Nation. In the 200-year history of the Republic we have made great strides but much more needs to be done in this area.

The author points out in the closing pages of his books that 80 percent of Californians approved the Japanese-American evacuation in 1942. He also points out that in a 1967 survey conducted by a UCLA Japanese American Research Project, fully 48 percent of Californians still approved of the evacuation. Prejudice is still among us. And it will continue to be so until every man, woman, and child changes his attitude toward his fellow man. It must come about. Our Founding Fathers spoke of promoting the general welfare. No mention was ever made that this will be contingent upon race, color, or creed. And it should never be a criteria. Right here in this august body we have representations from various ethnic and religious groups—elected by the people to serve the common good, for the people—regardless of their racial origins or religious beliefs.

Placing the experiences of the Japanese-Americans in the present context, we can readily observe that the experiences—the mistakes of the past—are lessons for us to consider in this day and age. President Harry S. Truman said in the summer of 1946 in presenting its seventh World War II Presidential unit citation to the Japanese-American combat team:

You fought not only the enemy, but you fought prejudice—and you won. Keep up the fight, and we will continue to win—to make this great Republic stand for what the Constitution says it stands for, "the welfare of all the people all the time."

The Japanese-American experience should give faith to all Americans today in the possibility that we can achieve full equality of opportunity. And it can be accomplished through due process of law.

The principle of which this country was founded and by which it has always been governed is that Americanism is a matter of the mind and heart. Americanism is not, and never was, a matter of race or ancestry.

The book, "NISEI: The Quiet Americans," documents 100 years of struggle for identity, and equality of opportunity of a people. It also stands as a prototype for all of us that, although this great Nation may fall short of our ideals at times, we are indeed moving inexorably toward their attainment.

Mr. President, so that all shall know what this group of American citizens stand for, I ask unanimous consent to include at this point in the RECORD the Japanese American Citizens League Creed, which was authored by Mike Masaoka and was first read into the CONGRESSIONAL RECORD in May 1941:

I am proud that I am an American citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this nation. I believe in her institutions, ideals, and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has entrusted me with the responsibilities of the franchise. She has permitted me to build a home, to earn a livelihood, to worship, think, speak, and act as I please—as a free man equal to every other man.

Although some individuals may discriminate against me, I shall never become bitter or lose faith, for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way: aboveboard, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.

Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and in all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all enemies, foreign or domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.

THE EISENHOWER DOLLAR

Mr. SPARKMAN. Mr. President, as in legislative session I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 158.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution from the Senate (S.J. Res. 158) to authorize the minting of clad silver dollars bearing the likeness of the late President of the United States, Dwight David Eisenhower, which was to strike out all after the resolving clause, and insert:

SECTION 1. Section 101 of the Coinage Act of 1965 (31 U.S.C. 391) is amended to read as follows:

"SEC. 101. (a) The Secretary may mint and issue coins of the denominations set forth in subsection (c) in such quantities as he determines to be necessary to meet national needs.

"(b) Any coin minted under authority of this section shall be a clad coin. The cladding shall be of an alloy of 75 per centum copper and 25 per centum nickel, and shall weigh not less than 30 per centum of the weight of the whole coin. The core shall be copper.

"(c)(1) The dollar shall be 1.500 inches in diameter and weigh 22.68 grams.

"(2) The half dollar shall be 1.205 inches in diameter and weigh 11.34 grams.

"(3) The quarter dollar shall be 0.955 inch in diameter and weight 5.67 grams.

"(4) The dime shall be 0.705 inch in diameter and weight 2.268 grams."

SEC. 2. Half dollars as authorized under section 101(a)(1) of the Coinage Act of 1965 as in effect prior to the enactment of this Act may, in the discretion of the Secretary of the Treasury, continue to be minted until January 1, 1971.

SEC. 3. (a) The Secretary of the Treasury is authorized to transfer, as an accountable advance and at their face value, the approximately three million silver dollars now held in the Treasury to the Administrator of General Services. The Administrator is authorized to offer these coins to the public in the manner recommended by the Joint Commission on the Coinage at its meeting on May 12, 1969. The Administrator shall repay the accountable advance in the amount of that face value out of the proceeds of and at the time of the public sale of the silver dollars. Any proceeds received as a result of the public sale in excess of the face value of these coins shall be covered into the Treasury as miscellaneous receipts.

(b) There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the purposes of this section.

SEC. 4. Section 4 of the Act of June 24, 1967 (Public Law 90–29; 31 U.S.C. 405a–1 note) is amended by adding at the end thereof the following new sentence: "Out of the proceeds of and at the time of any sale of silver transferred pursuant to this Act, the Treasury Department shall be paid $1.292929292 for each fine troy ounce."

SEC. 5. Section 3513 of the Revised Statutes (31 U.S.C. 316) and the first section of the Act of February 28, 1878 (20 Stat. 25; 31 U.S.C. 316, 458) are repealed.

SEC. 6. The dollars initially minted under authority of section 101 of the Coinage Act of 1965 shall bear the likeness of the late President of the United States, Dwight David Eisenhower and on the other side thereof, a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 7. Title I of the Coinage Act of 1965 is amended by adding the following new section at the end:

"SEC. 109. (a) The Secretary may mint proof coins of the denominations set forth in section 101 from such metals or alloys as he may deem appropriate.

"(b) Proof coins minted under authority of subsection (a) shall be sold in such a manner as to assure a reasonable opportunity to all interested individuals to purchase directly from the Government at least one set of such coins of each year for which they are minted."

And amend the title so as to read: "Joint resolution to carry out the recommendations of the Joint Commission on the Coinage, and for other purposes."

Mr. SPARKMAN. Mr. President, this matter has been hanging fire for some little time. Now there has been worked out an arrangement which I believe is satisfactory to everyone. It is embodied in an amendment that will be offered by the Senator from Colorado (Mr. DOMINICK).

There are a few things in which we are interested, that we want to be sure are made a part of this matter. One thing in particular is that it is proposed to coin 150 million silver-content dollars, and that they will be disposed of by the Treasury. We want to see that the interest of the public of the United States is protected, as well as that of the Treasury. The Senator from Utah (Mr. BENNETT) who is present, intends to conduct a colloquy, I understand, with the Senator from Colorado, in order that the record may be straight as to those matters.

I yield now to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I move that the Senate concur in the amendment of the House of Representatives to the text of Senate Joint Resolution 158, with an amendment in the nature of a substitute, which I send to the desk at this point and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The substitute amendment is as follows:

SECTION 1. Section 101 of the Coinage Act of 1965 (31 U.S.C. 391) is amended to read as follows:

"SEC. 101. (a) The Secretary may mint and issue coins of the denominations set forth in subsection (c) in such quantities as he determines to be necessary to meet national needs.

"(b) Any coin minted under authority of subsection (a) shall be a clad coin. The cladding shall be an alloy of 75 per centum copper and 25 per centum nickel, and shall weigh not less than 30 per centum of the weight of the whole coin. The core shall be copper.

"(c) (1) The dollar shall be 1.500 inches in diameter and weigh 22.68 grams.

"(a) The half-dollar shall be 1.205 inches in diameter and weigh 11.34 grams.

"(3) The quarter dollar shall be 0.955 inches in diameter and weigh 5.67 grams.

"(4) The dime shall be 0.705 inches in diameter and weigh 2.268 grams.

"(d) Not withstanding the foregoing, the Secretary is authorized to mint and issue not more than one hundred and fifty million one-dollar pieces which shall have

"(1) a diameter of 1.500 inches;

"(2) a cladding of an alloy of eight hundred parts of silver and two hundred parts of copper; and

"(3) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper."

SEC. 2. For the purposes of this Act, the Administrator of General Services Administration shall transfer to the Secretary of the Treasury twenty-five million five hundred thousand fine troy ounces of silver now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) which is excess to strategic needs. Such transfer shall be made at the value of $1.292929292 for each fine troy of silver so transferred. Such silver shall be used exclusively to coin one-dollar pieces authorized in section 101(d) of the Coinage Act of 1965, as amended hereof.

SEC. 3. The dollars initially minted under authority of Section 101 of the Coinage Act of 1965 shall bear the likeness of the late President of the United States, Dwight David Eisenhower.

SEC. 4. Half-dollars as authorized under section 101 (a) (1) of the Coinage Act of 1965 as in effect prior to the enactment of this Act may, in the discretion of the Secretary of the Treasury, continue to be minted until January 1, 1971.

SEC. 5. (a) The Secretary of the Treasury is authorized to transfer, as an accountable advance and at their face value, the approximately three million silver dollars now held in the Treasury to the Administrator of General Services. The Administrator is authorized to offer these coins to the public in the manner recommended by the Joint Commission on the Coinage at its meeting on May 12, 1969. The Administrator shall repay the accountable advance in the amount of that face value out of the proceeds of and at the time of the public sale of the silver dollars. Any proceeds received as a result of the public sale in excess of the face value of these coins shall be covered into the Treasury as miscellaneous receipts.

(b) There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the purposes of this section.

SEC. 6. The last sentence of Section 3517 of the Revised Statutes, as amended (31 U.S.C. 324) is amended by striking the following: ", except that coins produced under authority of Sections 101(a)(1), 101(a)(2) and 101(a)(3) of the Coinage Act of 1965 shall not be dated earlier than 1965."

SEC. 7. Section 4 of the Act of June 24, 1967 (Public Law 90–29; 31 U.S.C. 405a–1 note) is amended by adding at the end thereof the following new sentence: "Out of the proceeds of and at the time of any sale of silver transferred pursuant to this Act, the Treasury Department shall be paid $1.292929292 for each fine troy ounce.

SEC. 8. Section 3513 of the Revised Statutes (31 U.S.C. 316) and the first section of the Act of February 28, 1878 (20 Stat. 25; 31 U.S.C. 316, 458) are repealed.

SEC. 9. Coins produced under the authority of Section 101(d) shall bear such date as the Secretary of the Treasury determines.

Amend the title to read, "to carry out the recommendations of the Joint Commission on the Coinage, to authorize the minting of clad silver dollars bearing the likeness of the late President of the United States, Dwight David Eisenhower and for other purposes,"

Mr. DOMINICK. Mr. President, this amendment is offered as a compromise to the Senate and House versions of Senate Joint Resolution 158, authorizing an Eisenhower dollar coin.

As Senators will remember, on October 15, 1969, the Senate passed a joint resolution authorizing 300 million Eisenhower dollars made of 40-percent silver over a 3-year period. Thereafter, the Eisenhower dollar would have been minted out of an alloy of copper and nickel. On the same date, the House passed a substitute version authorizing only a cupro-nickel dollar and special sale of the 3 million rare silver dollars now held by the Treasury.

This amendment retains the language of the House bill, but in addition, authorizes not more than 150 million Eisenhower silver dollar coins to be minted simultaneously with cupro-nickel dollars. The 150 million silver dollars will be minted only as uncirculated coins and proof coins, and will be sold at a premium price.

The amendment further authorizes the transfer of 25.5 million fine troy ounces of silver from the national stockpile which has been determined to be excess to national security needs. It will be used only for coinage. The amendment deletes a House provision authorizing an inscription on the reverse side of the dollar coin of the Apollo Eagle. This provision did not have broad support in the Senate over the previous "peace" emblem.

It has also been agreed that GSA sales of Treasury silver bullion will continue at 1.5 million ounces per week through November 10, 1970.

This agreement has been worked out through the cooperation of both Senate and House leaders on this legislation and it has the full support of the administration. I ask unanimous consent at this point to insert in the RECORD a letter to me dated March 17, 1970, confirming the administration's support, signed by Secretary of the Treasury, David M. Kennedy.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., March 17, 1970.

Honorable PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: I was most pleased to receive your letter of March 13, describing the efforts now underday in the Senate to work out a compromise to the legislative impasse on the Administration's coinage bill, S.J. Res. 158.

As I understand it, the compromise proposal would include the following principal elements:

Authorize the minting of not to exceed 150 million silver dollars, of 40% silver content, bearing the likeness of the late President Dwight D. Eisenhower.

Authorize the simultaneous minting of cupro-nickel dollars, also bearing the likeness of President Eisenhower.

Authorize the Office of Emergency Planning to transfer from the National Strategic Stockpile to the Mint 25.5 million ounces of silver which have been determined to be surplus to our strategic requirements. This silver to be utilized exclusively for the minting of silver dollars.

You are quite understandably desirous of confirming the specific intentions of the Treasury Department with respect to silver sales should the proposed compromise be approved by the Congress. In this event, it is our intention to continue the weekly sales from Treasury silver stocks at the rate of 1.5 million ounces through but not beyond November 10, 1970. We have concluded that the proposed legislative compromise is fully consistent with the Administration's policies on coinage and silver; and we have further concluded that the continuation of weekly silver sales through November 10 will achieve our objective for an orderly transition of the Treasury out of the silver market.

I am especially appreciative of the fine bipartisan efforts which are being made in behalf of final legislative resolution of this matter.

Sincerely,

DAVID M. KENNEDY.

Mr. DOMINICK. On January 31, 1970, the Treasury held 95.3 million ounces of silver bullion and coin. It will require 61.5 million ounces of silver for GSA sales through November 10, 1970, leaving a balance of 33.8 million ounces. This figure should be adjusted for probable loss in melting coins into bullion, commitments to AEC and the Navy, and silver sold through GSA but not paid for, by 8.5 million ounces leaving a balance of 25.3 million ounces. Adding 25.5 million ounces from OEP gives a total of 50.8 million ounces for coinage. It will take 47.4 million ounces to mint the 150 million Eisenhower silver dollars.

One hundred-thirty million uncirculated silver dollars will be minted and sold at $3–$5 each. Twenty million proof silver dollars will be minted and sold at $10 each. Sales at $3 each for uncirculated silver dollars and $10 each for proof silver dollars, including seigniorage, will net an amount of $468,500,000. Of course sales of 130 million uncirculated silver dollars at $5 each would substantially increase this return. The same amount of silver if sold directly through GSA would yield only $26,000,000.

Setting a definite date on which the Treasury will be out of the silver market should allow a stable transition for the market and allow silver to seek a true supply and demand market. The minting of 150 million 40-percent-silver dollars will make this a prestige coin honoring the late and dearly beloved Dwight D. Eisenhower. Special procedures are being proposed by the Mint for the minting and sale of these silver dollars so that the public can purchase limited amounts.

I ask unanimous consent that a letter outlining this procedure and dated March 17, 1970, signed by Mary Brooks, Director of the Mint, 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 DEPARTMENT OF THE TREASURY,
Washington, D.C., March 17, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR PETER: This is in reference to our discussions regarding the manufacture and sale of Eisenhower dollars. Assuming that legislation providing for these coins is enacted promptly, the Mint could proceed to coin and issue 40% proof dollars and 40% silver uncirculated dollars for sale to collectors; and cupro-nickel dollars for general circulation. An outline of the items discussed follows:

A—Eisenhower 40% Silver *Proof Dollars:*

a. Mint at rate of about 5 million coins per year.

b. Produce individually—coins have jewel-like appearance.

c. Package in very attractive hard plastic case.

d. Manufacture at San Francisco—Mint Mark—S.

e. Accept orders starting in July or August, 1970.

f. Date 1970—initial release October 14, 1970.

g. Continue 1970 date into 1971, if necessary, to fill initial orders.

h. Sell to coin collectors at $10 each.

i. Collectors may order 1 through 4 dollars—limit of 4 dollars per order.

j. Total proof dollars = 20,000,000—sell during next several years.

B—Eisenhower 40% Silver *Uncirculated Dollars:*

a. Mint at rate of 50 to 70 million coins per year.

b. Mass production item, but silver enhances appearance.

c. Package in appropriate container.

d. Manufacture at San Francisco—Mint Mark—S.

e. Accept orders starting in July or August, 1970.

f. Date 1970—initial release October 14, 1970.

g. Continue 1970 date into 1971, if necessary, to fill initial orders.

h. Prices suggested in range of $3 to $5 each.

i. Collectors may order 1 through 5 dollars—limit of 5.

j. Total uncirculated dollars = 130,000,000—sell over 2 year period.

k. May use private firm to handle orders on computerized basis.

C—Eisenhower *Cupro-Nickel Dollars:*

a. Mint at rate of about 200 million coins per year.

b. Mass production at Philadelphia and Denver Mints.

c. Issue to Federal Reserve Banks for general circulation purposes.

Profits on Eisenhower Dollars

Silver dollars

Proof dollars, 20 million:	
Seigniorage	$11,000,000
Profit on sales @ $10	162,000,000
Total	173,000,000
Uncirculated dollars, 130 million:	
Seigniorage	71,500,000
Profits on sales @ $3 [1]	224,000,000
Total	295,500,000
Total, silver dollars [2]	468,500,000

Cupro-nickel dollars

200 million annual rate:	
Seigniorage [3]	$190,000,000
Total profit—per above	658,500,000

[1] Profit increases if sold at $4 or $5 each.

[2] Requires 47.4 million ounces of silver. Estimated profit if sold through GSA = $26,000,000.

[3] Additional seigniorage would be realized each year on cupro-nickel dollars for circulation.

As you know, we cannot request funds for production of dollars until after enabling legislation is enacted. It will, therefore, be necessary for us to obtain appropriated funds and additional people for production of the cupro-nickel dollars for general circulation purposes. With regard to the proof and uncirculated dollars for sale to collectors, an appropriation is not needed, since we are permitted by law to reimburse our appropriation for the cost of manufacturing and selling items of this nature. However, an increase in our personnel ceiling would be required for these items.

If there is any additional information you may need in this matter, please let me know.

Sincerely,

MARY BROOKS,
Director of the Mint.

Mr. DOMINICK. Provided that Congress takes prompt action on this proposal, the mint hopes that these silver dollars will be available for initial issue on October 14, 1970, the birthday of the former President.

It should be noted that the amendment does not specify any set price for the sale of the uncirculated coins or the proof sets, but simply leaves this very important point to be determined by the Treasury. It is my own opinion that the price should be closer to $5 per uncirculated coin than $3 as has been suggested. I have no concern that the market would fall short at that price, and believe that $5 per coin plus the limit on the number that can be bought by any one person or organization, as outlined in Mrs. Brooks' memo, should enable wider distribution to the American public.

This is a historic occasion, marking the definite end of the Treasury's role in the silver market and providing a prestige coin as well as a cupro-nickel dollar with the imprint of our beloved late President, Dwight D. Eisenhower. I consider it a high honor that Senator BENNETT and Senator SPARKMAN have permitted me to work out this compromise and to offer this amendment confirming it.

I might say that I offer this amendment not only on my own behalf but also on behalf of the Senators from Idaho (Mr. JORDAN and Mr. CHURCH).

Mr. President, I also ask unanimous consent at this time to have printed in the RECORD a letter which was sent to me by Senator BIBLE, dealing with a request he made some time ago that Carson City Museum be given a representative collection of Carson City silver dollars, the 90-percent silver dollars now held by the Treasury.

After discussing this matter with the Treasury and the Mint, I told the distinguished Senator from Nevada, my very good friend, that it would create all kinds of problems if we went this route and tried to do it by legislation. The reason is that practically every museum in the country would then want to obtain some of these 90-percent silver dollars which are now being held by the Treasury and which will be disposed of to the general public under a plan authorized by the Joint Commission on Coinage.

For that reason, I did not think we ought to put it in, but I saw no reason at all why the Carson City Museum should not be included among those people who would be entitled to apply for and get a representative sample of these coins as they are offered to the general public.

I ask unanimous consent to have the letter printed at this point in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 18, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR PETE: As the time draws near for Senate action on S.J. Res. 158, to carry out the recommendations of the Joint Commission on Coinage, I want to recall my request of some months ago that, in developing a compromise approach to the legislation, consideration be given to the possibility of providing for the return to Carson City, Nevada, of a representative collection of the Carson City silver dollars now held by the Treasury. As you know, the remaining Treasury stock consists mostly of dollars minted in Carson City in 1879 and later years. The Nevada State Museum, which occupies the site of the old mint in Carson City, hopes that provision can be made in the legislation for the return of a collection for historical preservation and public display.

I realize there are many competing demands for these coins, and that the Coinage Commission spent a great deal of time considering suggestions that they be made available to museums and comparable institutions. It does seem, however, that Carson City's desire for a return of a representative sampling of its handiwork and history has more than ordinary appeal.

I will appreciate learning what consideration this request received.

With best personal wishes.

Cordially,

ALAN BIBLE.

Mr. BENNETT. Mr. President, I agree with the Senator from Colorado that this amendment to Senate Joint Resolution 158 should receive Senate approval. As he has outlined, it is now 5 months since the two bodies passed their separate versions of this proposal, and during that time it has been possible to work out the arrangement for the minting of these Eisenhower 40-percent silver dollars and generally for their distribution.

Mr. President, the Senate version provided for the minting of 300 million silver-bearing dollars with a likeness of Dwight David Eisenhower. The House measure was far more comprehensive and included the recommendations of the Treasury and the Joint Commission on the Coinage. It did not provide for the minting of any dollars containing silver. As a member of that Commission, I supported the Treasury proposal. The minting of 300 million dollars containing 40 percent silver would have required

about 95 million ounces of silver. This exceeded the available silver in Treasury stocks at that time but did not exceed the silver available in Treasury stocks including that mixed with gold which could have been used over a period of years. Thus, the acceptance of the Senate version would have required the Treasury to halt its sales of silver immediately. This action would therefore have resulted in the failure to accomplish an orderly transition from a silver market in which the Treasury pegged the price of silver to one in which the price was determined by market forces.

Such an orderly transition was one of the major responsibilities given to the Joint Commission on the Coinage when it was set up in 1965. Although the transition thus far has been relatively good, the silver market has been plagued with fluctuations in price as the result of legislative proposals requiring silver and rumors that sales from the Treasury would be halted. Statements made by Treasury officials that silver sales would continue well into October were not as convincing as they could have been because Congressional action on the minting of silver-bearing coins was uncertain.

It is time now to make a final determination of Treasury silver policy. As we approach the time when silver sales will be halted, it is even more important that producers and users have a basis on which to determine their actions, and no such basis can exist until the Congress finally decides what to do about minting of silver dollars.

This amendment is a satisfactory solution to the differences between the House and Senate bills. It would provide for the minting of not more than 150 million dollars containing 40 percent silver. Silver sales could be continued at 1½ million ounces a week through November 10 of this year. This can occur, however, only with the receipt of some silver from the stockpile and by using all of the silver which the Treasury now holds, whether in bullion form or mixed with other metals.

As has the Senator from Colorado, there is one area in which I have concern. While the proposed legislation does not contain any specific instruction as to how the silver dollars would be sold, it has been suggested in Mrs. Brooks' letter that they might be distributed at a price of $3 each. We have no way of knowing what the demand for these dollars will be, but when I remember how quickly the complete supply of the former silver dollars disappeared and that they are now commanding premiums in the coin market, I have no fear that there will be any shortfall in demand for these dollars. In fact, the $3 price is much too low.

I believe that any profit made in this distribution should go to the U.S. Treasury and not to speculators or dealers in coins. I believe that the proposal contained in the statement of the Senator from Colorado is a wise one, but I feel that it does not go quite far enough. In the meetings of the Joint Commission on Coinage, it was decided that the remaining 3 million standard silver dollars would be sold on the basis of a determined price, but that individuals requesting these dollars would also be allowed to make a bid in excess of the determined price. If the demand proved to be greater than the supply, then the available dollars would go to the highest bidders. It seems to me that this could be a reasonable approach to the solution of the problem of the disposition of the new Eisenhower dollar.

First, the number to be received by any one person should be limited, and I understand that it is recommended that the number be limited to five. Second, the price should be determined as nearly as possible at the level that the market will bear. I agree with the Senator from Colorado that $3 is too low, that $5, as a starter, would probably be more realistic. But then I suggest that the other proposal be followed, and that the person applying for the privilege of purchasing five dollars be permitted to suggest the price higher than $5 which he would be willing to pay if the demand exceeds the number of dollars to get minted. An auction of the dollars could result in a market price, but an auction is difficult and costly to set up properly and would not provide for the widest possible distribution.

A combination of an auction and a determined price with a limitation on the number to be received would come closer, I think, to meeting what, I believe, is an appropriate means of selling these dollars than to sell all of them on a straight, predetermined price or at auction. I do not believe that we can completely avoid speculation, but I think this combination of application of a fixed price plus an offer to pay a higher price, if necessary, would minimize speculation and result in the widest and most equitable possible distribution.

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

Mr. BENNETT. I yield.

Mr. DOMINICK. I see no harm in going that route, to be truthful, but I would hope that they would put a minimum price that would be higher than $3 to start with.

The system they are proposing, at least in general outline, is that they will have applications at each of the post offices around the country. If anybody wants to buy one of these coins, and, I am sure, most people will, they will fill in that application and send it with their payment to a predetermined bank, which will be a depository for clearing the checks and getting the money. The applications will be encoded on computer tape; then those applications, in turn, will be sent for processing to San Francisco and New York. The coins will be mailed out directly from the San Francisco and New York assay offices.

Mr. BENNETT. I agree that $3 is too low a price. I hope they will check the matter carefully and raise the basic offering price to as high as $5. But I hope they would also include in that form an opportunity for a prospective buyer to indicate a price higher than the fixed price which he would be willing to pay if the applications exceed the number of silver dollars minted.

An additional advantage to such an approach is that it would provide to the Treasury of the United States the greatest income from the use of this silver in dollars.

I support this amendment, Mr. President. I feel that it is desirable for us to provide such a memorial coin honoring the late President Dwight David Eisenhower. I feel it is just as important that we continue the efforts which the Joint Commission on the Coinage and the Treasury have been engaged since enactment of the Coinage Act of 1965, that silver be allowed to approach a free market in an orderly fashion. Continuing silver sales by the Treasury until November 10, 1970, and the announcement of this fact in advance should do away with some of the speculation which has resulted from various proposals to provide silver coins or to halt Treasury sales for other purposes.

Mr. DOMINICK. I might say to my distinguished friend—and I really appreciate his support and help in this matter—that for each dollar that we increase the price on the total of 130 million uncirculated coins, it means $130 million to the Treasury.

Some people have thought that we were pressuring the American public a little too much. But these are memorial coins of a very significant value, both intrinsically and for the future as mementos honoring our late President Dwight D. Eisenhower, and I do not think anybody will have any objection to this kind of system.

Mr. BENNETT. Mr. President, at one time during the consideration of this problem, it was suggested that these not be coins at all, that they be medals; and I am sure that a 40-percent silver medal would not be offered for less than $5 under any circumstances, probably more.

Mr. President, I hope that the Senate will adopt this proposal with the amendments suggested by the Senator from Colorado.

Mr. MANSFIELD. Mr. President, I shall be brief.

First, I want to commend the Senator from Colorado for being able to work out the best possible compromise on the question of silver coinage for dollars. It is not as good as we all agree we would desire, but it provides a lot more than we had any reason to expect, under the circumstances.

Thus, I hope that this measure will be acted on shortly by the Senate and that it will receive the Senate's unanimous approval.

This is one small step forward—it may be the last one in this direction—that will be undertaken as expeditiously as possible so that these coins will become available about October of this year.

Once more I commend the distinguished Senator from Colorado.

Mr. JORDAN of Idaho. Mr. President, I am pleased to cosponsor the compromise amendments to Senate Joint Resolution 158 offered today by my distinguished colleague from Colorado (Mr. DOMINICK).

While the amended legislation does not go so far as the originally passed Senate bill, it is an acceptable compromise, and prompt enactment of it will make it possible to issue the new Eisenhower silver dollar on October 14, the

late President's birthday. The ultimate minting and issue of 150 million silver dollars will be an effective and lasting memorial to the beloved 34th President, Dwight David Eisenhower.

In these days of multibillion-dollar appropriations, it is too-rare pleasure indeed to vote for enactment of a bill that will return an estimated $658 million to the Treasury, from nontax sources, plus additional millions in future years in seigniorage profits from the circulating cupro-nickel Eisenhower dollar.

Nearly a half billion dollars of this new Treasury revenue will result from the use of Treasury silver for minting and sale of the 40-percent Eisenhower silver dollars, rather than selling the bulk silver for a fraction of its coinage value through GSA surplus sales. Silver experts in my State have been recommending this coinage route to savings for the American taxpayer for some time, and I am pleased that the suggestion finally has been accepted, at least in part, by the Treasury Department in this compromise agreement.

I urge prompt enactment of Senate Joint Resolution 158, as amended.

Mr. President, I also ask unanimous consent, that this table, prepared by the mint, on estimated receipts from the sale of Eisenhower dollars, be printed in the RECORD.

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

Receipts on sale of Eisenhower dollars

SILVER DOLLARS

Proof dollars, 20 million:	
Seigniorage	$11,000,000
Profit on sales	162,000,000
Total	173,000,000
Uncirculated dollars, 130 million:	
Seigniorage	71,500,000
Profit on sales, at $3 each	224,000,000
Total	295,500,000
Total, silver dollars	[1] 468,500,000

CUPRO-NICKEL DOLLARS

200 million annual rate:	
Seigniorage	[2] 190,000,000
Total profit—per above	658,500,000

[1] Requires 47.4 million ounces of silver. Estimated profit if sold through GSA, $26,000,000.

[2] Additional seigniorage would be realized each year on cupro-nickel dollars for circulation.

Mr. CANNON. Mr. President, I am supporting the compromise solution to the silver dollar controversy because I believe the measure before us is the most expedient means for insuring the general circulation of the coin dollar. While I would very much like to see some silver in the Eisenhower dollar that is designed for general circulation, I am pleased that a solution has been reached which will provide for greater coin distribution. The return of these coins will be most welcome in Nevada and other western States.

Unfortunately, none of the 5 million 40 percent silver proof dollars, or the 30 to 40 million 40 percent silver uncirculated dollars will ever be in commercial circulation as originally intended. The absence of such coins from Nevada—the Silver State—has had its economic effect. These coins have been sorely missed by those in the vending machine industry.

It is regrettable that the administration did not take the necessary steps that I have advocated for many years to preserve the memory of our late Presidents in a metal of real value. To do so the administration would have had to adopt mining policies which would encourage domestic production of silver either through subsidy or other incentives so that the supply would be more equal to demand. We are now confronted by a situation in which the mint would run out of silver before the end of the year if it attempted to launch full-scale operations using 40 percent silver in the Kennedy half dollar or the Eisenhower silver dollar. We have for too many years neglectfully used the Treasury as a mine for silver manufacturers and now we must pay the consequences by resigning ourselves to the removal of metal with intrinsic value from our coin monetary system. This must only lead to fiat money and to a general weakening of the financial system upon which the Treasury has been based throughout the life of this country.

The hour is late but we can at long last take a realistic view of domestic silver production and provide the necessary incentive and encouragement. I believe that the free market will demonstrate the truth of what I say and that silver prices will rise in the months ahead to prices which will stimulate production in this country. But I believe the price we have paid and the road we have taken is a tragic one.

I therefore support the compromise that is before the Senate with great reluctance. We need to increase silver production but we have a great need also to produce coins—regardless of their metal content—in numbers which will make normal trade and commerce easier.

Mr. President, I support the proposal reluctantly because it does not go as far as I would like to have seen it go, but, nevertheless, under the circumstances, I think that the distinguished Senator from Colorado has done a very fine job.

Mr. DOMINICK. I appreciate the support which I have received today. I also appreciate very much the difficult situation which faced the Committee on Banking and Currency. I admire the spirit of compromise which has resulted in this legislation. I hope that the Senate will adopt the amendment in the nature of a substitute.

Mr. MANSFIELD. Mr. President, I would like to join in expressing my thanks to the distinguished Senator from Utah (Mr. BENNETT), the distinguished Senator from Alabama (Mr. SPARKMAN), and the other members of the Committee on Banking and Currency for their understanding of this situation.

It was not an easy job for them, in light of their own personal situations but they came as far as they could and did as much as they possibly could.

While the legislation before us is not what those of us from the Rocky Mountain silver-producing States would like, it is a good deal more than we had any right to anticipate, all things considered in this body, and in the other body as well.

Thus, I join the distinguished Senator from Colorado, who is primarily responsible for this legislation, in urging its unanimous approval.

Mr. DOMINICK. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the distinguished Senator from Nevada (Mr. BIBLE) on this subject.

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

STATEMENT OF SENATOR ALAN BIBLE ON SENATE JOINT RESOLUTION 158

I wholeheartedly support the amendment of the distinguished and very able Senator from Colorado.

On October 15, 1969—just about five months ago—and by a very substantial vote of 40 to 21 the Senate took a well-considered deliberate, and responsible action when it passed Senate Joint Resolution 158 and sent the measure to the House for its consideration.

As passed by the Senate, S.J. Res. 158 provided for the minting of up to 300 million 40% silver-clad dollars bearing the likeness of the late President of the United States, Dwight D. Eisenhower. Our purpose was to honor that great soldier-statesman as we had previously honored his successor in office, the late President John F. Kennedy. We voted our conviction here in the Senate that there can be no finer tribute than to memorialize the late President on the most prestigious of our Nation's coins. Not on a coin of baser metals, but on one of intrinsic value—a 40% silver dollar.

At the time of the October debate, I stated my belief that a silver coin for this purpose would be revered and cherished by the American people, and I have not changed my mind. I also pointed out that the price being received from the present weekly sales of Treasury silver produces a return to the taxpayers of the nation wholly inadequate when contrasted with the return that would be available if the remaining silver stock were used to mint 40% silver dollars.

It was my belief—and still is—that the taxpayers should receive full value for the surplus silver held in our Treasury. A 40% silver commemorative dollar will bring the Treasury upwards of $3 per ounce of its remaining silver, in contrast to the present receipt of an average of approximately $1.87 per ounce. I cannot for the life of me understand why anyone in the Congress would object to the Treasury nearly doubling its profit. The taxpayer furnished the funds to acquire the Treasury-held silver, and I am sure he expects to see the Government receive the highest possible return for the commodity his hard-earned taxes were used to purchase. If the information supplied me is correct, receipts from the sale of the Eisenhower silver-clad dollars authorized by this amendment will amount to $468,500,000 (assuming a price of $3 for each uncirculated coin), whereas G.S.A. sale of the silver under the present program would amount to a relatively meager $26,000,000.

While this amendment will provide only half as many 40% silver dollars as we sought to authorize in October, it nonetheless places us in a very enviable position. By acting favorably—as we did last October—we will be providing a suitably prestigious memento marking President Eisenhower's service to the Nation, and at the same time we will be placing the Treasury in a position to reap—and the public to enjoy—a proper profit for the remaining silver supply.

In addition, the amendment would authorize the minting and issuance of cupro-nickel dollars, half-dollars, quarters and dimes in quantities needed to meet national

requirements. I welcome this feature for it promises adequate coinage that will circulate and meet the coinage needs of our commerce. The inclusion of a cupro-nickel dollar coin means the return to general use of a cartwheel dollar to fill the void left by the disappearance of our silver dollar. This will be applauded in my State of Nevada and, I think, throughout the country.

As Members of the Senate know, I have for a number of years fought to keep silver in our coinage. Many residents of my State of Nevada are not enamoured of coins without intrinsic value, and for many years cherished the cartwheel dollar. As I am sure most Senators know, the silver dollar circulated freely in Nevada until the Congress and the Treasury began tampering with our coinage system.

I want to commend my distinguished friend, the Senator from Colorado. He has been in the forefront of the struggle to preserve silver in our currency for many years, and I have been honored to work with him in this vineyard over much of that time. There is no more effective and able a champion. I congratulate him for his leadership in developing and bringing forth this amendment, and I urge the Senate to give it its resounding approval.

Mr. CANNON. Mr. President, I join my colleague from Nevada (Mr. BIBLE) in urging that some consideration be given to the Nevada State Museum, housed in what was formerly the Carson City Museum, the place where our silver dollars were once minted. These will be silver dollars that now remain in the Treasury and I hope will be circulated, so that some consideration can be given to their request, as presented by my colleague (Mr. BIBLE), in order that they can at least get some of those Carson City silver dollars back.

Mr. PEARSON. Mr. President, I wholeheartedly support this amendment, just as I wholeheartedly supported and was a cosponsor of S. 2582 and the Senate amendment which was substituted for the original Senate Joint Resolution 158.

The present amendment has the support of the White House and the Treasury Department, and I understand that there is now a good likelihood that the House of Representatives will concur in it.

I favor this compromise move for several reasons:

First, and perhaps the most important, I feel that a commemorative dollar in the likeness of our former great soldier and President, General Eisenhower, should be a coin which is deserving of recognition and should not, in my opinion, be minted exclusively in cupronickel. Some of these coins should, by all means, contain a metal with intrinsic value such as silver.

Earlier this week I received from Mrs. Mamie Beyreis, of Kansas City, Kans., a very good letter, illustrative of the thinking of many people. I ask unanimous consent that 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:

HON. JAMES B. PEARSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PEARSON: As a citizen of the United States of Americа, I wish to express my opinion with regard to the minting of a coin in honor of the late President Dwight D. Eisenhower.

I feel that the late President Dwight D. Eisenhower should be honored with a Commemorative Coin minted of silver of which everyone would be proud to own.

I strongly feel that a clad coin, a dollar of copper-nickel, does not reflect consideration warranted to one of the greatest of Generals and President of the United States of America, whom we all loved and respected.

I truly hope you will see fit to vote against the minting of the clad dollar and use your influence toward the minting of a silver Commemorative Coin.

Sincerely yours,

MRS. MAMIE BEYREIS.

KANSAS CITY, KANS.

Mr. PEARSON. Mr. President, the amendment calls for 150 million Eisenhower silver dollars containing 40 percent silver to be minted, commencing in fiscal year 1971. These coins will be uncirculated, and proof sets will be sold at a premium price determined by the Treasury.

In addition to these 150 million silver-clad dollars, a cupro-nickel dollar coin will be minted concurrently for general circulation.

Congress recognized the value of minting a coin in commemoration of one of its leaders which has an intrinsic value when it produced silver half dollars with the likeness of former President John Kennedy. It has been said the silver half dollars did not circulate freely. This is perhaps true; nevertheless many millions of our citizens hold and cherish a Kennedy silver half dollar.

Second, the Senate has already made its position known on this matter by adopting the previous Dominick substitute amendment to Senate Joint Resolution 158 by a record vote of 40 yeas to 21 nays on October 15, 1969. This proposal, while similar, is, as I said previously, a good compromise considering the deadlock that has taken place between the House and the Senate on this legislation.

Third, the Treasury Department was against the other substitute amendment to Senate Joint Resolution 158, but through the untiring efforts of the Senator from Colorado (Mr. DOMINICK) to reach this compromise, they are now willing to back this legislation. This says a great deal to me.

Fourth, under this amendment, Treasury sales of silver will continue through GSA through November 10, 1970, at 1.5 million ounces per week. Also, the Office of Emergency Planning will transfer to the mint 25.5 million ounces of surplus silver no longer needed for the emergency stockpile. This silver will be used only for coinage and is in accordance with the recently revised stockpile objectives.

And last, we must move rapidly on this legislation to allow time for the Treasury to obtain a supplemental appropriation and still make the proposed October 14, 1970, issuance date. This date is, of course, the late President's birthday, which would have been his 80th.

I urge the Senate to adopt this compromise move.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on the motion of the Senator from Colorado (Mr. DOMINICK) to concur in the House amendment with an amendment in the nature of a substitute.

The motion was agreed to.

Without objection, the title was appropriately amended.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR COOK TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately upon disposition of the reading of the Journal tomorrow the able junior Senator from Kentucky (Mr. COOK) be recognized for not to exceed 20 minutes.

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

SUPREME COURT OF THE UNITED STATES

Mr. BYRD of West Virginia. Mr. President, I ask that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the unfinished business.

The ASSISTANT LEGISLATIVE CLERK. The nomination of George Harrold Carswell, of Florida, to be an Associate Justice of the Supreme Court of the United States.

The Senate resumed consideration of the nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The question is, Will the Senate advise and consent to the nomination of G. Harrold Carswell to be Associate Justice of the Supreme Court of the United States?

Mr. BROOKE. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, just 4 months ago the Senate was considering the nomination of another man to be Associate Justice of the Supreme Court of the United States. At that time, opposition to confirmation was based on a number of questions. And there is no doubt that the ethical questions involved were sufficiently grave in themselves as to cause many Senators to look critically at the nomination and eventually to deny him confirmation.

But, in my judgment, ethical questions were not the primary concern. In my initial speech, announcing opposition to the nominee, I stressed that the question of confirmation quite properly dealt with the nominee's intellectual capa-

bilities, his judicial temperament, and his personal integrity.

The nominee certainly possessed high intellectual capabilities, although I do not believe he exercised them with equal objectivity and independence in all areas of the law. Nor did his judicial temperament reflect a clear and impartial application of the law.

But in the final analysis I based my decision upon the answers to the question I had originally raised with regard to that nomination:

First, was he the man to restore the Nation's confidence in the integrity of the Supreme Court?

Second, was he the man to maintain the faith of this vast majority of fair-minded Americans in the Supreme Court of the United States, not to mention that of the disillusioned minority who look to the Court as the indispensable instrument of equal justice under law?

Having concluded reluctantly and sadly that he was not, I cast my vote in the negative.

Mr. President, it is tragic indeed that these same questions have been raised again with regard to a second nominee for the Supreme Court of the United States, and that again they must be answered in the negative.

Is Judge Carswell the man to restore the Nation's confidence in the highest court of our land?

How, indeed, could a man who has been reversed by an appellate court in nearly 60 percent of his published decisions, a man who has actively sought to circumvent the rulings of the Supreme Court itself, restore confidence in that Court?

Is it not much more likely that by the elevation of such a man, disobedience and delays would be encouraged?

Mr. President, I raise this as one of the most important factors in this entire debate concerning the nomination of G. Harrold Carswell. The Supreme Court of the United States has been under attack. It has been under attack from the so-called left and from the so-called right. Much has been said about the Supreme Court and its decisions and the members of that Court.

If there is anything we need in the Nation today, it is to restore the utmost confidence in the third branch of the Government, the judicial branch, and more particularly in the Supreme Court of the United States.

People can stand for mediocrity in either branch of the Government—either the President of the United States, Members of the Senate, Members of the House of Representatives, or heads of the various departments and agencies of the Federal Government. But there is one place in this land where the American people cannot stand for anything less than the highest possible quality. And that is in the Supreme Court of the United States.

Whenever there is a murmur of doubt regarding integrity or the competency of that Court, the very foundations of this great Nation are shaken. Equal Justice under law is perhaps the most righteous and respected tenet of all American rights.

Therefore, when there is an opportunity to choose a man who will sit on the Supreme Court of the United States, the entire Nation looks to the President, who has the responsibility of making that nomination, for the best man that possibly can be obtained for that high position.

The President has a responsibility to nominate. The Senate of the United States has the responsibility to advise and consent to that nomination.

Many people across the country have been concerned about whether the Senate should approve a nomination without really seriously questioning the candidate submitted by the President.

I believe that the President should be given all consideration when he sends a nomination to the Senate for confirmation, particularly, of course, when he nominates a man to serve in his Cabinet, or to serve as an Ambassador to the nations of the world, or a man to head up the agencies of Federal Government.

The Senate, under those circumstances, will, of course, look at the qualifications of the President's nominee. And unless there is some serious question about the honesty and integrity of the man, generally speaking, the President's nominee will be confirmed by the Senate.

I remember when the President nominated Mr. Hickel to serve as Secretary of the Interior. In my lifetime I have always considered myself somewhat of a conservationist. I come from a State where people are very much concerned about matters of conservation.

I had some serious doubts about Mr. Hickel's views concerning conservation. I debated on the floor of the Senate about that confirmation and ultimately I had to resolve the question as to how I would vote. I voted for the Secretary's confirmation after making a statement on the floor of the Senate about my views and about many questions which that appointment raised. I am very pleased to say that Secretary Hickel, in my opinion, has turned out to be one of the great Secretaries of the Interior.

My fears about conservation, and some of my other doubts and fears, have certainly not materialized, and I am very pleased and proud to be able to say so.

But the Secretary of the Interior serves at the will of the President of the United States, as do all members of the Cabinet, and as do all heads of departments and agencies of Government who are appointed by the President.

Is this true about a justice of the Federal courts? Obviously, the answer is "No." When we choose a Supreme Court Justice, the executive and the legislative branches of Government, and in this case specifically the Senate, are creating a third coequal branch of our Government.

The President and the Senate are joining together to create a third branch of Government, the judicial branch of Government, which is coequal and independent of further supervision. That Supreme Court Justice does not serve, nor should he serve, at the will of the President or at the will of the Senate. He is independent once he has been nominated and confirmed.

During the debate on the confirmation of Justice Fortas to be Chief Justice of the United States an issue was raised by my distinguished colleague and now minority whip, the distinguished Senator from Michigan (Mr. GRIFFIN), concerning some consultation which Justice Fortas was to have had with the then President, Mr. Lyndon Baines Johnson, at which time Justice Fortas was to have given some counsel and advice to the President, independent of his responsibilities as a Supreme Court Justice. Such action was wrong because a Supreme Court Justice is not counsel to the President nor should he be. He is independent, and thus, when his name is submitted for confirmation before the Senate it is no longer just a question as to whether he is the President's appointment and, therefore, should be approved by the Senate.

In short, I say our responsibility goes far deeper. We are concerned not only with the integrity and honesty of the nominee, but also with the competence, ability, and qualifications above and beyond the man's moral fitness to sit on the highest bench of the land.

It is far more difficult for those of us on this side of the aisle, those of us who are Republican Members of the Senate. It is far more difficult for us because the President is a member of our party; he is the leader of our party, and he has now submitted two names to the Senate for confirmation. One nominee I have referred to in my opening remarks, Clement Haynsworth. During that debate there were Republicans who believed that Mr. Haynsworth was not qualified to sit on the Supreme Court for a variety of reasons. When his name was submitted for confirmation, 17 Republican Senators voted against Clement Haynsworth. It was not easy for those 17 Senators; and I am sure, Mr. President, it was not easy for those Democratic Senators who voted against the confirmation of Mr. Haynsworth to sit on the Supreme Court.

As one who did vote against the nomination of Clement Haynsworth, I said at the time that it was indeed a painful experience for me. It is always a painful experience for me to deny any man that opportunity to achieve the highest honor his profession has to offer. For a man in the legal profession, and that is my profession as well—there is no greater achievement than to be honored by an appointment to the Supreme Court. Without question, it is the pinnacle of legal success. So just to deny that man the opportunity, in and of itself is a painful experience. Then, to deny the President of the United States and the head of our party the opportunity to name a man to the Court is another painful experience.

The Senate, after long and arduous debate, was greatly divided. It was a very close vote, as you will recall, Mr. President. Feelings at times ran high. The mail from our constituencies across the land was voluminous, and all of us had wished that we had never been placed in those painful circumstances.

But that is our job, Mr. President. That is our responsibility. When we walked down the center aisle, raised our right hands, and took our oath of office, we took on these very grave responsibilities. Painful though they may be at times, we have to undertake them with all the courage and conviction within us.

Mr. Haynsworth's nomination is now history. After that unfortunate experience, we had hoped the President, when he was to send up another nominee to fill the existing vacancy would have taken a long and more in-depth look at the qualifications, not only the legal qualifications and integrity but also the quality of the man and the competency of the man—yes, even the background and training and philosophy and strong beliefs, political and social beliefs. All these make up the composite man.

It would be simple, Mr. President, for the Senate to look at the paper qualifications of a man submitted to serve on the Supreme Court of the United States, John Doe, graduate from X college, from X law school, received a bachelor of laws degree in such and such a year, master of laws degree, if he did, served in a law firm, engaged in the private practice of law for *x* number of years; perhaps served as a municipal court judge, or perhaps took the Federal route, and went on the district court and circuit court of appeals; and therefore, per se, he is qualified.

But do we really live up to our responsibilities when we make such an examination, when we do not look more in depth into the man, the total man, who would sit on the Supreme Court of the United States of America?

I am sure there is not a man of this august body on either side of the aisle who did not hope and pray that the next name that would be submitted to our body could have received 100 percent support and prompt consideration and confirmation. This is true not because the Senate wants an easy job. I do not know any of my colleagues in this body, Democrat or Republican, who are not, in my opinion, courageous men. They are accustomed to making tough decisions, hard decisions, decisions many times which are not in their political interests, if you please, because that is their sworn duty and obligation and responsibility.

We waited several months before the name G. Harrold Carswell was submitted to the Senate for confirmation. I must confess that I knew little or nothing about Judge Carswell when his name was submitted.

As is the custom of the press, I, like my other colleagues, was questioned as to my opinion about the President's nominee.

I have been described as a moderate man, a man who does not shoot from the hip, a man who likes to gather the facts before he makes a decision. And I plead guilty to that description. I like to believe that I am that sort of man. I voiced no opinion on Judge Carswell at that time because I had none. I said nothing about him because I knew nothing about him. And in keeping with the procedures of this body, I knew that under our procedures—and I think they are the best procedures known to man—the proper committee, namely the Judiciary Committee, would have an opportunity to hold hearings, to receive evidence and testimony from proponents and opponents alike, to have the nominee appear before them personally, to look into his eyes and to listen to him and review his total record.

So I postponed my opinion, and certainly my decision, until such time as we had gone through the proper procedures and I would have the benefit of the testimony before the Senate Judiciary Committee.

I regret to say that in some few instances that procedure was not followed. Some of my colleagues formed rather hasty opinions, in my opinion. I do not say this critically, Mr. President, because every man must make his decision according to his own conscience and dictates. But some did not wait for the results of the Judiciary Committee hearings prior to announcing their decisions.

Let me say that I do not think anyone was any more eager than I to vote for confirmation. I would have loved to have voted for confirmation of the President's second nominee, as I would have loved to have voted for confirmation of his first nominee, let me assure you, Mr. President.

I waited, as I said, for the full transcript of the hearings before the Senate Judiciary Committee, and in the meantime I sent for the opinions of Judge Carswell, for he had served as a district court judge and, for a short period of time, a member of the circuit court of appeals. And I studied those opinions.

As I said, Mr. President, I am a lawyer by profession. I served for two terms as attorney general of my own State, the Commonwealth of Massachusetts. I have been in the habit of reading judicial opinions and citing them for authorities in various cases in point and on issues of law. And so I read the opinions of Mr. Justice Carswell. I tried to find out, as best I could, about the man, G. Harrold Carswell. What kind of man is this? Not only is he a lawyer, not only is he a judge, not only is he a member of the Republican Party, not only is he a resident of the State of Florida, not only was he born where he was, but what kind of man is he?

That is a very hard question, Mr. President, what kind of a man is a man? How do you determine this? Can you pick up a record and look at it: "Born such and such a date, mother and father such and such, church such and such, married to such and such a person, so many children, educated in such and such a school"?

Does that tell you what kind of a man he is?

As I said, this is not an easy question to determine. Is a man determined by his heredity, or by his environment, or by his experiences? How do we arrive at that? What kind of a man are we looking for? Are we setting the standards too high? Are we setting them much higher than those which we set for ourselves?

Mr. President, I happen to think that in choosing a man to put on the Supreme Court of the United States of America, we have to choose the highest quality that we have in this country. I do not accept the standard, that some of my colleagues have attempted to establish, of a B or C or D quality candidate.

We may not always get an A quality candidate, but, oh, Mr. President, I think we have always got to strive for an A quality candidate. I think we can accept no less in our search than the highest quality that we can obtain, to sit on the Supreme Court of our land.

Mr. President, I feel this is so true that I feel perhaps the standard should be higher than that for our elected officials; and I certainly do not except myself, nor do I except the President of the United States, from this judgment. Because when we are dealing with elected officials, we all know how men are elected to even the highest office in this land. Of course, we look for A quality in the President. We look for A quality in the Senate, and in the House of Representatives, and all through our Government. Oftentimes we do not get it, and it is somewhat understandable why we do not get it.

But in the selection of a Supreme Court Justice, we have perhaps the best system devised by man to achieve the highest standard; and it hurt me when I read in the press—I must confess I was not on the floor at the time—that some of my dear colleagues were saying, "Well, we have mediocre men in other places in the Government, and perhaps there ought to be an opportunity for mediocre men to sit on the Supreme Court of the United States of America."

What a specious argument. How can we ever say that? What student, even though he may end up with a D or an F when he goes to school, is not at least trying to get an A?

Of course, we all want the highest. We want the best air, we want the best water, we want the best house, we want the best education for our children. And, Mr. President, we want the best men to sit on the Supreme Court of the United States. And let there be no doubt in any American's mind that the Senate is ever going to accept anything less.

I do not say we have always had it. I think we are looking closer all the time, more in depth all the time, in order to see that we get exactly that—the highest quality possible for the highest bench.

Mr. President, we received the nomination of Mr. Carswell. We had important legislation before us for some time before we got to the debate, even after the hearings of the Committee on the Judiciary had been concluded. We read the testimony. Certain things were revealed in that testimony which were very disturbing to many of us.

Let me say that the nominee started off with a presumption of rightness. He started off with the most favorable presumption there is. I do not believe that any of the 100 Members of this body started off in opposition to a President's nominee. I think we all started out favorably inclined.

So when, as in the law, we talk about the burden of proof, we should probably be talking about the burden being on the side of those who raise objections to the confirmation; because we can presume that the President and the Justice Department have made thorough examinations into the total man, and into the backgrounds of those whom the President would designate for such an office.

If I may refer back, Mr. President, to the Haynsworth nomination very briefly, I think it illustrates well one point that has disturbed me in connection with both these nominations, and that is the

amount of investigation that is conducted into the total background of candidates for this high position.

I have never asked the President about this. I know only what I have read and heard. I am not generally one who accepts hearsay; but I have never heard this repudiated: That the President did not actually meet Mr. Haynsworth until such time as his nomination had been rejected by the Senate.

If that is true, it would seem rather incredible to me. Oh, I know that the Presidency is a great responsibility, that the demands upon the President are vast, that much of what the President does has to be delegated to various departments and to the members of his Cabinet. I am in great sympathy with the office of the President because it has grown so large and the magnitude of its problems has become such that it is very difficult for any one man to begin to do all of the things which are demanded.

But there are only nine members of the Supreme Court of the United States; and in the course of a President's term of office of 4 years, very few members, generally, are appointed by an incumbent President, because Supreme Court Justices serve for life. Many of them serve actively until their 70's, and some into their 80's. So it has usually been true that a President may have one or two such appointments, or, if he serves two terms, he may have three or four in the course of his term of office. President Franklin D. Roosevelt, I think, is given credit for having appointed more Justices than any other President in the history of the Nation, and I presume that is probably true, but only because he was in office longer than any other President.

Before a man is appointed to the Supreme Court of the United States, no matter how busy and how occupied the President is, and how many demands he has upon him, it would seem to me that the President would want to meet the man, look into his eyes, listen to him talk, and get some feeling or understanding as to the composite, the total man with whom he had been speaking.

I understand that the President has met Judge Carswell. I do not know whether he met him prior to submitting his name or afterward. I really do not know. But I did hear the President say on national television that something which had come out about Judge Carswell after his name was submitted to the Senate had not been known to him prior to that time. That is understandable. I guess every little speech and every little thing and every little act would not be known to the President, even if a rather thorough investigation was conducted by the Department of Justice, which is the arm of Government that has that responsibility in these cases.

But, Mr. President, then I read a statement first attributed to and then acknowledged by Mr. Carswell that he had made when he was a young man 28 years of age. Those words to me were not merely political rhetoric—and I am familiar with political rhetoric. I guess none of us in this business is unfamiliar with political rhetoric. I am sure all of us, if we were perfectly candid with ourselves, would admit that we have been at some time guilty of using purely political rhetoric, even though we may not be trying to do so or intend to do so.

I examined these words and tried to understand whether this was political rhetoric or whether these were the deep-held feelings of the man who was uttering them. In other words, did he believe them? Did he harbor them? Was this something that was inside the man? Was this part of the total man?

I recognize the right of other men to read the same words and perhaps to come to a completely opposite conclusion from that which I finally came to. It seemed to me that Mr. Carswell had gone beyond the realm of political rhetoric, that he was talking his innermost, heartfelt, in-depth feelings. Whether because of environment or experiences—I do not know—he had these thoughts and these feelings, and they were part of him at the time he made the utterances. If that conclusion is wrong, I would be very happy, indeed, and very pleased to say so. I looked at the circumstances. I looked at the forum. I looked at the electoral race in which he was engaged.

I am not naive. I know what it took to win elections in 1948 in the district in which Carswell was running. I regret it. I cannot condone it. I am very sorry that was the case. But I am realistic enough to understand that that was the case.

Then I said to myself, "ED BROOKE"—not Senator BROOKE—"ED BROOKE, can you in good conscience, as a man, vote to confirm a man for the Supreme Court of the United States who advocates racial superiority in this country?" Then I said to myself, "ED BROOKE, could you in good conscience, as a man, vote to confirm a man who was black and who advocated racial superiority in this country?"

Mr. President, my answer to both of those questions is a resounding "No." I do not believe in racial superiority. I do not believe in white superiority, and I do not believe in black superiority. I do not believe there is a master race in God's earth. I have fought and talked out against black militancy, black power advocates who do support separatism in this country. I have spoken out, and always will, against blacks or whites who pit the races against each other.

So it was not without some real soul searching that I came to the conclusion that I could not support a man for this office who harbors racial superiority in himself. I said "harbors" because I was then sitting in judgment on a man who had made a statement in 1948, at the time he was 28 years of age, and I was sitting in judgment in 1970, not 1948.

I certainly am well aware that men can change, that men mature, that great social changes have taken place in this Nation and across the world. I have always been glad that I lived in the time when Pope John lived on earth. He said, "Open the windows and let the fresh air in," and a great ecumenical spirit swept across the land, and men's minds did begin to change. It was a healthy period. Oh, if that period had stayed longer with us, would not this country be in a much better position than it is today, and would not the world be in a much better position than it is today.

So I recognize the right of a man to change his mind. Again, because of his experiences and because of social and economic and legal changes, actually, that had taken place in this country, in my attempt to be as fair as I could, I then delved into the books again, asked the questions of people who knew the man, and did everything I could to find evidence of change.

Mr. President (Mr. INOUYE), I searched in all sincerity to try to find that change. I would have been pleased to have found a change. I said at the time when we were considering the nomination of Mr. Haynsworth, when there was great talk about the nomination of a man from the South or a man who was a strict constructionist to sit on the Supreme Court, that I would be proud to vote for a man from the South or a strict constructionist and would find no problems there at all in having voted for either. I do not believe that all men on the Supreme Court should come from the North, East, or the West. That is ridiculous. Of course we want men from the South. We want men from all sections of the country. Every man who is qualified should be eligible. I would like to see women sit on the Supreme Court. I would have no objection to a Chinese-American or a Mexican-American sitting on the Supreme Court or anyone else who is an American citizen—and qualified. They all should be able to sit on the Supreme Court of the United States of America. That would give me no problem whatever, and still does not give me any problem.

But I looked for change in this particular man. He was 28 years of age when he made that statement. Some people said at the time that the man was immature, that he was a young man and did not know what he was saying or doing.

Well, let me examine that briefly. He and I served in the same war. I served for 5 years in World War II, in Africa and Italy.

When I went into the Army, I had finished college but had not gone to law school yet. I guess I could have been accused, as most young men were in those days, of not really having grown up, of not having a great social conscience, perhaps, at the time. I lived a fairly good life. I was one of those lucky ones, whose father was able to educate me and send me to school. I attended fraternity dances and enjoyed life pretty much in general.

But when I came back from 5 years in the Army, I think I was pretty much a man. I think I was pretty mature. I think I knew pretty much what I was saying when I was 28 years old. I got married and had a child, was supporting my wife and my young daughter. I think that most men are pretty much men at 28 years of age, even if they have not had the sobering experiences of war.

We are talking now about giving the right to vote to the 18-year-olds, I think that is an excellent idea. I believe in it. I voted for it with many of my colleagues on the Senate floor. I hope, soon, that it will pass. I think that American men and women at 18 years of age are old enough to vote today. They are even, if anything, more intelligent than they were at my age. They have had the benefits of tele-

vision and many other advantages that we did not have. They are very knowledgeable and have a social conscience. I think 18-year-olds should vote. They fight, they pay taxes, they do all the other things, so that certainly if they are old enough to vote at 18, they are old enough to understand the significance of their statements and their stands on important subjects, such as this one, when they are 28 years of age.

Thus, I believe that in 1948, G. Harrold Carswell was a man, not a boy. I do not accept the argument that he was not responsible for what he said at the time that he said it in 1948.

Let me quickly add thereto that I also think he certainly was capable of changing his feelings from 1948 to 1970 when the President saw fit to name him to the Supreme Court of the United States.

So now, Mr. President, we are talking about a period of 22 years between the statement made in 1948 as a political candidate and a man, if one is to accept my assessment of it, and the time when his case now comes before the Senate for confirmation.

How do we know if a man changes his mind?

How do we know that he is a different person?

How do we know he is the same man who spoke in 1948?

Well, do we ask him in 1970? I suppose we do. That is what the Judiciary Committee did. It asked him whether he had made that statement in 1948.

He honestly said that he did make that statement. I am not going to get into the trivia of whether he remembered it or did not remember it. That did not carry much significance with me.

So we ask him today and he says "No," I do not feel that way, as I did in 1948. I was a candidate in 1948 when I made that statement.

I do not want to misquote him, but I think he said that perhaps, at the time, he may have meant it. But he certainly knew now that it was obnoxious to him, and I am quoting him when I use that word, that it was obnoxious to him. And it is obnoxious.

I trust that every one of my colleagues has spent as much time as I have in reading the statement, because it goes far beyond just a statement on racial superiority; it goes much deeper than that. But then in 1970 he denied that he feels that way now.

Well, let us examine the circumstances under which he makes this denial. He makes the denial after he has been nominated to the Supreme Court of the United States.

Of course, he would make that denial.

I suggest that we have to consider a denial at that time in the light of and under the circumstances that he made it, just as we have to consider the time when he made the statement initially in 1948 in the light of and under the circumstances that he made it.

I do not say that he could not be telling the truth now, when he made that statement before the Judiciary Committee. But, no one would expect him to say that he still held those feelings today, in 1970. He hardly would want to feel that way, to say that he felt that way in 1970, when he probably knew that if he did he would not be confirmed as an Associate Justice of the Supreme Court. I do not blame him. I would not say it either.

But, let us give him all the benefit of the doubt. That was not the basis upon which I drew the conclusion.

I would like to believe that he meant what he said in 1970, as I would like to believe he did not mean what he said in 1948.

But let us look at the interim period between 1948 and 1970. That is where judges and lawyers would go and members of the jury, if you please, Mr. President, would go, to find out whether the man had made any changes in his basic philosophy and beliefs, whether the total man had changed, or whether he still harbored those same sentiments and strong beliefs.

Well, I searched and I searched and I searched. And I searched in vain, Mr. President.

For I found no utterances, public or private, that would indicate any change had been made. In fact, I found evidence to the contrary. I found supporting evidence that, in fact, he had not changed in that interim period.

One example of supporting evidence is the much discussed golf course case, if I might so describe it. Let us look at the golf course case breifly.

If I may refresh our recollection, there was a period of time when a battle was going on in the country to open up public facilities to all Americans, particularly to Americans, of course, who had until then been denied access to them—namely, black Americans and other minority groups.

I am sure it will be remembered that there were many cases before the Federal court, particularly the Supreme Court, involving lunch rooms, golf courses, rest rooms, and other public facilities of the sort where there had been separation of the races in the past.

The Supreme Court issued an opinion which stated that these facilities were illegally and unconstitutionally segregating the races. And they issued what was in effect was a cease-and-desist order.

In an attempt to circumvent the law, a flood of private clubs sprang up all over the country. Florida was no exception to this practice. What had been public golf courses, overnight were being turned into private clubs.

Judge Carswell was called upon to become an incorporator of a private golf club. He told the Judiciary Committee that he paid $100 and that he felt the purpose of that $100 was to make some repairs to the old club house.

At that time, as I have said, the practice of organizing and forming and incorporating private clubs was widespread. Most people in and out of the legal profession knew about it. As I said earlier, this was clearly an attempt to circumvent the law. I think it was wrong, Mr. President, but I am not going to get into that, as that is not really the issue before us now, as to whether that was right or wrong.

The white population understood it. The black population understood it. Everyone knew what was going on at the time. Civil rights advocates immediately went back to the courts to have the private clubs declared unconstitutional.

Where was Mr. Carswell at that time? What was he doing? He was in Florida, and he was a U.S. attorney.

I have been an attorney general, and I can say that in that office, which is comparable to the office of U.S. attorney, our duty and our obligation is not only to uphold and support and defend the law of the land, but it is also our obligation to enforce the law of the land and of the State and of the Federal Government.

Here was Mr. Carswell, the chief law enforcement officer in that district at the time. The time, I believe, was 1956; that is, 8 years after his statement was made. The chief law enforcement officer was called upon by a group of citizens to join in the formation of a club. And there is no dispute about this, it was a private club that denied admission to blacks.

Even though I disagree with the creation of a private club for the sole purpose of denying admission to blacks, browns, reds, whites, or any other class of people, I am not going to argue that point. The thing that I think is of the utmost importance is that in this case the chief law-enforcement officer of the district, a Federal law-enforcement officer of the district, was joining in a device to circumvent the Federal law of the land.

One can say, "Well, Carswell said he did not know about this and did not realize or did not do it for that purpose." Then, if one argues that, he has to say that we had a very naive U.S. attorney.

It is incredible that a man—and even a man who was not U.S. attorney—would not understand the purpose for which that private golf club was being established.

If this were just another white citizen of Florida that wanted a golf club, and a golf club that did not have blacks in it, that would be his private desire. I can disagree with him, but that is all right, if that is what he wants to do. But that is not G. Harrold Carswell. He was not a private citizen. He was the chief law-enforcement officer who had the responsibility of enforcing the laws of the land—the same laws which he would now be called upon to interpret if he were confirmed by the Senate of the United States, the same opinions that he would be writing and rendering, the same decisions that he would want U.S. attorneys all over the land to enforce.

Yet when he was in the position of having to enforce them, whether he agreed or disagreed with them, he joined a device to circumvent them.

When I was the attorney general of Massachusetts, I had to enforce certain laws with which I disagreed. I did not always agree with every law that the Legislature of Massachusetts passed. I have not always agreed with every law that has been passed by the Congress of the United States.

I do not want to say it again. We say it all the time, but it is true that the Nation is supposed to be a nation of laws and not of men. There would be anarchy

if we were only to obey those laws we wanted to obey and disobey those laws we did not want to obey, particularly when it is our duty to uphold and defend and enforce the law.

I think that was one of the most damaging pieces of evidence to come before that committee.

If Mr. Carswell had still been a candidate in 1956, perhaps even if he had been the mayor of a city or town, I think I may have understood it—still not condone it, but perhaps not place as much weight upon it as I would when he was U.S. attorney.

That to me is unconscionable. Perhaps if I could believe as some believe that he is so naive not to understand the consequences of his act it would be more easy for me to accept. But I do not know that I would want to see a man on the Supreme Court who was that naive, Mr. President. A man who is on the scene and in this position as U.S. attorney and totally oblivious to what is going on around him, particularly in this very important field at that time—a man no longer 28 years of age, but then 36 years of age—is that the kind of man we want on the Supreme Court?

Well, some might say that because I am a black man I might be expected to be excited about this particular issue. I said on this floor the other day that I am an American before I am a Republican. And although I am as proud of my heritage as any other man, I believe I am an American before I am a black man. I love this country. I do not want to see this country torn asunder. I do not want to see the races split and divided. I do not want to see the black supremists, or black superiority people, or white superiority people get a foothold or even a slight foothold in this country. I am a strong believer in integration. I believe if this country is to be strong it is going to be strong only because it is a united nation and not divided.

I served on the so-called Kerner Commission. I went into Detroit, New York, Chicago, and Boston. I saw what was happening in the country during that period and immediately following periods of violence, burning, and destruction. I have been to East Berlin. As I have said, I served in the war, and I have been to Vietnam. It hurt me to see this country look like those battlefields. I do not want to see it come again to this Nation.

If we find a man harbors racist feelings I do not think that he should sit on the Supreme Court, or, in my opinion, serve in any real high position in the country. I do not think it is going to do well for this Nation.

I do not say here on the floor today, nor do I allege, that G. Harrold Carswell is a racist. I do not know that, in all fairness to the man. I think that one of the worst things a man can say about another man is that he is a racist, whether he is a black racist or a white racist. In my opinion, that is one of the worst things that can be said, and I do not so charge Mr. Carswell.

I am going to end on this point, because I want to get to another point later after my distinguished colleague from Alaska speaks. I have not been satisfied that he is a man who at one time admittedly harbored these racial feelings but does so no longer. He stated his views in what I believe to be perhaps the worst tone I have seen them set forth—not nasty language so much as the actual tone and depth of it. And I see no evidence whatsoever that this is not the same G. Harrold Carswell who comes before us in March 1970 for confirmation to the highest court in our land.

I see no evidence that this is not the same G. Harrold Carswell who spoke before an American Legion assembly in the State of Georgia in 1948. If I could find that evidence, even today, I would be pleased to find it. If I could reassure myself today that these are two different men; if I could believe we are not putting a man on the Supreme Court who harbors these views even today, I would seriously consider changing my announced decision to vote against this confirmation. Failing to get it, Mr. President, I must follow the dictates of my heart and my mind, and I ask my colleagues to do likewise.

Mr. GRAVEL. Mr. President, I do not think I ever heard a more eloquent statement of the facts of this most unusual case. I am honored to hear a statement, not from Senator BROOKE, but from ED BROOKE, the man, who poured out his heart here for over an hour. I am honored to follow him, because all I can humbly do is merely take up in a brief fashion the points that he so lucidly brought forth.

Mr. President, I rise to speak against the confirmation of Judge Carswell to a seat on the Supreme Court of the United States.

Like my colleagues, I gave long and hard thought to the earlier nomination of Judge Haynsworth. I studied the three major arguments used against him—the arguments of civil rights, judicial ethics, and judicial stature. For me, these arguments were not persuasive against Judge Haynsworth.

The same arguments are now being used against Judge Carswell and this time I find them compelling.

Let me elaborate briefly.

First, the civil rights argument.

To me, the Haynsworth matter was not in any fundamental way a civil rights issue. Scattered points were raised, but they were not, in my mind, convincing. However, in my judgment the Carswell nomination presents us squarely with a civil rights issue. The man said, at the mature age of 28, that he believed in white supremacy. I can understand a politician seeking office in the South 20 years ago paying lip service to segregation. But, Mr. President, I cannot accept, nor understand, an American putting forth the view of white supremacy, regardless of where he comes from, in this Nation.

I certainly do not believe that a man's views, once expressed, should haunt him forever. Nevertheless, I do think there should be ample evidence in word and deed in the intervening years that these views have changed. Proof of the "redemption theory" is obviously required in this case in view of his extreme statement of 20 years ago. But Judge Carswell's actions in ensuing years, up to the present day, have merely shown an ability to express these same beliefs in more subtle and sophisticated ways.

Many felt the issue of judicial ethics in the Haynsworth case to be conclusive. I did not. Nor do I find it so with Judge Carswell; that is, if we are talking only of the use of his position for personal financial gain.

The matter of ethics, however, transcends monetary considerations. There are other ways to misuse one's position.

There are other modes of ethical misconduct.

I find deeply disturbing Judge Carswell's use of his judicial position to delay and frustrate orders of higher courts in matters of desegregation.

I find equally abhorrent, his lack of judicial temperament displayed by open hostility to civil rights workers and their counsel who came before his court seeking justice.

I find totally unacceptable his personal activities in effecting the transfer of a municipal country club from public to private ownership, with the result of denying black citizens access.

The ethics of this conduct has far greater implications to society than the question of the ethics of financial gain that surrounded consideration of Judge Haynsworth's nomination.

Finally, there is the matter of judicial stature. Probably most would now agree that in Judge Haynsworth we were presented with a jurist of some considerable stature. This is not to be said of Judge Carswell. Neither supporters nor detractors have found any legal opinion of the nominee which advanced the field of law in any notable way.

Not all jurists need be recognized scholars. But undistinguished persons should not be appointed to the highest court in the land.

It should be noted, too, that the academic legal community, which remained generally silent or mildly favorable to the Haynsworth nomination, is painfully appalled at the prospect of elevating Judge Carswell to the Supreme Court.

Each of us may give this fact a different weight, but I find it significant that in a community that is generally very protective of its own, the faculties of many of our leading law schools have felt strongly enough about the matter to actively oppose Judge Carswell's nomination.

In conclusion, I am compelled to vote against the nomination of Judge Carswell, because of his civil rights record, because of his misuse of judicial power, and because of his nonexistent judicial stature.

I believe President Nixon has exercised poor judgment in this nomination. I think it is incumbent upon the Senate to exercise its good judgment.

Certainly the fact that the Senate in the past 18 months has had a role in denying two Supreme Court nominations should not diminish our efforts to secure a nominee of superior caliber.

I would hope that, if we had to reject 10 qualified persons for this high office, we would not tire in our search. Each

nominee must be considered on his own merits. We should start anew each time.

I hope that the Senate will deny confirmation to Judge Carswell.

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

Mr. GRAVEL. I yield.

Mr. BROOKE. I certainly know what agonizing the distinguished Senator from Alaska has gone through in reaching his ultimate decision in this very important confirmation. I think perhaps even more difficult was the Senator's decision in the Clement Haynsworth confirmation. I know at that time the distinguished Senator gave in-depth consideration to that nomination; that he listened very attentively to the debate. I know that, personally, even though I do not believe he is a lawyer by profession, he read opinions and did all he could possibly do before reaching his conclusion. As I recall, because of that consideration, he did ultimately vote for the confirmation of the nomination of Judge Haynsworth.

I think certainly he has given the same in-depth consideration to the confirmation of the nomination of G. Harrold Carswell, and I know that he has spent considerable time in reviewing the record of Judge Carswell's decisions and opinions. I am sure that to him, like others who have stated their opposition to this confirmation, it is a painful task as well.

I just want to say, Mr. President, I know it takes great courage on his part. It is not something that a man enjoys doing. But it is a responsibility that he has undertaken, and he has made his decision and has so spoken.

I think perhaps one of the most important things that the Senator from Alaska (Mr. GRAVEL) has said today is that even if the names of 10 nominees are sent to the Senate for confirmation and they are not of the highest quality, the Senate should not hesitate in the rejection of those nominations.

If you reject candidate A because you do not feel he has the qualifications for the office, and then candidate B is submitted and you vote for confirmation because you feel you voted against candidate A and therefore you owe it to the administration, or to the President, or it does not look good to reject candidate B, are you really living up to your responsibility?

How can you justify it? The Senator from Alaska is saying that if you reject candidates A, B, C, D, E, F, G, H, I, and J, and if candidate K is presented and he lacks the qualifications, we ought to, just as strongly and just as courageously, and without any political considerations at all, reject candidate K.

I do not know, Mr. President, that I could say it better than the distinguished Senator from Alaska has said it; and I think that that is one of the most important matters that has been raised on this floor in this debate. I have heard the very argument to which the Senator has directed his remarks. I have heard colleagues say, "How can you go against the President twice?"

But is that the question before us, whether we are going against the President twice, three times, or 10 times? As the Senator from Alaska says, we are not going against the President any time. We are not here battling the President. I support the President of the United States. I am sure that the Senator from Alaska supports him. We would be in serious difficulty if we did not support the President. He is our President, and we respect him.

But we do not have to agree on everything that the President says or does, or even confirm every nominee to the Supreme Court whose name he submits. The President himself has admitted that he did not know some of the things that have come out about his candidate before he submitted his name to us. Our responsibility is to delve deeply into the background ourselves, independently of the executive branch, to find out what the facts are upon which we can base our decision. If we are merely to say "yea" to the President's nominee, then we are not living up to the responsibility that the people, under the Constitution, have given to the Senate of the United States.

So for one to argue that we should merely go along because we did not go along before is, in my opinion, a very weak, and very poor argument that should not be heeded by the Senate.

I did not fail to go along with the President when he first submitted Mr. Haynsworth's name. I do not think that the Senator from Alaska went along with him when he submitted his name. The Senator voted according to the merits of the case, and he made his decision on that basis. I, too, voted according to the merits of the case as I saw them, and based my decision upon them; and we came out in opposition to each other.

That is perfectly all right. That is what it is all about. That is why we are here. That is why the Senator is a Democrat and I am a Republican.

We are not here to "go along" with anyone. I am sure the Senator would agree with that.

We are not here to go along with anyone. I do not think we went along before, or did not go along. I do not have any less respect for the President because I happen to disagree with what he believes as to the qualifications of this or that particular candidate.

You know, the most important thing that might come out of this debate is that not only this President, but every President to come, will spend even more time than Presidents have spent in the past looking into the total man and the qualifications of their nominees to the Supreme Court of the United States; and that every Attorney General and every Justice Department will make more exhaustive investigations than have ever been made before; and that, when the nominations get to us, we will have a choice of riches rather than a choice of poverty, Mr. President, so that we might be asked to judge only upon the highest quality that the legal profession has to offer in this land.

If that is the result of this lengthy debate and an ultimate rejection of this candidate, then, in my opinion, it will have served a most worthwhile cause. And if it takes us 10 candidates to do it, then let us take the time for 10 candidates. I do not think there is anything more important.

We have plenty of time, Mr. President. We have spent far more time on far less important issues in this body, even in the short period of time that I have been here, than this issue deserves.

Mr. GRAVEL. Mr. President, will the Senator yield at that point?

Mr. BROOKE. Yes. I just want to say to the Senator from Alaska that I have great respect for both of his decisions, not only because on this decision we happened to come out the same way, but I have respect for him on his other decision as well. I have respect for any man, as long as he makes his decisions based on what he actually believes, in his head and heart, is right.

I am very happy to yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I think the Senator has brought out the essential point very well, which was that since the President handed down this nomination, certain facts have been brought forward that he was not aware of, that might have caused him not to have selected Judge Carswell for the position.

I think the constraints of the office and the operation of the political system that we have conspire somewhat to prevent the President from stepping forward at this particular point in time and saying, "I think I made a bad decision; I change my mind; I wish to withdraw his name." I think that now the mechanism is in operation the Senate can act, and the Senate can reject this nomination.

I would hope that the President would not use the force of his office and the influence at his disposal, upon the members of the Republican Party who sit in this body, to elicit their votes in support of this nomination. I would hope that he would fall back to a more dormant position, so to speak, and let the facts permeate this body; and I am sure, with full knowledge of all the facts, that we will arrive at a conclusion which will correct what I think was an unfortunate error in judgment.

I should like to take a moment to address myself to two particular points of the argument that has been made over the last week. The first is summarized on the first page of the report of the Committee of the Judiciary. That is that the reason why many Senators are opposing Judge Carswell is because he is a southerner.

I think the fact that I have made a decision different from my prior decision with respect to a southern gentleman, the fact that I have fairly decent credentials with respect to votes affecting the South, and the fact that, in all sincerity, I have deep affection for the South and individuals from the South, is proof that at least in my mind there is no regard as to which part of this country Mr. Carswell comes from.

I would hope that if the nomination is not confirmed by the Senate, the President again would go to the South and choose a person with a name, a southern name; a southern gentleman, a man who before his profession has shown some distinction. So I would hope that my

vote on this nomination would lay that allegation to rest.

The second point of the argument on the front page of the report of the Committee on the Judiciary relates to a constitutional conservative. I think there are many misplaced views in this regard. I think the inference in this instance is that we will have a judge who will sit on the Supreme Court of the United States who will be able to perform some extraordinary feats in laying to rest the scourge that is abroad in this country in the way of crime and in the way of individual pillage. I think that that almost begs the question to the point of being ridiculous. Certainly if Judge Carswell had a record of being such a distinguished jurist, it would be apparent to all; but the burden of proof in this document is directly to the contrary. Distinguished scholars in the area of torts have come out and said that Judge Carswell used almost insulting language.

Distinguished scholars in the field of criminal law have put statements in the public records to indicate that Judge Carswell made statements that would be insulting to an individual. How could anyone hope that a person with so little to offer in the field of experience would grace the Supreme Court of the United States and render some service toward the great problems that face the Nation in the area of crime?

I think both of these areas have been adequately answered in this brief document. I think I have made my point as lucid as I am able to.

Mr. President, I yield the floor back to the Senator from Massachusetts, if he wishes the floor; if not, I yield the floor.

Mr. BROOKE. Mr. President, I again thank the distinguished Senator from Alaska for the opportunity to engage in this short colloquy with him. He has performed a service to the Senate both by his statement and the material he has placed in the RECORD. We have both addressed ourselves primarily to one issue involving the qualifications of Mr. Carswell to sit on the Supreme Court of the United States.

As this debate continues, I expect to have an opportunity to discuss some of the other issues to which the Senator has referred; namely, the overall question of legal competency for this high post. I think that perhaps some of the people in the country might be rather confused in that here is a man who already has served as a U.S. attorney, which requires confirmation by the Senate; a Federal district court judge, which requires confirmation by the Senate; and a member of the circuit court of appeals, which requires confirmation by the Senate. They might wonder why this debate has not taken place earlier and how a man can arrive at practically the pinnacle of the legal profession without a similar debate. I question it myself, Mr. President.

I think that perhaps in the future we are going to have to take a much harder look at the responsibility we enjoy in the Senate for confirmation of U.S. attorneys, the confirmation responsibility we enjoy for Federal district court judges, and the confirmation responsibility we enjoy for members of the circuit court of appeals.

I think that, quite rightly, much of the law is interpreted at lower levels than the Supreme Court. Decisions are important in the Federal court, and several Presidents have shown an inclination to nominate to the Supreme Court only those members—or at least some members—who have served in one of the lower Federal courts.

It would appear to me that in the past—and I do not want to make this an indictment of our system—many times U.S. attorneys have passed pretty swiftly through the committee, after a look into their basic qualifications and into their honesty and integrity. The Judiciary Committee certainly has enough work to do, I am sure, and perhaps to a minor degree more is done with Federal district court judges and circuit court of appeals judges. When it gets to the Supreme Court, it seems to me that we say, "Wait a minute. Let us really take a look." I think that perhaps in this colloquy we are pointing out the necessity to say, "Let us really take a look at the U.S. attorney level and at the Federal district court level and at the circuit court of appeals level as well as the Supreme Court of the United States level." Then, of course, we would have more of a record to go on if someone is elevated to the High Bench.

There was very little in the Carswell case for the Senate to go on in previous confirmatory procedures, because very little testimony and evidence had been brought to light. I would hate to feel, even as important as the Supreme Court is, that we felt that any of our Federal courts were unimportant to the degree that we might pass judgment on nominees for those courts with very little in-depth investigation and scrutiny and hearings before the committee and debate before the Senate.

I know that we have so much to do that we cannot debate as fully every Federal district court judgeship that comes before us for confirmation, but we might want to look more closely at what the Justice Department does in its investigation. We reply pretty heavily upon the Justice Department for information on nominees for the Federal judiciary and for the U.S. attorney offices. We in the Senate do not have any investigative staff to look into this ourselves, other than individual staffs, and, of course, the staff of the Judiciary Committee, which certainly is not a large staff—not large enough to send out investigators all over the country for the many posts we have to fill in the Justice Department and in the Judiciary. But we might want to take a closer look at our practices and our procedures in the future, to forestall the circumstances with which we are laboring at the present time in the G. Harrold Carswell case.

I just bring this matter up to the Senate in this form because of the statements made by the distinguished Senator from Alaska which provoked this thought.

Mr. GRAVEL. I think the members of the fourth estate share as much credit for discovery in these particular proceedings as the Senate, the entire Justice Department, and all the arms of the Government. Some of the key items were discovered by individuals of the press corps in their search to make a proper evaluation in meeting their responsibilities to the public at large.

I think it is fortunate that here, again, they play a role concurrent with the Senate, and that is, that as we debate these issues, the public at large becomes informed.

It is very difficult to endorse or defeat the nomination of a person who has no particular credentials one way or the other. The only thing about Judge Carswell that seems to stick out is the racist issue, and I think it sticks out with great preponderance.

Mr. BROOKE. Mr. President, will the Senator yield at that point?

Mr. GRAVEL. I yield.

Mr. BROOKE. Mr. President, the Senator refers to the statement of Judge Carswell in 1948. Now this statement was never revealed by the Justice Department. It was revealed by no arm of Government at all. In fact, to the best of my knowledge, the statement came to light only because of the—shall I say, digging in by a member of the press who went down into the records in Florida in the fifth circuit, and in the morgues of newspapers for that year, and came up with this statement.

Are we going to have to rely upon the perseverance and ability of the press totally for information—and very important information, I might add—concerning a judicial nominee?

Is that going to be the basis upon which we make our judgments?

Can we not have an independent investigative source of our own that would be thorough enough to reveal such information as this reporter came up with, which has created such doubts in many Senators' minds, which you and I have already indicated we find offensive and which even Judge Carswell himself has said he finds obnoxious?

I cannot believe that Judge Carswell would volunteer that information, but, when he was confronted with it, he could not quite recollect whether he had made the statement or not. I think the record indicates that.

Mr. GRAVEL. That really is the area that triggered my decision. Obviously, as the Senator stated earlier, it was in his best interests at this time, of wanting to become a Justice of the Supreme Court, to recant the statement. It is clear that he could have a sincere change of heart at this particular time, and I am prepared to accept that. But, in accepting that sincerity, I am compelled to go back over the years, and over that particular time, as to the acts and things he has done to indicate a change of mind. Perhaps there would be one item, or one statement disavowing his 1948 speech, or perhaps some particular court case, so that he could stand up and say, "Well, I changed my thinking and here is proof of it." But, the contrary is true. There is no sequential chronological change since this statement was made in 1948. It

was not a statement about integration, or nonintegration, it was white supremacy. That is a good deal different in my mind.

Mr. BROOKE. I said earlier, as the Senator will recall, that I had searched in all sincerity for any evidence whatever to support the contention that Judge Carswell had had a change of mind or heart on these strong and deeply felt beliefs between 1948, when he admittedly made the statement, and 1970, when he appeared before the Judiciary Committee. I said that I searched in vain. Did the Senator from Alaska find any evidence at all, even a scintilla of evidence, that there had been any change at all on the part of the judge?

Mr. GRAVEL. I found no evidence that there has been a change. I found ample evidence that there has been a continuation of those beliefs, and that those beliefs have sort of changed—as one does as he adds years to his life—into something more subtle and actually in a sense, more diabolical.

Mr. BROOKE. The golf course case, which I discussed in some detail, as the Senator will recall, is not the only evidence I found in the record which would indicate that not only had he not changed but that those beliefs were still with him during the period 1948 to 1970.

Mr. GRAVEL. Let me elaborate on that. I think the chain is more complete than that.

Mr. BROOKE. Oh, yes.

Mr. GRAVEL. The statement was made in 1948. But in 1953 he served on Seminole Boosters, Inc., which clearly is discriminatory, and the statement there in the charter which from all appearance he drew up. He affixed his signature at the top. His signature was also part of the attestation. That was in 1953. There was also the golf course, which is the Capital City Country Club, and that was in 1956. Then in 1966 the sale of a piece of property which was initially signed by his wife but, I might add, he had to sign it also in 1966.

Thus, not as an attorney but as a lay person, I occasionally sign documents that I do not particularly read, and I have been scolded by members of the bar for doing such things. I can only infer that Judge Carswell, when he signed the deed conveying that parcel of land in 1966—not in 1948, not in 1953, not in 1956, but in 1966, he signed it with knowledge of that clause, a clause which had been stricken down earlier.

Mr. BROOKE. Let me reply to that. I want to say to the Senator that I certainly would agree with him that there is a sequence of acts, deeds, from 1948 to 1970 to support that contention.

I addressed myself today to only one, and that was the golf course case. I did not want to take the floor of the Senate for any prolonged period of time, as I want to share the floor with my other colleagues who wish to discuss this matter. But I intend to take the various items and cases in the future and discuss them one by one. I think that I can probably make a greater contribution to this debate by doing it in this manner, and I am very much pleased that the distinguished Senator from Alaska understands that we do not want our colleagues to think we are talking about only one isolated case upon which we are making our judgments that, indeed, Judge Carswell has not changed from 1948 to 1970, or had changed, whichever way one wants to look at it. On the contrary, we found much evidence that there had been no change. I think it is important that we develop these one after another so that our colleagues will have the entire record upon which to base their opinions out in the open.

I thank the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Massachusetts.

Mr. President, I yield the floor.

NEED FOR ADDITIONAL EIGHTH CIRCUIT JUDGESHIPS

Mr. SYMINGTON. Mr. President, as approved yesterday by the House, S. 952, the omnibus judgeship bill, deletes the authorization of 13 Federal district judgeships from the 67 that were authorized when the Senate acted on the bill earlier this year. The Senate-passed bill made provision for an additional judge for both the eastern and western districts of Missouri and for the district of Nebraska. I am pleased that both the Senate and House approved the additional judge needed for the eastern district of Missouri. However, I believe it is most unfortunate that the House bill does not provide the additional judges requested for the western district of Missouri and the district of Nebraska. The Judicial Council of the Eighth Circuit has carefully considered both these requests and has confirmed the need for these additional judges.

The increased number of cases in Federal courts in the Nation arise not only by reason of population growth but also because of the volume and complexities of Federal civil and criminal laws which we in the Congress adopt. That should be frankly recognized in terms of sufficient judgepower in the courts of the Nation.

In due course, the provisions of the House and Senate bills will be considered in conference. And I would urge, with the greatest respect, the conferees to fully consider the strong documented case requiring another judge in the western district of Missouri.

Last March when, joined by Senator EAGLETON, I introduced S. 1712 to provide an additional judge for the western district of Missouri, I stated the workload experience of that district justified the additional judge which that bill requested. The testimony of Chief Judge William H. Becker of the U.S. District Court for the Western District of Missouri before the Senate Subcommittee on Improvements in Judicial Machinery fully bears that out. Moreover the increased rate of filings in the first half of 1970 underscores the need.

The president of the Missouri bar writes that the State bar executive committee also has reviewed the question and recognizes fully the urgent need for two additional district judges in Missouri. He points out that—

> Lawyers who practice repeatedly in the Western District Court of Missouri are well aware that the case load confronting the judges of that District is inordinately heavy, and that an additional judge should be provided to handle the work in that Court. One of the principal reasons for this need is the great number of *prisoners' cases* arising out of the Federal Penitentiary located in Springfield, Missouri; and the State Penitentiaries located in Jefferson City and Moberly, Missouri. These three institutions produce a substantial case load which is a very difficult type of case to handle and which is very time consuming.

Mr. President, I believe Members of Congress also would recognize the significance of another and more general comment in this letter:

> The burden being placed on our Federal Courts, and the attacks being made on the court system of this nation, are such that the cost of needed additional judges is a small price to pay to assure litigants that adequate care and consideration will be given by qualified and sufficient judges.

Mr. President, I would urge the conferees to consider favorably the record that has been made in the committees which I believe fully substantiates the need for an additional judgeship in the western district of Missouri.

I ask unanimous consent that the letter referred to from the President of the Missouri bar be printed in full at this point in the RECORD.

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

THE MISSOURI BAR,
March 13, 1970.

HON. STUART SYMINGTON,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR SYMINGTON: The Executive Committee of The Missouri Bar has carefully reviewed the need for additional Federal District Judges in Missouri, and it recognizes that there is an urgent need for two additional District Judges. We are aware that members of the Senate and House Judiciary Committees have had substantial information and statistical data presented to them demonstrating the need for these two judges. We, therefore, are not submitting additional data now.

Because of the termination of some committees and the appointment of new committees in the Federal Judicial Conference, creating a time lapse, the Conference failed to make timely recommendations for an additional judge in the *Western* District of Missouri. An additional judge *was* recommended for the *Eastern* District of Missouri. We are sure that if the appropriate opportunity for consideration had been presented, a recommendation from the Federal Judicial Conference would also have been made for an additional judge in the *Western* District of Missouri.

The criteria used for measuring case loads in the Federal District Courts are admittedly obsolete and out of date. Yet the use of these outmoded criteria has caused the Western District of Missouri case load to appear erroneously lower. "Lawyers who practice repeatedly in the Western District Court of Missouri are well aware that the case load confronting the judges of that District is inordinately heavy, and that an additional judge should be provided to handle the work in that Court. One of the principle reasons for this need is the great number of *prisoners' cases* arising out of the Federal Penitentiary located in Springfield, Missouri; and the State Penitentiaries located in Jefferson City and Moberly, Missouri. These three institutions produce a substantial case load which is a very difficult type of case to handle and which is very time consuming."

Because of these factors and others which are commented upon in the earlier data presented to the House and Senate Judiciary Committees, *we strongly recommend* that the *Omnibus Bill* not only include an additional District Judge for the *Eastern* District of Missouri, but that it be *amended* to include an additional District Judge for the *Western* District of Missouri. The burden being placed on our Federal Courts, and the attacks being made on the court system of this nation, are such that the cost of needed additional judges is a small price to pay to assure litigants that adequate care and consideration will be given by qualified and sufficient judges.

We, therefore, urgently request you to support S. 952, S. 1712, and H.R. 9638 now pending, and that you support an *amendment* to provide for an additional Federal District Judge in the *Western* District of Missouri. We certainly would be pleased to receive an indication of your support.

Thank you very much.

Sincerely yours,

EDGAR G. BOEDEKER,
President.

Mr. EAGLETON. Mr. President, I, too, would like to address myself to the same subject matter that has been set forth by my distinguished colleague, Senator SYMINGTON.

The principal reasons advanced against approval of the judgeship in question, the one in the western district of Missouri, are:

First, the Judicial Conference of the United States did not recommend or approve the additional judgeship.

Second, the weighted caseload system presently employed shows no need for an additional judgeship.

Third, suspended eminent domain cases will not materialize.

I should like, if I could, to answer each of these objections which have been made to the additional judgeship in the western district of Missouri.

First, my reply to the argument with respect to the lack of approval by the Judicial Conference.

The needs of the western district of Missouri, and for that matter, the district of Nebraska, were never considered by the full Judicial Conference of the United States because of the failure of those districts to receive notice of the opportunity to submit their needs for study to the Judicial Conference Committee on Judicial Statistics.

Nevertheless, the Judicial Council for the Eighth Circuit did consider and approve the additional judgeship for western Missouri and Nebraska because of the exceptional circumstances preventing western Missouri and Nebraska from being considered by the Judicial Conference.

Second, my reply to the argument dealing with the weighted caseload system presently employed.

The weighted caseload system presently employed is considered generally as an inaccurate and unreliable measure of today's judicial burden.

A letter from the Director of the Federal Judicial Center, Mr. Justice Tom C. Clark, dated October 7, 1969, stated clearly the need for a new weighted caseload system and the inadequacies of the old system. I read a part of that letter:

Discussions between the Judicial Conference Subcommittee on Judicial Statistics of the Court Administration Committee, the Administrative Office and the Federal Judicial Center have led to the conclusion that a new formula clearly related to sitting judgeships, present filings and case categories should be designed.

When the new weights resulting from the current study are revealed, a greatly different and reliable picture of judicial needs and rankings of courts will emerge.

Further, western Missouri has a unique problem in hearing petitions from prisoners of the U.S. medical center at Springfield. This is recognized in the administrative office paper on the "Judicial Business of the U.S. District Court for the Western District of Missouri," provided for the use of interested Congressmen. In that document the following statement appears:

Petitions by federal prisoners have increased from 73 in 1964 to 133 in 1968 and 255 in 1969. The petitions by federal prisoners arise primarily from the Medical Center at Springfield, Missouri, and present unique legal questions.

These prisoners include a large number of persons who have not been convicted but who are committed because of suspected or proven mental incompetence, and also include problem convicts transferred from conventional penitentiaries.

Looking to the only presently available reliable measure, the number of cases filed by districts, a picture entirely different from the weighted caseload rankings emerges.

The figures for the last 4 fiscal years and the figure for the current unfinished fiscal year show the case filings by number per judge for the western district of Missouri as follows:

In 1966, the number of cases per judge was 294.75.

In 1967, the number of cases per judge was 265.25.

In 1968, the number of cases per judge was 262.75.

In 1969, the number of cases per judge was 286.75.

In 1970, on an estimated basis, the number of cases per judge is 397.50.

I come now to objection No. 3 and my response thereto. This objection deals with the suspended eminent domain cases.

Third, the Corps of Engineers can accurately predict eminent domain filings because of the long experience of the corps and detailed planning.

In addition, the potential burden of condemnation cases of the Whiteman Air Force Base ABM system scheduled by the executive department for an early start cannot be ignored in any projection of the needs of this court. The burden of the earlier Whiteman missile site cases in the western district of Missouri shows that this type of condemnation case is much greater than that of condemnation for conventional purposes. This is true because of the speed required in the acquisition program and the unprecedented complex nature of the uses and of the easements acquired.

In summary, we must take into account:

First, gross underestimate of the burden of Federal habeas corpus petitions of Federal unconvicted and convicted prisoners in the U.S. Medical Center for Federal Prisoners. No other district has this unique problem.

Second, gross underestimate of the burden of Federal habeas corpus by State prisoners to review validity of a State court conviction under 1966 amendments of Public Law 89–711, and recent controlling decisions.

Third, gross overestimate of the burden of conventional tort cases, for example, of which about 90 percent are settled by the litigants. There is no way to settle habeas corpus cases, which must be decided unless withdrawn or made moot.

Fourth, failure to take into account the backlog of suspended and unfiled eminent domain cases certain to be filed when budgetary restrictions are removed.

Mr. President, I am happy to join with my distinguished senior colleague, Senator SYMINGTON, in urging that the additional Federal court for the western district of Missouri be restored.

Mr. President, I ask unanimous consent that a statement made by Judge William Becker, the presiding judge of the western district of Missouri, before the Senate Judiciary Committee be printed at this point in the RECORD.

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

A FINAL CONCLUSORY WORD

One factor which greatly bothers the judges of the Western District of Missouri is the fact, as shown on Table I of the data presented the Congress by the Administrative Office, that while Local Rule 20 enabled our Court to make inroads on backlog in 1966 and 1967, the mounting pressures of prisoner petitions and condemnation cases broke that pattern in 1968.

In 1966 the Western District of Missouri reduced its backlog by terminating 910 civil cases against 798 filed. In 1967, 783 were terminated against 734 commenced. In 1968, however, in spite of the decrease in filings of personal injury diversity cases, we terminated only 577 cases in 1968 against 708 filed. Every active judge in the Western District worked as hard in 1968 as he did in 1967 and 1966 if, indeed, he did not work harder and, because of his added experience, more efficiently.

One is forced to conclude that unless given relief in the form of an additional judge, the record of accomplishment of making inroads on a backlog will not continue because the present judges of the Western District have no more judicial hours to give the United States, and endeavor to spend their limited time more efficiently.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. INOUYE. Mr. President, at a time when our thrust should be toward drawing our country together, we witness movement toward separation and polarization. At a time when our leaders should be marshaling all forces to pro-

pel this forward thrust, we review with alarm this administration's backward leap over the past year.

We witness the go slow approach our administration has adopted in the area of desegregation—its support of an amendment which would work to weaken the enforcement of school desegregation rulings in the South and its equivocation on extending for another 5 years the Voting Rights Act of 1965.

We remember the Justice Department's request to postpone for a year the enforcement of school desegregation orders in Mississippi which cause a "revolt" by lawyers in the Department's Civil Rights Division.

We recall the recent memorandum sent by a high level adviser to the President suggesting that the administration pursue a policy of "benign neglect" on racial issues at a time when the very fabric of our Nation is being torn at the seams by so many years of this very neglect.

We watched the removal of Leon Panetta from his post as Director of the Officer for Civil Rights in the Department of Health, Education, and Welfare because he tried to implement the law.

We notice a reduction in funds for inner cities at a time when they fester in desperation and the severity of their problems take quantum jumps. We heard, for example, our administration indicate that limited funds would be allocated to such programs as title I of the Elementary and Secondary Education Act—the primary vehicle by which compensatory services have been provided in school districts serving the poor.

It is with despair that we watch our administration seek a low profile in all areas of civil rights—a low profile which can only trigger high profiles on indices of dissatisfaction, alienation, and fragmentation among the already polarized groups in our Nation.

And now to hit the lowest point of its silhouette in this area, our administration has called upon Judge G. Harrold Carswell, a man who only two decades ago proudly declared he was an unabashed racist, to assume the mantle once worn by such distinguished judges as Justices Oliver Holmes, Louis Brandeis, and John Marshall.

Let me say that while I would have expected a nominee to the Supreme Court to have shown by word and deed a deep commitment to the principle of equal opportunity for all citizens, so eloquently expressed in the 14th amendment to our Constitution, I do not hold against Judge Carswell the speech he delivered in 1948 in which he declared:

> I yield to no man in the firm vigorous belief in the principles of white supremacy, and I shall always be so governed.

I am well aware that this speech expressing his vigorous belief in the "principles of white supremacy" was delivered in his youth and in the heat of an election campaign designed to sway white voters. At one time or another in our political careers, we have all made unfortunate statements which we would prefer to forget. However, I am distressed by the fact that since delivering this speech 22 years ago, Judge Carswell has done little to indicate by deed or decision that his views on civil rights have changed in any way.

The Judiciary Committee hearings have, in fact, revealed that between 1958 and 1969, 15 of Judge Carswell's decisions on civil rights and individual rights cases were unanimously reversed by the fifth circuit court. It is worthwhile to note that even those who support his nomination have admitted that his decisions in five cases "may fairly be described as anticivil rights."

In addition, the hearings disclosed that in 1956, Judge Carswell served as an incorporator and director of a private golf course in Tallahassee, a segregated course specifically formed to circumvent a Federal Court order requiring the desegregation of municipally operated recreational facilities. Judge Carswell's testimony that despite his official position and his knowledge of suits compelling equal treatment of blacks and whites at public golf courses, he did not know that the purpose of establishing the private club was to avoid the results of such suits. Is simply not one that we can accept from a U.S. attorney. Such a statement demonstrates an alarming lack of candor.

The Judiciary Committee's hearings also pointed out that as recently as 4 years ago Judge Carswell sold property with a provision that ownership, occupancy and use of the property would be restricted to members of the Caucasian race.

I was astounded that the White House reacted to this disclosure by stating that "this particular incident is not isolated at all." While I have no doubt that there are hundreds if not thousands of real estate deeds in this country which contain racial covenants, it is quite another matter to find such a covenant appearing in a deed held by a man who aspires for the High Bench. That Judge Carswell claims he was not aware of the covenant is hardly an excuse we can accept from a lawyer and judge.

If Judge Carswell had, in fact, renounced the doctrine of white supremacy enunciated in his 1948 speech, he should have shown a change of heart by deed rather than mere rhetoric. Opposition to the racial covenant covering the property he sold would have illustrated his belief by deed. Here was an opportunity he "missed."

Judge Carswell's civil rights record would alone be grounds enough for questioning his nomination. There is, however, yet another area of concern. I speak here of his judicial competence.

While I am not a member of the Committee on the Judiciary and, therefore, hesitate to discuss Judge Carswell's legal qualifications, I am concerned with the serious doubts and questions regarding his judicial competency raised by both my colleagues and an alarming number of distinguished jurists and legal scholars. The letter we recently received from 457 of our Nation's most prominent lawyers—among them the deans of Harvard, Yale, and the University of Pennsylvania—urging the rejection of this nomination cannot be ignored.

While I am concerned with Judge Carswell's civil rights record, my opposition is not just that of a liberal on civil rights to a "southern" judge. Judge Carswell's own southern judicial colleagues have demonstrated a remarkable coolness to his nomination to this high post. I gather from press accounts that Judge John Minor Wisdom as well as Judge Elbert Tuttle, both of the Fifth U.S. Circuit Court of Appeals, have refused to approve his elevation to the Highest Court—a refusal which stands in sharp contrast to the previous practice. This is particularly noteworthy because I believe if anyone can judge his professional qualifications objectively it is those who have worked with him in a professional capacity over the years.

There is no room for mediocrity on the High Bench. The Supreme Court deserves the best we can offer.

I am reminded here of our President's declaration that his nominee to the Supreme Court would be a man of as great judicial distinction as former Justices Oliver Holmes and Louis Brandeis. The record of the Judiciary Committee's hearings clearly indicates that Judge G. Harrold Carswell is simply not such a man.

To elevate to the Bench of the Highest Court in our Nation a man whose judicial career has been described as one of consistent mediocrity, even by some who support his nomination, would serve only to deteriorate the credibility of the Supreme Court at a time when its very welfare and prestige hang in the balance.

To elevate to the Bench of the Highest Court in our Nation a man who has done nothing to indicate by deed that his views on civil rights have changed over the last 22 years would be to undermine the Supreme Court's well earned reputation for equity and justice.

To support this nomination would be to violate my conscience and that of the American people.

Mr. President, for these reasons I cannot and will not support the elevation of Judge G. Harrold Carswell to the Supreme Court. I urge my colleagues to likewise clearly demonstrate their concern.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. 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. GURNEY. Mr. President, all of us, at one time or another, have awakened from a dream in the middle of the night, trying hard to resurrect the scenes that played before our unconscious minds, with a disturbing feeling that we had been looking at pictures that we had seen before.

The speeches that have been made here in the Senate in the last few days on the Judge Carswell nomination, as well as the daily reports in the press, and the nightly bits and pieces on television, remind me so much of those dreams I just mentioned. The debate on the Judge Carswell nomination is scene for scene, word for word, almost a replay of the Haynsworth affair. The same

actors are leading the opposition, the lines are so nearly identical, that it is uncanny.

Those directing the production for the opposition are precisely the same, organized labor bosses and civil rights leaders. The audience cheering and applauding the opposition is the same, people who do not want to see an end to the era of liberal domination of the political and economic and social affairs of this country by reform of an activist, lawmaking Supreme Court.

About the only difference in the cases is a slight rearrangement of issues and arguments against Judges Carswell and Haynsworth.

The ethical issue which was the false peg upon which the opposition hung their hats in the Haynsworth matter is missing, mainly because Judge Carswell and his wife are people of limited means. There can be no conflict of interest in his case, because there are no property holdings which can give any hint of conflict.

The civil rights issue is here as it was in Haynsworth. However, the civil rights case against Judge Carswell is a specious one indeed.

Except that there is so much at stake, the appointment of one of the nine Judges of the Supreme Court of the United States, one might be tempted to dismiss the civil rights arguments as not worthy of discussion.

But they have been raised, hence we must examine them.

First, there was the political speech which Harrold Carswell made 22 years ago, in 1948, as a candidate for public office, in which he defended segregation of the races as proper. This indiscretion received some momentary play in the press at the time, but I do not think that any broadminded or decent person can view this in any other light than a political statement made in the heat of a political campaign in rural Georgia 22 years ago. Judge Carswell was running against another candidate who had accused him as being liberal and in favor of integration. In that area, at that time, he said what many others running for public office said. It was an obnoxious statement as Judge Carswell has said but I doubt if there is a single Member of this great body, the U.S. Senate, who has not made statements in his political speeches over the years, statements that he would be very glad to be able to delete or rephrase at this time.

I think that the significant fact about Judge Carswell's Georgia political speech was his reaction when this came to light. He said: "Specifically and categorically, I renounce and reject the words themselves and the thoughts that they represent. They are obnoxious and abhorrent to my personal philosophy." This is the important thing to me, for this immediate reaction is most revealing of the man's character. It would have been very human had he tried to defend or to explain the statement. Many might have reacted so. However, Judge Carswell did not do this but he rejected the words out of hand. I think that this speaks much in favor of the character of the man. It indicates a drastic change in his attitude on the whole matter of segregation and integration. Judge Carswell is obviously a man who can change with the times.

The second building block for those who would like to prove Judge Carswell a racist is the matter of the Capitol City Country Club.

It appears that the local golf course in Tallahassee was municipally owned. The course was running at a loss of some $14,000 or $15,000 a year and the city wanted to dispose of the club. In the year 1956, a group of local citizens got together for the purpose of acquiring the municipal course and operating it as a private club. Some 21 signed a corporate charter for an enterprise called the Capitol City Country Club. Each put up $100. Harrold Carswell was one of the signers.

Opponents of Carswell claim the main purpose of the new club was to change a public course to a private one which could then exclude blacks from playing golf.

The hearing record reveals that this corporation never got off the ground, that it did absolutely nothing and that $76 of the $100 paid in by Judge Carswell was refunded to him.

Another group went ahead with the country club but Carswell was not a part of the second group. He had nothing whatsoever to do with it.

He did join the club some years later for 3 years from 1963 to 1966 so his children could play golf. He dropped out in 1966.

The opponents claim that this set of facts shows Judge Carswell participated in a scheme to deny blacks the right to play golf.

How in heavens name that conclusion is arrived at is a mystery to me.

Carswell signed his name to a charter of a corporation that did absolutely nothing.

It was succeeded by another corporation that operated the golf course. Judge Carswell was not a member of this second group.

Again the opposition has struck out.

The third attempt to brand Judge Carswell with a racist label came in connection with a transfer of a building lot to his wife. The lot came out of a subdivision which had restrictive covenants including one preventing transfer to any Negro.

The lot was never built upon by Mrs. Carswell and subsequently she sold it. The deed of conveyance contained a clause "subject to restrictive covenants of record."

As a former practicing Florida lawyer, I can say that this is standard language in Florida conveyances. There are probably deeds in the millions on record in Florida with this language, certainly in the hundreds of thousands.

No specific mention of the Negro covenant was made in the deed of conveyance that Carswell signed.

The facts then are that Judge Carswell never owned the land, there is no evidence that he ever knew anything about the covenant. He signed the deed because under Florida law, even though a husband has no interest whatsoever in his wife's property, he must join in conveyances of her real property. The deed says nothing about the covenant.

One wonders what this deed has to do with the Carswell nomination.

One questions why the minority report accompanying this nomination recites these facts.

Next there is mention of a joke alleged to have been told by Judge Carswell. Here the facts are so vague that the joke is not even set out in the minority report, simply alluded to. I might say that the least the attackers of Judge Carswell might have done here was to give the rest of the Senate the benefit of the joke so we could judge for ourselves its impropriety and perhaps even pass upon the merits of the humor in it, whether good or bad.

There is the last so-called racial fact involving the "Seminole boosters." This was a typical club of city folk and university alumni formed in 1953 to drum up support for the athletic teams of Florida State University. The charter has a clause limiting members to whites. Carswell's law firm drew the corporate charter for nothing by copying a charter then in use for a booster club of another college. How many lawyers in this body have done similar free acts—given a copy of a charter to a secretary for copying.

Now all these racial bits against Judge Carswell come under the heading in the report "Judge Carswell's Insensitivity to Human Rights."

In years to come, future historians in my view, are going to wonder what kind of political times these must have been to have motivated outstanding members of the U.S. Senate to indulge in this insensitivity thing.

It occurs to this Senator that the insensitivity here is clearly one directed against Judge Carswell.

There is not a single fact of substance in the record that indicates, except the speech of 22 years ago, and I doubt even those who signed the minority report against Carswell take that too seriously.

The rest of the case against the Judge rests upon an accusation of mediocrity.

I do not know whose brainchild this one is, although it is quite clear that it is a well organized campaign which has gathered a number of supporters, lawyers and law professors. These are also mainly, although not entirely, from the northeastern part of the Nation. There is no time to analyze their political affiliations or philosophies, but I would feel quite safe in venturing an opinion that they are of splendid liberal persuasion, great admirers of an activist Supreme Court like the Warren one, and of one clear, common mind, that a conservative judge has no place on the Supreme Court.

One fact about the mediocrity argument and the people who advance it, they do not know Judge Carswell, they have not practiced before his court, they do not know him as a colleague.

How does one define mediocrity or excellence in a Federal district judge? I must confess, I do not know, even though I have been a practicing lawyer and in Federal courts on many occasions.

If he is a busy, hardworking trial judge there is infrequent occasion to write

opinions and little time even where opinions are written, to produce legal tomes.

The same would be true of legal tracts or articles, especially for law reviews.

Some lawyers like to see their name in print. In the case of law professors, it is a necessity to write and publish to get ahead in one's profession.

Not so a Federal district judge. In fact, a great production of legal essays, or for that matter, lengthy opinions on the part of a Federal district judge, would lead me, a former practicing lawyer, to suspect that some other judge was doing that particular judge's work, or else he was bucking for something besides being a district judge.

Now any practicing lawyer knows where to go to find out what judges are of excellent legal mind and have judicial abilities. That is to seek the opinion of the bench and bar where the judge is located.

The bench and bar of Florida, almost to a man, speak highly of Judge Carswell and his qualifications. He enjoys the almost unanimous endorsement of his colleagues on the bench and of the countless numbers of lawyers who come before him in his 11 years as a Federal district judge.

I have discussed Judge Carswell with a great many distinguished and able lawyers in Florida, men in whom I have the utmost confidence. To a man, they have said he has an excellent legal mind, he has been an outstanding Federal Judge and that he is Supreme Court material. That opinion is far more meaningful to me than opinions of lawyers and professors hundreds and thousands of miles away who have never laid eyes on Judge Carswell.

We have heard a lot in the last 2 weeks about Judge Carswell's reversal record. I suggest that the case put forward by the Ripon Society and other groups presents a distorted and unreal picture of Judge Carswell's record in this regard.

Let us look at the real record. Judge Carswell was a trial judge in the Federal District Court for the Northern District of Florida from 1958 to 1969. During that period he heard more than 4,500 cases. That figure does not, of course, include guilty pleas, motions, hearings, and so forth.

Approximately 2,500 of these cases were criminal cases. Of all the criminal cases over which he presided, 44 appeals were taken to the court of appeals for the fifth circuit.

On 36 occasions, Judge Carswell was affirmed. On eight criminal cases, Judge Carswell's opinion was reversed in whole or in part. Out of more than 2,500 criminal cases over a 12-year period then, Judge Carswell was reversed in eight cases, and only partially in some of those cases. The list of the 44 cases is found at page 319 of the hearings.

I think that is a pretty good track record, and hardly one on which to found any kind of accusation that Judge Carswell's reversal record does not qualify him for the Supreme Court.

The Ripon Society's analysis of Carswell's record deals with published district court opinions: Only about 100 of Judge Carswell's 4,500 cases while on the Federal district court were printed and published. I suggest that it is impossible to make an accurate assessment of Judge Carswell's record—particularly one concerning reversal rates on the basis of 100 printed cases out of a 4,500 total.

During his tenure on the Federal district court, Judge Carswell heard approximately 2,000 civil cases, including civil rights cases. Of that number a total of 63 were appealed. Judge Carswell was reversed on 30 cases and affirmed on 33 cases. Of the cases reversed, again we must point out that in very many cases the reversal was partial. So much for allegations that Judge Carswell was frequently reversed: 30 cases out of more than 2,000 civil cases; eight out of more than 2,500 criminal cases. Like so many of the charges against him it dissolves when exposed to the light of day.

We have a very excellent summary of Judge Carswell's civil rights cases—there were very few of them—placed in the Judiciary Committee's record beginning at page 311.

Let me quote a passage from the separate individual views filed by the distinguished Senators from Indiana (Mr. BAYH), from Michigan (Mr. HART), from Massachusetts (Mr. KENNEDY), and from Maryland (Mr. TYDINGS). I respect my colleagues immensely, but I think their characterization of Judge Carswell's attitude regarding habeas corpus petitions is most unfair:

> An examination of Judge Carswell's habeas corpus decisions evidences a judge who does not take seriously the importance of this vital constitutional provision. It reveals a judge who has developed with regard to the writ a pattern of inattentiveness—inattentiveness which could deprive our Constitution of any real meaning. It reveals a judge who is inclined to look the other way.
>
> The record reveals that in at least nine cases, Judge Carswell has been unanimously reversed for refusing even to grant a hearing in habeas corpus proceedings or similar proceedings under 28 U.S.C. 2255. Whether this unseemly record is the product of simple callousness, obliviousness to constitutional standards, or pure ignorance of the law, one might only surmise.

I should point out to you that during his tenure, Judge Carswell heard petitions for hundreds of writs of habeas corpus—in Tallahassee alone he heard over 250 applications and petitions for habeas corpus in the last 10 years. From this list of cases, my colleagues have selected nine cases where Judge Carswell was reversed on appeal. In many of those cases, the hearing was held, as directed by the court of appeals and the result was the same as the judge has originally decided on the basis of the affidavits and prior submissions: That is the writ was denied and nothing more was heard of the case.

I think it is wildly and grossly unfair to play a numbers game with cases. Cases are full of intangibles, and subtleties which do not permit such a procedure; any so-called statistical breakdown of cases must necessarily fail to take into account these subtleties and fine distinctions.

Implied in the whole discussions is the erroneous notion that when a trial court judge's opinion is reversed, he is necessarily wrong or in error. That is not the case. Frequently, the law has changed, by virtue of statutory enactment or higher judicial opinion between the time the trial court hears the case and the time the case reached appellate court. Those who applaud the sociological approach to the law must be prepared to accept its implications: By that I mean that the abandonment of the doctrine of stare decisis has meant the abandonment of many of our fundamental notions of jurisprudence. Willy-nilly, doctrines of long standing have been diluted or altered or scrapped completely. This unhappy state of affairs has left our trial courts in a quandary. They have been forced to project, to suppose what higher courts had in mind, what implications there might be from decisions in different but related areas of the law. Trial courts do not make law; if they attempt to do so they are properly struck down. They rely on higher court guidance. That guidance in recent years has been a fluid thing; cherished and longstanding attitudes have been reformed and reshaped by the Supreme Court to fit the individual notions of virtue and truth of the sitting members.

One of the most telling criticisms of the Warren court, I think, has been that its abandonment of the doctrine of stare decisis has created chaos in the lower courts. The lower courts and lower court judges cannot fairly be blamed for this state of affairs.

There is a body of valid and very telling criticism of the Warren court from very eminent and responsible commentators, including the present membership of the Supreme Court, in their dissenting opinions. The best summation of this criticism that I know is contained in the address of Prof. Alexander M. Bickel, chancellor Kent professor of law and legal history at the Yale law school who was last year's Holmes lecturer at my alma mater, the Harvard Law School. Professor Bickel gave the following analysis:

> The Warren court has come under professional criticism for erratic subjectivity of judgment, for analytical laxness, for what amounts to intellectual incoherence in many opinions and for imagining too much history . . . the charges against the Warren court can be made out, irrefutably and amply.

Trial court judges, as I say, cannot be indicted for these shortcomings. The indictment is returnable again to the Supreme Court itself.

SOME COMPARISONS OF PRIOR JUDICIAL SERVICE

Mr. President, Chief Justice Warren Burger served on the U.S. Court of Appeals for the District of Columbia circuit from 1956 to his elevation in 1969, a period of 13 years. If we except Mr. Chief Justice Burger, Mr. President, we must go back to Justice Benjamin Cardozo to find an Associate Justice who came to the Supreme Court with more previous on-bench judicial experience than Judge G. Harrold Carswell.

Mr. Justice Cardozo was appointed to the high court by President Hoover in March 1932, having previously served on New York's highest court, the court of appeals, from 1917 to 1932.

I think it would be well to note the judicial experience of the intervening justices at this point.

President Roosevelt appointed Mr. Justice Hugo Black to the Court in 1937. Mr. Justice Black had served as a police judge in Alabama from 1910 to 1911, for a total period of about 18 months.

Mr. Roosevelt's next three appointees came to the Court without any prior judicial experience whatsoever: I refer to Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

Mr. Justice Murphy, who was appointed by President Roosevelt in 1940, had 7 years of prior judicial experience in the Detroit Recorder's Court.

Mr. Justice Byrnes and Mr. Justice Jackson, both appointed by President Roosevelt in 1941, each came to the Supreme Court without prior judicial experience.

Mr. Justice Rutledge, who was appointed by President Roosevelt in 1943 had served on the Court of Appeals for the District of Columbia from 1939 to 1943, a period of 4 years.

In all, President Roosevelt appointed eight new Justices to the Supreme Court; together these eight gentlemen had total prior judicial experience totaling slightly less than 12 years, roughly equal to G. Harrold Carswell's individual period of service.

We should note that President Roosevelt elevated Justice Harlan Fiske Stone to the post of Chief Justice in 1941; Chief Justice Stone had, of course, served on the High Court from 1925 to the time of his elevation, having been first appointed by President Coolidge.

President Truman appointed Harold Burton to the Court in 1945. Mr. Justice Burton came to the Court with no prior judicial experience.

Mr. Justice Tom Clark was appointed by President Truman in 1949. He came to the Court wth no judicial experience.

Mr. Justice Minton was appointed to the High Court by President Truman in 1949. He came to the Court with 8 years of experience on the U.S. Court of Appeals for the Seventh Circuit.

President Truman appointed Fred Vinson to the office of Chief Justice in 1946. Chief Justice Vinson had served on the U.S. Court of Appeals for the District of Columbia from 1939 to 1943, a period of 4 years.

In all, President Truman during his presidency appointed four members of the Supreme Court. The total prior judicial experience of these gentlemen amounted to approximately 12 years. Judge Carswell, as we know, served 12 years in the Federal judiciary prior to his nomination.

President Eisenhower appointed Earl Warren to the High Court in 1953. As we all know, to our sorrow, Mr. Chief Justice Warren came to the Supreme Court without prior judicial experience.

President Eisenhower appointed John Marshall Harlan to the Court in 1955. Mr. Justice Harlan had served for 1 year on the U.S. Court of Appeals for the Second Circuit.

Mr. Justice Brennan came to the Supreme Court with a good deal of judicial experience, having served on the New Jersey Superior Court, the appellate division and the New Jersey Supreme Court for a total of approximately 7 years, prior to his appointment by President Eisenhower.

Mr. Justice Whitaker, the next nominee of President Eisenhower, served on the Federal District Court for the Western District of Missouri and on the U.S. Court of Appeals for the eighth circuit for a period totaling approximately 3 years.

President Eisenhower appointed Mr. Justice Potter Stewart to the Court in 1958. Mr. Justice Stewart had served on the sixth circuit court of appeals for 4 years, 1954–58, prior to his elevation.

President Eisenhower thus appointed five members to the Supreme Court. Judge Carswell's prior judicial experience surpasses the individual experience of each of those justices. The total prior judicial service of President Eisenhower's nominees represents approximately 15 years. As an individual, Judge Carswell's prior judicial experience amounts to more than 12 years.

President Kennedy appointed two men to the Supreme Court, Byron R. White and Arthur J. Goldberg, both in 1962. Neither Mr. Justice White nor Mr. Justice Goldberg had prior judicial experience at the time of their appointments.

President Johnson, as we know, appointed two Justices during his tenure: Mr. Justice Abe Fortas and Mr. Justice Thurgood Marshall. Mr. Justice Fortas has no prior judicial experience, but Mr. Justice Marshall had served on the second circuit court of appeals for 4 years prior to his elevation.

The four justices appointed during the Kennedy-Johnson years had a total of 4 years prior judicial service among them. Judge Carswell, with 12 years experience, thus has three times the total prior judicial service of the four justices appointed by Presidents Kennedy and Johnson.

SUMMARY

In summary, the Carswell nomination boils down to these facts in the view of this Senator.

We have a nominee who has spent nearly all his working lifetime within the Federal court system, as a U.S. attorney, as a Federal trial judge, as a Federal appellate judge. Seldom has a prospective appointee to the Nation's highest court received a better preparation. This man understands the problem of lawyer and client in court because he has appeared at attorney for the prosecution and defense in countless cases. He knows the problems confronting a trial judge because he sat as one for 11 years. He has had appellate training in the busiest Federal appellate circuit and one, incidentally, which has had the bulk of the civil rights cases.

His fellow lawyers and judges hold him in high regard as an excellent legal mind and a first-rate judge.

His opposition have not made a case. Snowman after strawman which have been put up by them, have been knocked down and have been found to be of no substance.

In the last analysis, this Carswell nomination is a replay of Haynsworth.

The question is whether labor and civil rights leaders are going to be permitted to have a veto power over a conservative appointment to the Court or whether the President of the United States shall be permitted to carry out his constitutional functions and appoint a judge of his choosing.

To put it another way, is the Senate of the United States going to prevent one of the clear mandates of the 1968 election, which was to change the political philosophy and direction of the Supreme Court?

The liberals lost the 1968 election. They should not now perpetuate a Supreme Court which the people of this Nation deeply desire to be changed.

The President should be permitted to work his will in this nomination. There is no sound justification for the Senate to withhold its consent.

CONCLUSION

President Nixon has set about to reshape the Supreme Court with his appointive power. He has the right to do that under the Constitution and he has a duty to do it because of the promises he made to the American people during his successful election campaign in 1968. He has so far sent to the Senate jurists with wide experience on the bench, men whose views on the judicial process are known and certain. In this way, he hopes to restore to the High Court the dignity and objectivity that once marked its deliberations and by doing so restore it to the esteem it once enjoyed with the American people. As I see it, the Court went astray in recent years, at least partly because too many of the Justices appointed to it had little or no experience in the judiciary, State or local, prior to their appointment. Warren, Fortas, White, Douglas, and Black fall into that category. Justice Black served briefly as a police court judge in Alabama, as I mentioned before. The Burger appointment and now the Carswell appointment offer very real and substantial encouragement to many of us, in public and private life, who have been worried about the direction of the Court in recent years. The Warren court has made its record and is now part of history; frankly, I find that record leaves much to be desired in several respects and I think the country is the worse for it. It is time for a change and a new record to be made. I think it will be a commendable record and I look for Harrold Carswell to play an influential role in its making.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point numerous telegrams I have received from lawyers and judges in the State of Florida over the last 2 days backing the nomination of G. Harrold Carswell.

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

ORLANDO, FLA.,
March 18, 1970.

HON. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

J. R. WELLS, Jr.,
Attorney.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

H. M. VOORHIS,
Attorney.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Judge of the Supreme Court of the United States.

R. F. MAGUIRE, Jr.,
Attorney.

WINTER PARK, FLA.,
March 17, 1970.

Hon. EDWARD GURNEY,
U.S. Senate,
Washington, D.C.:

As a member of the Florida Bar I would greatly appreciate your doing all that you can to assure Senate confirmation of the appointment of G. Harrold Carswell.

L. PHARR ABNER.

PANAMA CITY, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
Washington, D.C.:

I strongly urge confirmation of Judge Carswell's nomination to the Supreme Court. I am a member of the Florida Bar and American Bar Association. I practiced before Judge Carswell during his tenure as United States District Judge in Florida. I am an honor graduate of the University of Florida College of Law, and feel my own academic achievement qualifies me to evaluate and wholeheartedly recommend Judge Carswell based solely upon his demonstrated legal ability. The negative opinions of so called legal schools presently being circulated around Washington are nothing more than subterfuges to disguise philosophical objections.

C. DOUGLAS BROWN,
Attorney at Law.

PANAMA CITY, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

As a practicing Florida lawyer of more than 20 years experience I wholeheartedly endorse the nomination of Hon. G. Harrold Carswell to serve on the Nation's highest court. I have practiced law primarily in northwest Florida, the area served by Judge Carswell as a district court judge. I have practiced law in Orlando, Fla., where I was a law partner of Hon. Don G. Baker. I served at one time as research aide to Hon. Campbell Thornal of the Supreme Court of Florida and at present I am a member of the Florida Board of Bar Examiners. I have done both trial and appellate work and have appeared before numerous judges of the State and Federal courts of Florida. I am acquainted with and have appeared before Judge Carswell in legal matters, it is my firm belief that Judge Carswell is eminently qualified in character, ability and experience and would serve with honor and distinction as Justice of the Supreme Court of United States.

LARRY G. SMITH.

ORLANDO, FLA.,
March 17, 1970.

SENATOR ED GURNEY,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

GROVER C. BRYAN.

ORLANDO, FLA.,
March 17, 1970.

Senator ED GURNEY,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

RICHARD L. FLETCHER.

ORLANDO, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

The undersigned endorses and urges your continued support for the nomination of Judge Carswell to the Supreme Court.

RONALD A. HARBERT,
MATEER, FREY, YOUNG & HARBERT.

ORLANDO, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

This is to confirm my own support and actively solicit the continued support of the nomination of Judge Carswell now in debate before the Senate.

WILLIAM G. MATEER,
MATEER, FREY, YOUNG & HARBERT.

ORLANDO, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
U.S. Senate,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

ELDON C. GOLDMAN.

DALLAS TEX.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

Urge you do all in your power to obtain Senate confirmation of Judge Carswell as Associate Justice, United States Supreme Court.

FLETCHER G. RUSH,
Former President of the Florida Bar.

TALLAHASSEE, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

As a former assistant attorney general for the State of Florida for 8 years I strenuously urge and support the confirmation of Judge Harrold Carswell to the Supreme Court of the United States. I have had occasion to appear before Judge Carswell during this 8 year period in litigation involving civil rights and have always found him to be courteous able and impartial. The manner in which he conducted his court including treatment of counsel was beyond reproach and consistent with the highest judicial standards. Judge Carswell has served the Federal judiciary with honor and distinction both as a district court judge and court of appeals judge. His confirmation will bring to the U.S. Supreme Court a man of impeccable integrity and outstanding ability. U.S. Senate should take great pride in confirming Judge Carswell for indeed he is, has been, and will continue to be a credit to the judiciary and the entire Nation.

GERALD MAGER.

JACKSONVILLE, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator,
Washington, D.C.:

We appreciate your efforts in support of confirming President Nixon's nomination of Judge G. Harrold Carswell to the Supreme Court.

A diligent investigation of Judge Carswell's background has revealed no more than two or three incidents which only his most biased detractors can twist into arguments against him. The criticisms which have been voiced make him appear to be strangely different from the person who is known to Florida lawyers.

An insignificant number of lawyers from other States who do not know Judge Carswell have gained publicity by signing petitions which distort his personality, philosophy and qualifications.

By contrast, the lawyers in this State who have appeared before him, who know him personally and who have firsthand knowledge of his qualifications are virtually unanimous in his support.

It is apparent that the real objective of the publicity campaign against Judge Carswell is to prevent a conservative voice from being heard on the court. Opposition that is based on political grounds gives support to those who criticize Supreme Court decisions as being politically motivated. Such opposition is destructive of public confidence in the judicial system of this country.

Unless a vote on Judge Carswell's confirmation is taken as soon as possible, the continued controversy can only damage public respect for the Supreme Court and our system of justice.

William H. Adams III, Jack H. Chambers, Earl B. Hadlow, George L. Hudspeth, Fred H. Steffey, Thomas M. Baumer, Linden K. Cannon III, Phillip R. Brooks, John G. Grimsley, Wade L. Hopping, James Mahoney, J. Frank Surface, Brian H. Bibeau, David W. Carstetter, Walton O. Cone, Guy O. Farmer II, Mitchell W. Legler, Rolf H. Towe, William D. King, and Bryan Simpson, Jr.

COCOA, FLA.,
March 17, 1970.

Congressman ED GURNEY,
Washington, D.C.:

Strongly recommend Senate confirmation of our great Florida Jurist Judge Carswell.

ROBERT G. FERRELL III,
Public Defender, 18th Judicial Circuit.

BROOKSVILLE, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
Washington, D.C.:

Your support for Judge Carswell as Justice of the Supreme Court sincerely appreciated by the Judiciary of Florida. Carswell is a qualified jurist.

MONROE W. TREIMAN,
County Judge, Hernando County.

FT. LAUDERDALE, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

DAVIS W. DUKE, JR.,
Attorney.

BRADENTON, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator, New Senate Office Building,
Washington, D.C.:

As practicing attorneys in Florida, we urge quick confirmation of Judge Carswell to the Supreme Court.

W. J. DANIEL,
WALTER H. WOODWARD,
E. N. FAY, JR.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you

will continue to urge his confirmation by the Senate.

JAMES M. CRUM,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

K. ODEL HIAASEN,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

JAMES D. CAMP, Jr.,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

In concurrence completely with the nomination of Judge Carswell. And hope and trust you will continue to urge his confirmation by the Senate.

RICHARD G. GORDON,
Attorney.

BRADENTON, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

As an active practicing attorney in Florida I hereby urge the immediate confirmation of Judge Harrold Carswell to the Supreme Court.

JAMES M. WALLACE,
Attorney at Law.

BRADENTON, FLA.,
March 18, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

As practicing attorneys we urge immediate confirmation of Carswell to Supreme Court Justice.

DEWEY A. DYE, Jr.,
KENNETH W. CLEARY,
JAMES M. NIXON, II,
ROBERT L. SCOTT,
DAVID K. DEITRICH.

SARASOTA, FLA.,
March 18, 1970.

Hon. EDWARD GURNEY,
Washington, D.C.:

As a practicing attorney in Florida I urge quick confirmation of Judge Carswell.

RICHARD S. SPARROW.

SARASOTA, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Washington, D.C.:

As a practicing attorney in Florida I urge quick confirmation of Judge Carswell.

WILLIAM A. SABA.

SARASOTA, FLA.,
March 18, 1970.

Senator ED GURNEY,
Washington, D.C.:

As a practicing lawyer in Florida I strongly recommend early confirmation of Judge Carswell to the Supreme Court of United States.

THOMAS F. ICARD.

CRESTVIEW, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

Respectfully request that you vote for the confirmation of Judge Carswell nomination.

WILLIAM DEAN BARROW,
Attorney.

CRESTVIEW, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Old Senate Building,
Washington, D.C.:

Respectfully request that you vote for the confirmation of Judge Carswell nomination.

BEN L. HOLLEY,
Attorney.

LAKELAND, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

As member of the Florida Bar Board of Governors, I support the nomination of Judge Harrold Carswell to the Supreme Court of United States. Your continued support is urged and will be appreciated.

M. CRAIG MASSEY.

LAKELAND, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.:

I recommend support of Judge Harrold Carswell's nomination to Supreme Court. I am member of the Florida Bar and president of the Tenth Judicial Circuit Bar Association.

DAVID J. WILLIAMS.

MILTON, FLA.,
March 18, 1970.

Senator ED GURNEY,
Senate Building,
Washington, D.C.:

We circuit judges of the First Judicial Circuit or Florida have had the pleasure of knowing Judge G. Harrold Carswell as a lawyer and as a judge; it is a pleasure to vouch for him and urge his confirmation. Best wishes.

WOODROW M. MELVIN,
Presiding Judge.

BELLEAIR, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge the confirmation of Judge Carswell.

CHARLES R. HOLLY,
Circuit Judge, Clearwater, Fla.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD GURNEY,
U.S. Senator,
Washington, D.C.:

The Judicial Administration Committee of the Florida Bar considers Judge Harrold Carswell to be eminently qualified, competent and learned to serve as Supreme Court Justice. We urge his confirmation without further delay. I also personally recommend this action.

PARKER LEE MCDONALD,
Circuit Judge and Chairman of Committee.

LAKELAND, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

As practicing attorneys interested in the return of sound constitutional government we respectfully request and urge you to continue your support of the nomination of Judge Carswell to the Supreme Court of the United States.

J. HARDIN PETERSON, Sr.,
J. HARDIN PETERSON, Jr.,
EUGENE W. HARRIS,
GEORGE C. CARR.

ST. PETERSBURG, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

I personally support the Senate's confirmation of Judge Harrold Carswell as a Justice of the United States Supreme Court.

BEN F. OVERTON,
Circuit Judge.

FORT LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

I urge confirmation Judge Carswell on nonpartisan basis.

L. CLAYTON NANCE,
Circuit Judge.

TAVATES, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

I respectfully recommend Judge Carswell for your favorable consideration and urge you support his nomination by President Nixon as an Associate Justice of United States Supreme Court.

Sincerely submitted,
Circuit Judge W. TROY HALL, Jr.

KEY WEST, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
U.S. Senator, Washington, D.C.:

We the undersigned, members of the Monroe County Bar Association, at Key West Florida, endorse, support and request the confirmation of the nomination of Judge G. Harrold Carswell to the United States Supreme Court.

Enrique Esquinaldo, William V. Arbury, William R. Neblett, Allan B. Cleare, Jr., W. C. Harris, M. Ignatius Lester, J. Lancelot Lester, Jack A. Saunders, Paul E. Sawyer, Jr., Tom O. Watkins, Hillary U. Arbury.

BRANDENTON, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.:

As a practicing Florida attorney and former State attorney for 24 years, I respectfully urge the immediate confirmation of Judge Carswell.

W. M. SMILEY.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

R. H. WILKINS.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

C. W. ABBOTT.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

R. W. BATES.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

D. L. GATTIS, Jr.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

M. W. WELLS, Jr.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

M. W. WELLS.

Mr. GURNEY. I yield the floor.

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

The PRESIDING OFFICER (Mr. SAXBE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, it has come to my attention that Judge John Minor Wisdom of the Fifth Circuit Court of Appeals has issued a public statement in opposition to the confirmation of Judge Carswell.

It seems to me this statement was highly inappropriate, in view of the fact that Judge Wisdom has a direct conflict of interest in this matter and nothing about the conflict of interest appeared in his statement.

It is common knowledge that Judge Wisdom has for 10 years been trying to obtain his own elevation to the Supreme Court. Judge Wisdom's friends did everything they could to suggest that Judge Wisdom, rather than Judge Carswell, should be nominated for the vacancy that presently exists.

If Judge Carswell is confirmed, as I hope will be the case, the presence of two judges from the South on the Court will mean that it will probably be a very long time before a man from that part of the Nation is appointed to fill a vacancy. So, here is Judge Wisdom, waiting in the wings, issuing a public statement against Judge Carswell and hoping that with the defeat of Judge Haynesworth and then Judge Carswell, President Nixon will be forced to turn to Judge Minor Wisdom, who is one of the Republican leaders for the State which I have the honor to represent in the Senate. During the time that Judge Wisdom has been on the court, he has agreed with virtually as many motions and requests of the Justice Department as, I suppose, any judge in the United States. He has been so completely subservient to the Justice Department, under both Democrats and Republicans, that we might well wonder whether he is a lawyer for the Government rather than a judge seeking to hear both sides of an argument and to dispense justice impartiality.

This is clearly a case of a jealous, frustrated, and ambitious man seeking to prevent the kind of a man which President Nixon promised to appoint from going on our Highest Court, in the hope that he, Wisdom, who is not the kind of man President Nixon promised to appoint, will be the successful nominee.

Since the debate has commenced on the nomination of Judge Carswell, I have undertaken to obtain the views of judges in Louisiana including those who have been confirmed by the Senate and are presently serving in the district courts. Thus far, every judge with whom I have discussed the matter has been high in his praise of Judge Carswell and has urged that Judge Carswell be confirmed.

Mr. President, I should like to make it clear that there is nothing inappropriate in a judge expressing his views about a nominee for the Court. However if a judge is to make a statement urging that a man not be confirmed, he should make clear in his statement his hopes that should the man be defeated there then will be a job open on the Supreme Court which he hopes to fill. When he does that sort of thing, he should make clear to all that his action involves an obvious conflict of interest. In this case no such clarification was made. If the man has reason to be prejudiced, or if he is biased, he should make the whole facts clear. This, it seems to me, would be more fair than simply saying that he has doubts about the qualifications of a man for a job without making it clear that he hopes that by helping to defeat the nominee, he will make it possible to have that same job.

It would seem to me that Judge Wisdom should have made that clear in his statement. I would say that if one talked to the lawyers in Louisiana, even though Judge Wisdom comes from Louisiana and Judge Carswell comes from Florida, or if he talked to the judges in Louisiana and talked to the law school deans in Louisiana or the law enforcement officials of my State, in an effort to compare the two men, he would receive the overwhelming suggestion that, by all means, Judge Carswell would be a better man for the Supreme Court than Judge Wisdom.

I do not say this to reflect on Judge Wisdom. I merely say that the opinions I have been able to receive are that Judge Carswell is highly qualified and would make a great Associate Justice. He is not the sort of extremist that some would make a great Associate Justice. come away with the view that Judge Carswell is a moderate, a middle-of-the-road type, and that Judge Wisdom is himself something of an extremist.

Mr. President, we have enough of extremism on the Supreme Court now. It is about time we tried to move toward moderation, which I believe would be what we would expect under Judge Carswell.

Mr. GURNEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. GURNEY. I read that account in the morning paper, as did the Senator from Louisiana, and I found nowhere in the news account any reason given by Judge Wisdom for opposing the nomination of Judge Carswell. I thought that was rather strange.

Does the Senator know whether he has advanced any reason for opposing the nomination?

Mr. LONG. I paid little or no attention to it. It just struck me as highly inappropriate. I did discuss it with the men who are high up in the legal councils of my State. These men point out that in viewing this action we have to keep in mind that when Judge Wisdom did that, he had perhaps more reasons than meet the eye for wanting the man defeated, he being in hopes of getting on the Supreme Court himself.

He has been trying to move in that direction for many years. I know of no speech in which Judge Wisdom has said this. But if you talk to the legal fraternities in my State, they will tell you it is common knowledge that that man hopes to be elevated to the Supreme Court. I read a publication recently, in which it was mentioned that some Republican leaders have suggested Judge Wisdom for the job. I noticed that when Judge Haynsworth's nomination came to the floor, the Washington Post was not enthusiastic about Judge Haynsworth, even though the Post finally suggested that he be confirmed, but it said, "Why not a man like Wisdom?" So, he has been considered. I am sure he was considered before the Carswell selection. I am sure he will be considered again, in the event that Judge Carswell were defeated.

May I point out that I come from Louisiana, and Judge Wisdom comes from Louisiana. I did not object to his appointment when President Eisenhower sent his name down. It seemed all right to me.

Mr. GURNEY. Mr. President, I think I can say that even though Florida is quite a bit east of Louisiana, Florida is also a member of the fifth circuit. And it is common knowledge among the lawyers there that Judge Wisdom does have ambitions to be on the Supreme Court.

To get back to the point I raised, I did not see any reason given by Judge Wisdom for opposing the nomination. All kinds of reasons have been given, such as insensitivity and things like that. I would imagine he could have found one. But he did not give any.

Mr. LONG. Mr. President, he had a real good one, because he hoped to get that job. He was waiting in the wings in the event that man were defeated. I suggest that as a possible motive, for

all of those who want to judge for themselves.

And it might well have been desirable for him to mention in the course of the statement that he had hoped that the name sent up here would be that of Judge Wisdom instead of Judge Carswell, so that people would know the facts and could judge accordingly, rather than to pick up the morning paper and read that Judge Wisdom, whom they assume to be a fine man, is opposed to the nomination of Judge Carswell.

It did not make a much better impression on me than did the incident involving Judge Tuttle.

Here we have this fine old man, a veteran of the wars of the judiciary. He is getting a little old, and perhaps a little senile.

He sent a letter up here talking about a man he had known for more than 20 years and saying that he is a fine judge and ought to be confirmed for the Supreme Court.

Then, after a period of time passes, he sent another letter here repudiating his first letter.

About all I can say is that we should not pay any attention to what he says. He is getting a little old. He sends us a letter recommending a man he knew for 20 years. Then he sends another letter to contradict and repudiate the first letter.

He might send another letter here to repudiate the repudiation.

Mr. GURNEY. I agree with the Senator's analysis. Apparently the thing that made him change his mind was the country club incident at Tallahassee and the deed of conveyance. He obviously did not know the facts, because Judge Carswell signed his name to the charter of the corporation that never did any business and was never a member of the country club.

If the Judge had known this, I cannot imagine that he would not change his mind.

As for the deed, if the Senator recalls, there was a record of conveyance from Mr. Carswell. He had no interest in the property. He signed the deed, as a husband has to when he is conveying property.

The deed says subject to covenants of record, which is a practice that is quite common in Florida.

It is quite obvious to me that Judge Tuttle was not aware of the facts.

Mr. LONG. Mr. President, the deed was a matter that was available to the Senate about a year ago when the Senate confirmed Judge Carswell for the Circuit Court of Appeals. And every Senator could have had that same information at that time if he had wanted it.

At that time, as I recall it, the Senate unanimously confirmed Judge Carswell, without a single objection.

One must keep in mind that 99 percent of the cases decided by that court are decided finally. It is only about one out of 100 cases that is ever appealed to the Supreme Court. The Supreme Court does not allow all of those appeals. It is only about 1 percent.

One should be very careful about whom he picks to sit on that circuit court of appeals.

Presumably, the Senate itself should be chastised for voting unanimously to confirm a man, knowing what it did about him.

In addition, when the Civil Rights Act of 1964 was pending before the Senate, I personally offered an amendment to make it crystal clear that if one were a member of a truly private club, that club could discriminate in any way it wanted to discriminate.

That amendment was agreed to upon the advice of attorneys of the Justice Department who were working on the civil rights bill at that time. It was agreed to by Mr. Hubert Humphrey and the leadership for the Democrats and the leadership for the Republicans. It was agreed to unanimously by the Senate.

I would say that any Senator, having voted and participated in the Senate action when we unanimously made it crystal clear that there was nothing whatever illegal about a private club discriminating in the matter of membership in any way it wanted to, would have to plead that he was either too ignorant to know what he was doing or else that he voted to make legal and proper exactly the action that he is contending Judge Carswell did that is wrong.

That being the case, I say that a Senator who was here in 1964 should either don a dunce cap and pretend he does not know what he is doing or else he should agree that he himself should be defeated because he voted to make legal what Judge Carswell did that he now contends is wrong.

The Senator knows as well as I do that that was during a time when, if I had been living in Tallahassee and wanted to play golf without competing with the crowd on the public links, I do not know how I could have found a golf club that was not segregated at that time.

In Louisiana we had clubs for the minority groups and clubs for the majority groups.

The people that were claiming discrimination then were the whites, because it was so much more crowded on their courses than on the other courses. They wanted to play the Negro courses and could not gain acceptance there.

If someone wanted to play golf in Louisiana, he would not have any chance. If he joined a country club, it would have had to be segregated at that time.

What about the members of the Forest Hill Country Club in New York, which was segregated for a long time until they let Althea Gibson go there to play? Should we put them in jail by passing an ex post facto law?

It seems ridiculous to me.

Mr. GURNEY. I thought the Senator made an interesting point in colloquy a while ago when he said he would not be surprised if other judges would send in telegrams repudiating the position they first took.

The Senator from Kansas (Mr. DOLE) handed me an item that appeared on the news ticker.

It is from New Orleans. It says:

U.S. Fifth Circuit Judge John Miner Wisdom said yesterday television reports he opposes the nomination of Judge G. Harrold Carswell to the Supreme Court "is going a little bit too far."

It says further:

Wisdom told UPI last night he felt he was not obligated to write a letter endorsing Carswell. "But to say I oppose him is going a bit too far," he said.

So here we have the repudiation by Judge Wisdom that the Senator from Louisiana was talking about a moment ago.

Mr. LONG. It is almost getting to be a farce. I think the best one can say is that based on their performance, it might be well to ignore what the judges on the circuit will say, if Judge Tuttle and Judge Wisdom are going to reverse themselves and say they do not mean what they say.

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

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I tried to reach Judge Tuttle on the telephone. I was confused by all of the telegrams flying around the Chamber.

I was told that I could find him in San Francisco. He was not available. But he returned the call to my office and said, he had sent the telegrams to Senator TYDINGS that Senator TYDINGS had requested. They were solicited by Senator TYDINGS. And they were very carefully written. If I wanted to talk to him about something else, I could reach him at a certain number in San Francisco, but he did not care to elaborate on the Carswell matter.

There has been much said about the role of Judge Tuttle and the great impact his statements might have. As one of those Senators yet in the undecided column I was seeking information as to whether he was for or against Judge Carswell. I hope to call him again tomorrow.

Mr. LONG. I am pleased to see that Judge Wisdom has at least modified his statement. I hope that Judge Brown, who is the chief judge in the fifth circuit, does not change his mind. He is supposed to have made a statement that that fine judge writes good and crystal-clear opinions.

I deplore the conversation of some who feel that Judge Carswell has not demonstrated the erudite brilliance of some. I think I understand what that is about now. It seems there are some judges who like to use all sorts of big words, to roam all over the English dictionary and use these mouth-filling words so that one has to retire to his library and read the law with a law book in one hand and a dictionary in the other.

Others, somewhat like this Senator, feel the English language is for the purpose of communication and the simpler one can say something the easier it is to understand. Judge Carswell seems to be that type person. Most of the judges with whom I have discussed this matter say they prefer that kind of opinion.

I recall that one time following a speech I made to the student body of the school which my daughter was attending, I asked her how my speech went over. She said she did not think it went over too well because these young ladies

were used to hearing people give speeches using words they did not understand. She said they could understand my words, so they did not think I was very bright. I have been trying all of my life to say things so that everyone could understand what I was saying, so that it would not go over the heads of those in the audience. I found that did not appeal to the students of that fine school my daughter was attending.

I am reminded of the time my sister showed my father a theme she had written for her English class. He read it and said:

This demonstrates why so few college graduates are successful. Let me read some of this. If I could keep a speech or paper short, I know I would be heard for certain.

He made a point to use words more easily understood by the great majority of the people.

I personally approve of that. I do not approve of briefs being longer than they need to be. If one can say more in a few pages it has greater meaning than one which takes many more pages. I do not approve of writing 90-page opinions when 1 page could explain what he was doing and why. Of course, there are others who take a different point of view.

To criticize a person and say he should be denied a promotion or whatever emoluments that might come his way merely because he follows one school of writing which uses languages that people can understand is, I think, rather foolish.

Mr. President, if there are no other statements to be made at this time, I suggest the absence of a quorum.

Mr. HART. Mr. President, will the Senator yield to me?

Mr. LONG. I yield to the Senator from Michigan.

Mr. HART. If the Senator will permit me, I wish to suggest the absence of a quorum. I have a message to bring up.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

PUBLIC HEALTH CIGARETTE SMOKING ACT—CONFERENCE REPORT AND AMENDMENT IN DISAGREEMENT

Mr. HART. Mr. President, for the majority leader, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6543.

The PRESIDING OFFICER (Mr. SAXBE) laid before the Senate the message from the House of Representatives announcing its action on the conference report on H.R. 6543 and its action on amendment numbered 13 of the Senate, as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6543) entitled "An Act to extend public health protection with respect to cigarette smoking, and for other purposes.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made by this Act except where otherwise specified shall take effect on January 1, 1970."

Mr. HART. Mr. President, on behalf of the majority leader, I move that the Senate concur in the House amendment to Senate amendment No. 13.

The motion was agreed to.

SUPREME COURT OF THE UNITED STATES

The Senate resumed the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HART. Mr. President, my opposition to the nomination of Judge Carswell has already been expressed in the Committee on the Judiciary and again in colloquy with Senators in this debate. I would like to explain my grave concern more fully in these remarks.

Earlier in our Nation's history, the Supreme Court was a remote institution, even to most lawyers. Today, it is a significant, visible factor in the lives of all Americans. Perhaps, in those early days, appointing a mediocre man without distinction—and I suspect it occurred—caused no grave hurt or great harm. Today, the country requires and is entitled to better.

The nomination of Judge Carswell presents us with a candidate whose credentials for this office are extremely difficult to perceive—a man described by the dean of the Yale Law School as having "more slender credentials than any nominee for the Supreme Court put forth in this century."

True, Judge Carswell has been a practicing attorney, a Federal prosecutor, and a judge on our lower Federal courts—as have countless others. Striking, however, is his lack of distinction in all these capacities. There simply has been no indication that he has demonstrated uncommon excellence or accomplishment as a private practitioner, as a public advocate, or as a jurist.

We have been told in this debate that the President's choice should not be scrutinized too closely if he is at least above some bare minimum level of adequacy. Indeed, the present Attorney General has suggested that the Senate had failed "to recognize the President's constitutional prerogatives" when it rejected his last nominee.

But if the President alone may examine a nominee's suitability and if a bar association committee is the final word on his professional stature, then there is precious little left for the Senate to do but go through the motions of confirmation.

I do not believe that article II of the Constitution intends the advice and consent of the Senate to be such a pro forma ritual of the appointment process.

In the first place, the President's unilateral discretion to nominate candidates, itself, provides almost unlimited power to influence the Court. Only his choices can be considered by the Senate for confirmation. The President's power is not absolute precisely because article II of the Constitution distinguishes between the power to nominate and the power to appoint. As both Chancellor Kent and Justice Story pointed out long ago, the Senate, through its advice and consent, shares the appointing power—1 Kent, Commentaries, 310; 2 Story, Commentaries, section 1539.

Since the Senate's power is confined to passing upon the President's choices, there are inherent restraints upon its abuse which are certainly clear to us today. Alexander Hamilton presciently described these restraints as follows:

But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

That is one passage from the Federalist Papers that I think all of us ought to make reference to.

For the same reasons, however, the Senate's duty to review the President's selection persists in full measure even when it has been met by rejecting a prior nominee. The Senate's duty is to assure the Nation that the nominee who is accepted will be better qualified, not less qualified, than the previously rejected nominee or nominees.

Second, and more importantly, presidential nominees will usually be free of conspicuous disqualification, such as gross incompetence or unethical behavior. The constitutional obligation of the Senate, therefore—if it is to have real meaning—would also seem to require an independent judgment of the nominee on other grounds, including his stature and his judicial temperament. On this point also, Hamilton's thoughtful commentary deserves close attention:

To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended, that a

man who had himself the sole disposition of offices, would be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other.

There is much else in the Federalist Papers from which I have drawn these two excerpts. It is Federalist Paper 76, and it bore the date April 1, 1788.

Mr. President, to confirm this nomination out of some sense of commity with the Executive would erode seriously the deterrence against poor appointments, which Hamilton described. This serious question of quality cannot be brushed aside by suggesting that dissatisfaction lies only with birthplace or philosophy. We have heard repeatedly that the substance of the argument against this nominee is that Judge Carswell is from the South and is a constitutional conservative. Let every Senator read closely the majority and dissenting views of the Committee on the Judiciary and, if he can, the hearings and ask himself whether this really is the burden of the objections to Judge Carswell.

This administration promised appointees to the Court who are strict constructionists and men of distinction. There are many judges, lawyers, and teachers of law throughout this country, including the South—should the appointment be made from that region—who would meet both tests. Judge Carswell does not.

An eminent professor from a southern law school, who submitted testimony to the Judiciary Committee in support of Judge Haynsworth's nomination, said that Judge Carswell's record on the bench gives no promise of ability or judicial capacity commensurate with a seat on our highest court. Even a charitable appraisal of such an undistinguished record is dismaying, when measured against the awesome responsibilities of the Supreme Court.

Nor should this concern be confused with academic pedigree or scholarly output. The history of the Court and its great judges makes this clear. Even in this century, men like Black and Jackson read law instead of completing law school. Many outstanding judges and other likely candidates for the Court have not gone to the most famous law schools or published widely. Some have demonstrated their outstanding ability and excellence by public service in other branches of the government than the judiciary. Diversionary discussion of "B students and C students," therefore, does little to clarify the important point which is involved. That is, simply, the recognition that a nominee must have achieved during his career, in whatever way, some measure of professional stature and distinction beyond the most pedestrian, run-of-the-mill candidacy now before us. To demand less is a disservice to the Court, an institution for which we seek to assure respect.

Beyond Judge Carswell's lack of distinction in any area of the law, there is a further disturbing aspect of his candidacy—his record in the field of civil rights and civil liberties. At best, it indicates an insensitivity to the right to equal justice and freedom from discrimination. For many, his record manifests a more positive hostility toward these constitutional mandates.

My colleagues on the Judiciary Committee, and other Senators opposing his nomination, have already reviewed in detail this distressing evidence; it suffices to note once more:

The white supremacy speech, repudiated for the first time upon nomination to the Supreme Court;

The large number of his decisions against blacks in civil rights cases which were unanimously reversed by the appellate courts;

The testimony by members of the bar about his hostile courtroom demeanor toward civil rights attorneys and about his questionable treatment of civil rights litigants;

His participation in the conversion of a municipal golf course into a private club to avoid the requirement of integrated public facilities; and

His stated lack of awareness of the purpose for creating the club, which explanation suggests either lack of candor with the Senate or surprising obliviousness to the society around him.

Unfortunately, public attention has concentrated on the 1948 speech and on the circumstances under which it was given. But it is not necessary to decide what opposition the 1948 speech alone would warrant. Judge Carswell's record since then, far from revealing any metamorphosis, is equally disquieting.

Significantly, when Judge Carswell was elevated to the court of appeals, before his white supremacy speech of 1948 had even come to light, the Leadership Conference on Civil Rights opposed his appointment on the basis of his record on the bench:

Judge Carswell has evidenced a strong bias against Negroes asserting civil rights claims and has been more hostile to civil rights cases than any other federal judge in Florida during his tenure as a district judge.

Some of my colleagues have indicated that they are disturbed by such evidence, but do not feel that the record in the Judiciary Committee hearing goes so far as to establish conclusively Judge Carswell's present bias on racial matters.

Assume this is true, Mr. President, for reasonable men may differ as to the conclusiveness of that evidence. Is this the most we can say about an appointment for life to our highest court:

He is not glaringly incompetent and the evidence which raises serious questions about his fairness on racial matters is inconclusive.

Does that conclusion really meet our constitutional obligations to the Court and to the Nation?

Mr. President, before my colleagues answer this question for themselves, I hope they will reflect upon the very difficult deliberations in this Chamber concerning the last nominee to the Court, who was ultimately rejected.

When I voted against the appointment of Judge Haynsworth to the Supreme Court, I stressed his record on civil rights. As I said then:

Disagreement even with a majority of a judge's opinions would not cause me to oppose his confirmation. But opposition is justified when his decisions indicate consistent insensitivity to the rights of individuals recognized to be within the reach of the law.

Such insensitivity is unmistakable from Judge Carswell's record and raises serious doubts about his ability to be impartial in matters of civil rights and liberties.

Other Senate opponents of Judge Haynsworth's appointment stressed the record of specific conflicts of economic interest. Those Senators said that although such conflicts may have led to no actual impropriety on the bench, they clearly raised the appearance of impropriety. And even the appearance of impropriety—at this point in our history—was deemed too destructive of public confidence in the judiciary. Therefore, my colleagues felt it essential that substantial doubts be resolved against Judge Haynsworth.

Some have suggested that the Haynsworth nomination presented entirely separate issues from the one now before us—that the last confirmation debate raised questions of ethics and morality, while Judge Carswell's nomination has merely raised a dispute over ideology. I suggest they are fundamentally wrong. Upon reflection, there is a profound analogy between the opposition to Judge Haynsworth based on conflict of interest, and opposition to Judge Carswell based on his insensitivity to individual rights.

The Supreme Court has neither purse nor sword to sustain it. Its authority in our society rests on the delicate balance of public confidence in its moral integrity and fairness in all matters. That confidence must be sustained.

The issue now is not public confidence in Judge Carswell's ability to be openminded in financial matters before the Court, but confidence in his ability to be openminded about the rights of particular citizens.

Our Nation promises its citizens equal justice under law. To the minorities and the underprivileged in our society, especially, the Supreme Court must symbolize assurance that equal justice will prevail, that inequities will be removed through due process of law. These citizens have good reasons—based on recent actions as well as past expression—to doubt Judge Carswell's willingness to listen, to hear them and to uphold the Constitution impartially.

I hope we are not prepared to say that this Senate is deeply concerned about the appearance of partiality in financial matters, but not about the appearance of unfairness in matters of human rights—that this Senate restricts consideration of our professed moral values to business

relations, and dismisses such considerations in human relations as "political ideology."

If anything, Judge Carswell's nomination poses a graver threat to continued trust in our courts than did the nomination of Judge Haynsworth.

The appointment of a man whose record presents a prima facie and, I believe, still unrebuttal cause for distrust by millions of Americans would be unfortunate at a time when we are trying to bring our society together.

President Nixon noted the danger of such distrust in his acceptance speech when he received his party's nomination in Miami. He said then:

> Let those who have the responsibility for enforcing our laws, and our judges, who have the responsibility to interpret them, be dedicated to the great principles of civil rights.

You can argue it as you will—you can go through the record from top to bottom—and you find nothing which would fit the nominee to that proposition, or let him pass the test established by President Nixon in that Miami speech.

Judge Carswell, at the very least, has shown a conspicuous lack of this dedication to the great principles of civil rights which our minorities should expect from the final arbiters of the Constitution and which the President, quite properly, underscored as an indispensable element, if you will, in those who should man the courts of this country—assuredly, the Supreme Court of this country.

It is not only a question of keeping faith with Americans. The Senate very recently offered the franchise to our youth over 18. It did so in recognition of their ability to be responsible, perspective voters, and also in the hope that they would be encouraged to work within and with our legal system. These younger citizens, too, can only be disillusioned by an appointment which downgrades our highest court and undermines its effectiveness as a steam valve for social turmoil.

For all these reasons, Mr. President, I voted against Judge Carswell's nomination in the Judiciary Committee, and I shall vote against his nomination now. I do believe that to consent to this nomination would be a tragic injustice to the Court, to the Senate, and to the American people.

The Court was intended to be a place where the best minds of this country could insure delivery to all the people of this country of the promises made by the Constitution. While there are many roads by which a man may demonstrate excellence, and on which the judgment can be made, if such a man's name came before the Senate, that he is indeed a distinguished American, Judge Carswell has managed to find no road on which he has been able to demonstrate that kind of distinction.

I sense that this argument may not have been made—at least, with success—in the Senate in connection with earlier nominations. I acknowledge that in times past mediocre men, men lacking in distinction, have been appointed to the Court, and they have served there without hurt or harm, apparently. But today that Court is a very real presence in the lives and the homes of every American, black and white; and I think it would be without excuse for the Senate to consent to the nomination of one whose very best friends find difficulty in establishing as more than a run-of-the-mill lawyer and a run-of-the-mill judge.

I know that this is a harsh statement to make, but I think it an accurate one. The Court is not a place for other than big leaguers, to put it in the language of the sports page when teams are down South in spring training. The management of those teams is seeking to identify the best and would be responsible to a harsh judgment by the fans if it fielded the mediocre, and if there were better available. I think we will be subject to the same harsh criticism if we consent to the nomination of Judge Carswell when so many others of greater distinction—big leaguers, if you will—are available.

Again, to pursue the sports analogy, because it is so much more easily understood, the hall of fame for football and baseball and other sports does not provide seats or space or shelf room or display cabinets for those who did not quite make it. The class D ballplayer is not enshrined—not even a triple A player; only big leaguers. How ridiculous if the argument was made that because many ballplayers do not quite make it, the hall of fame should have a shelf for some of them, too. How even more ridiculous to make that suggestion with respect to seats on the Supreme Court. Yet I think the suggestion has been made. I hope we do not consent.

Mr. KENNEDY. Mr. President, will the Senator be kind enough to yield?

Mr. HART. I am delighted to yield.

Mr. KENNEDY. First, I want to commend the Senator from Michigan for his comments and statements this afternoon to the Senate. I believe that this really is one of the most comprehensive and thoughtful and sensitive presentations that we have heard on the whole question of Judge Carswell and his nomination to the Supreme Court. I hope that all our colleagues will have a chance to look at this thoughtful and reasoned statement, which I think is extraordinarily compelling.

One of the points that has been made by those who have looked with some disdain on many of us who have expressed reservations with respect to the nomination is the belief that we are expressing opposition because Judge Carswell comes from a different part of the country, because he has a different political philosophy. They assert that in the past we have downgraded the questions of philosophy when there have been nominees who were perhaps more closely identified with many of those who are expressing reservations about Carswell. They say that the true issue really is not a matter of civil rights or a question of judicial temperament or competency or any of these other things which we have raised, but it is just that we are expressing reservations about Carswell because he comes from a different part of the country and has a more conservative outlook on the important social issues of our time.

I know that in the brief minority report signed by several members of the Judiciary Committee, on which the Senator and I were signatories, we indicate in a straightforward statement that our opposition to Judge Carswell is not based on geography or philosophy. Yet, time and again during the course of this debate we have heard those who are supporting Judge Carswell charge that this is the basis of the opposition.

I shall be interested in the reaction of the distinguished Senator from Michigan on that point. I feel that the Senator's statement today has expressed most adequately and eloquently the reasons for his own reservations; but I would be interested if the Senator from Michigan would respond to that point, because I think it would be enormously valuable to Members of the Senate.

Mr. HART. First, of course, I want to thank the distinguished Senator from Massachusetts for his comments.

Now to his question: Those of us who joined in the Judiciary Committee in opposition to the nomination and who filed the report to which the Senator from Massachusetts makes reference, were conscious, I think, even before we heard the charges, that in this case it would be suggested that our opposition was because of the region from which the nominee came. I will acknowledge that not only did we anticipate this charge, but that our only means of refuting it is to assert, as we have and do, that the President can deliver on his promise to appoint men of distinction as well as strict constructionists from the South, if he wants to add that requirement, because there are men of distinction, law professors, judges, both State and Federal practitioners in the South.

The Senator from Massachusetts will recall that in the executive meetings of the Judiciary Committee, when it was considering the nomination now before us, the able Senator from Maryland suggested perhaps a dozen such distinguished southerners. His background and knowledge in this area reflect his conscientious chairmanship of the Subcommittee on Improvements in Judicial Machinery. In the course of that assignment, he has come to know many distinguished judges and practitioners across the country. He listed by name and he spoke the names of a good many such men, acknowledging that, while their views with respects to constitutional construction might differ from his on occasion, nonetheless, in a full professional life they had demonstrated fitness, some measure of excellence, some uncommon capacity. I think it is now—if it has not been in the past—the responsibility of the Senate to assure itself that any nominee shall be possessed of those marks.

I am sure that the people of this country have assumed that basic to our inquiries, perhaps before we move to any other aspect of a nomination, we have satisfied ourselves with respect to that point.

Mr. KENNEDY. I thank the Senator. I think he has expressed very well what

I feel were the sentiments of a number of us on the Judiciary Committee who expressed reservations about this nominee and have been attempting to address ourselves to the problem of whether the opposition was in terms of geography.

I think another area on which the Senator touched in his speech is whether any presumption follows the President's recommendation with regard to nominees to the Supreme Court. The Senator fully reviewed in his statement what he believed to be the responsibility of the Senate in terms of advising and consenting on the nominees. But I think many of the people in this country wonder about the comments that have been expressed by some of our colleagues that because the Senate turned down one nominee, Judge Haynsworth, the Senate is emotionally expended or tired, that it has a responsibility and an obligation now to fall behind the President that if there is any kind of reasonable question or reasonable doubt, we should decide it in his favor in terms of any nominee, no matter how inferior his qualifications.

I would be interested in how the distinguished Senator from Michigan views his responsibility in terms of making a judgment on the question of Judge Carswell, and what weight he would give to the President's recommendation for a Supreme Court Justice.

Mr. HART. Well, in truth, in many respects, the Senate, over a long period of time, has sort of painted itself into a corner. We have, by and large, in judicial nominations, operated on the assumption that it is analogous to a nomination for a member of the Cabinet, that unless there is some glaring venality involved in the nomination, unless there is gross incompetence, the President has suggested him as the man he wants to work with him, the President will be responsible for the performance so, therefore, let us resolve our doubts in favor of the nominee.

I do not quarrel with that rule of thumb when it is an Executive nomination in the executive department. But we, as one independent branch are wrong to apply the same rule of thumb, and treat as analogous, the nomination made by the second independent branch of a person who shall staff the highest court in the third independent branch.

I do not argue that this has been our practice. I hope there have been instances when it has been. I know there have been instances when it has not been. But as of 1970, we should decide that it shall be our practice.

I have a strong feeling that if Alexander Hamilton were around here today and had the privilege of the floor, he would tell us that is exactly what he was trying to tell us in Federalist Paper No. 76.

It is too bad, in school, that we are not exposed to that paper, which is almost on the index, that we should not read it, that it is dangerous for us, and we are not encouraged to read it, so that generally the only time we do it is under compulsion, and it goes in one eye and out the other.

There is much thought in that particular paper relevant to the question that the Senator from Massachusetts raises and to which I am attempting to make a response. It is not analogous to the review that we give to a nomination for a member of the Cabinet or an ambassador, either. This independent body's, this independent branch's action—yes or no—is on the nomination by the head of the executive branch of a person who shall be a highly significant factor in the performance of the third independent branch.

So I think we should begin to review our practice and, to the extent that we have tended to resolve all doubts in favor of the nominee, insure that we are far more cautious in that practice as it applies to a judicial nomination, particularly to the nomination of a judge of the Supreme Court.

As I said earlier in my remarks, the most we can say about the appointee—I should say, the most I can say; I know there are Senators who would state a much stronger case for the nominee—but if a person, if a Member, if a colleague feels that he is troubled by these resolved doubts in favor of the nominee and says that the record is not conclusive with respect to his ability to rise above the 1948 statement, and therefore he tends to think that he will vote to give his consent, I would simply say that our responsibility is much more full than that.

We do not discharge our responsibility by saying, "Well, he is not conspicuously incompetent, and the evidence that raises the question about his fairness on racial matters is not conclusive; therefore I will vote for him." That does not meet our constitutional obligation to the Court, to the people of the country, nor to the Senate. That is not the way a manager would be fielding his team in anticipation of opening day. If he did, the fans and the ownership would be quickly down his throat. The ownership would insist that there are better men in the system. "Bring them up. Don't field this fellow merely because he doesn't fumble it every time."

Mr. KENNEDY. Mr. President, does the Senator from Michigan feel it is reasonable in evaluating Judge Carswell that we look at the series of incidents which have been developed in the minority report of the Judiciary Committee and look, as that report did, at his general views on the question of human rights, and consider these matters seriously, whether we go to the time of the speech, to the time of the golf course matter, to the sale of the land, or to various other incidents which have been suggested in the report? Does the Senator think it is reasonable for us to make some conclusions with respect to the personal attitudes of the judge, and then to read the civil rights cases in which he has participated, to determine whether his private predilections have spilled over into his courtroom demeanor, his temperament in terms of dealing with those involved in civil rights cases, and his ability and willingness to follow precedent in terms of higher court decisions, and all of his procedural and substantive attitudes in his handling of these cases? Does the Senator not feel that we are really fulfilling our responsibility in expressing some reservations about the nominee's competency and qualifications in that field?

Mr. HART. Unless we were to do that, I think we would be failing in our responsibilty. I know it can be abused and that to analyze particular opinions that a nominee has written and base one's final position solely on those opinions can be dangerous. It can produce, and I think in the past has produced, unhappy results. But clearly, there is an obligation to evaluate carefully the writings of the nominee and to develop along with the understanding that comes from the written word, an understanding of the reaction of appellate courts when reviewing that performance.

We have been reminded here of the reversals of cases appealed from Judge Carswell's court. On written opinions, his rate of reversals has been 2½ times higher than the average of such reversals of men in his own circuit.

This rate of reversal is also substantially higher than the national average. This is relevant. I do not suggest that in and of itself it is conclusive of our judgment. But to suggest that it is inappropriate to note the fact would be equally wrong.

Outside students have commented on this aspect of the nominee. I think reference has been made earlier to the finding of the Ripon Society, which, as I understand it, numbers no members of the Democratic Party among its ranks. Those findings speak of the reversals on appeal as one of a good many reasons that they assign to justify their conclusion that the nomination is inappropriate.

I do not want to paraphrase it or quote it. I am not sure it is an accurate paraphrase. I do not say whether they say they do not favor it or do not consent to it or that it should be withdrawn. But they assign a good many reasons for their recommendation that it is inappropriate.

An examination of these decisions, as well as his demeanor and his conflicting testimony about that, is wholly justified, especially when we are put on notice that we should scrutinize his approach in the area of civil rights because of the 1948 statement.

That statement was a pledge. In 1948 he said:

> I yield to no man in the firm, vigorous belief in the principles of white supremacy. And I shall always be so governed.

There are not many escape hatches left in that statement, except to say I change my mind. And that is the reason it is relevant to see, in view of these written opinions, to what extent there has been a change of mind.

And certainly, if I could conclude my response to the Senator from Massachusetts, where is there in the record the basis for saying that this nominee meets what President Nixon in his Miami acceptance speech so clearly said should be needed?

He said:

> Judges who have the responsibility to interpret the laws must be dedicated to the great principles of civil rights.

I repeat what President Nixon, then the presidential nominee, said:

Let those who have the responsibility for enforcing our laws and our judges who have the responsibility to interpret them be dedicated to the great principles of civil rights.

Who wants to get up here and explain that this man has a dramatic record reflecting dedication to the great principles of civil rights?

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

Mr. HART. Gladly. I would like to get an answer.

Mr. DOLE. I wish to ask a question.

Mr. HART. Am I yielding for the Senator to answer the question I just asked?

Mr. DOLE. No. I will let that rest for a while and ask a question, if I might.

Mr. HART. I am glad to yield for that purpose but I renew the hope that we will have an explanation of this nominee as one who is dedicated to the great principles of civil rights as judged by the record, citing again the test of the President.

Mr. DOLE. I listened to the Senator from Michigan with great interest because I know of his integrity and great interest in this particular area, as he is a member of the Committee on the Judiciary. I heard the Sentaor express his views that perhaps in the past that committee and this body may have failed in their obligation in regard to the nomination of other judges, whether for the the district court, circuit court, or U.S. Supreme Court. The Senator undoubtedly considers that a U.S. district judge nomination is highly important. I am certain the Senator from Michigan passed on a number of those nominations in the Committee on the Judiciary, and assume that in every instance he felt the man was highly qualified.

Mr. HART. No. The hard truth is, and I think it does us all good to say it, in reviewing district court and circuit court nominations, the tradition, deep, rich, and perhaps unwise, is that, absent some extraordinary circumstance the recommendation of the Senators and the concurrence of Senators from the place of residence of the nominee rather assures a pro forma performance by the committee. This is unfortunate. If we had the capacity to legislate 2 extra days for every one of the 52 weeks, it is possible the committee would be able to do with respect to district judges and circuit judges what I suggest in this case and every one hereafter with respect to nominees for the Supreme Court.

I am acknowledging that in the past the committee and the Senate very probably failed to treat as very different the tests we apply to a man to go to the Supreme Court from the tests we apply to the man who goes into the Cabinet. We should demand some excellence.

Mr. DOLE. Mr. President, will the Senator yield further?

Mr. HART. I yield.

Mr. DOLE. I suggested that after the Haynsworth nomination was rejected, perhaps the Senate by its action, indicated there was a new test, the Haynsworth test. I suggested to the committee that perhaps this test should be applied to all future Court nominees, whether Republican or Democrat.

As I understand the Senator, there is a difference in his reasons for opposing Judge Haynsworth than his reasons for opposing Judge Carswell. Is that correct?

Mr. HART. I suggested quite to the contrary. There is a fundamental analogy between the two. The apparent conflict of interest resulting from economic interests, the apparent conflict of interest charged against Judge Haynsworth, was the possession of stocks. We developed the theory that even if there was in fact no actual influence or no actual impropriety, the appearance of impropriety, was too destructive of public confidence in the Court to permit the man to be seated.

I make the same suggestion with respect to Judge Carswell. There is an analogy between the opposition of Judge Haynsworth on conflict of interest and the opposition of Judge Carswell based on his insensitivity, based on the 1948 pledge that he would always be governed by the principle of white supremacy, so as to cause a loss of faith in the court—this, whether or not, in fact, as of 1970 he entertains any such notion. It is the appearance to minorities to whom we say, "Take your grievance to court." It is the appearance.

Given those circumstances it would persuade me to reach the decision, and others who could not vote for Judge Haynsworth because of apparent conflict of economic interest, that I cannot vote for Judge Carswell because of the same reason. It happens not to be economic but very deeply human.

Mr. DOLE. Perhaps I share the thought but not the conclusion the Senator exposed earlier, that more attention should be paid to nominations, whether they be for the district court, circuit court or U.S. Supreme Court.

I am reminded of a study prepared by Mary Curzan presented to the graduate school at Yale University on the selection of judges in the Fifth Circuit. In that paper she describes the contrast between the Kennedy administration and the Eisenhower administration and points out clearly that in the Kennedy administration the responsibility for judicial appointments was vested in Joseph Dolan, who was "a 'pol,' a former State legislator from Colorado, a Western organizer of the 1960 Kennedy campaign, a man who knew every county politician in the country by his first name."

I will quote from her report:

He sought to use his office both to strengthen the judiciary and to strengthen the political fortunes of the Kennedy Administration. If the two goals conflicted, he almost always preferred to advance the latter at the expense of the former. Thus, Dolan evaluated a judicial appointment to the Fifth Circuit not simply in terms of a man's qualifications but in the light of the future prospects of the entire Kennedy legislative program.

Summarizing on page 6 of this presentation she states:

Thus, the Kennedy Administration spent a considerable amount of time and effort conducting a "talent hunt" for competent administrators. It made no comparable effort to hunt for talent for the federal courts. In the Kennedy Administration, the Department of Justice tended to play a passive role in the judicial appointment process. Names were screened as they were presented to the Department. The Department had standards for making choices, but it did not have a mechanism to widen its choices.

I would point out this is an independent study indicating a basic contrast. Judge Carswell was appointed to the district court in 1958 by President Eisenhower who, according to the authority, placed great emphasis on appointing qualified judges. Then, last year, after a brief hearing by the Committee on the Judiciary, he was elevated to the circuit court. With respect to those who have said the man has no experience, I believe that that properly has been dispelled.

I disagree but do not quarrel with the Senator's conclusion but would add that other administrations have submitted other names. In fact, one that I believe the Senator voted for in committee was Francis X. Morrissey. This nomination was later withdrawn on the floor of the Senate, but the question of competency had been raised.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HART. I yield?

Mr. KENNEDY. At that time the proponent of that nomination had, I think, the wisdom to withdraw the nomination. Some of us who have expressed reservations about this nomination hope that same judgment would be expressed by the administration on this nomination.

Mr. DOLE. Mr. President, if the Senator will yield further. At the time the nomination was withdrawn, the Senator from Massachusetts made it very clear that we should not depend solely on the great law schools of our country for our judges and that if we restricted judicial appointments to the graduates of such schools, we would adopt a selective system which was fundamentally undemocratic.

I share that feeling. There have been some statements that only those who graduate from Yale or Harvard or who have written in law journals or other publications should be placed on the Supreme Court. That does not mean that those who have not done so should not be selected, whether it be Carswell, Brandeis, or Learned Hand, who had tried only two criminal cases when he was appointed.

Mr. KENNEDY. Did Morrissey ever say he was committed to racial supremacy?

Mr. DOLE. He did not say much at all, as I recall.

Mr. KENNEDY. Were any such statements as that brought out? The bar association made an investigation of that nomination. The members of the committee could have revealed any such statement if there had been any. Was there anything to suggest that he made expressions about white supremacy or racial segregation?

Mr. DOLE. He was not endorsed by the American Bar Association or the Boston Bar Association.

Mr. KENNEDY. Will the Senator answer the question?

Mr. DOLE. He did go to a law school in Georgia, a southern school, as Judge Carswell did. That question was not raised, so I do not know. I do not know what his views on that were or may be now.

Mr. KENNEDY. As I remember, the question the Senator from Michigan asked the Senator from Kansas was what information the proponents of Judge Carswell had that would indicate his belief in full human rights for all Americans. I think that was a question that is deserving of an answer, not only for this body but for all Americans.

Mr. DOLE. If the Senator from Michigan will yield further, I believe the question involved was one of competence. I have read the record and it never got beyond that question. I am not certain of the exact date hearings were concluded but there were differences of opinion. The vote was 6 to 3 in the committee. The Senator from Massachusetts, the Senator from Michigan, and I might say the Senator from Mississippi, chairman of the committee, voted to report the Morrissey nomination. I was not a Member of the Senate at that time. The point I make is that some set one standard in 1965 and then another one in 1970. When are we going to have one standard for all nominees, whether they come from the North, the South, the East, or the West? If we are going to have one standard, I will accept that; but if we are going to have a different standard based on different views of someone in this Chamber, such practice should be rejected.

Mr. KENNEDY. I agree with the Senator from Kansas. I think the same procedures should be followed as to the Carswell nomination as was followed in 1965, and the Carswell nomination should be withdrawn. But let me ask another question: Was Morrissey being nominated for the Supreme Court?

Mr. DOLE. I may ask the Senator, Does he think that makes a difference?

Mr. KENNEDY. I certainly do think so. I think the criteria for a Supreme Court nomination should be much higher than those for a district court nomination. Does not the Senator from Kansas believe it makes a difference?

Mr. DOLE. The Senator is saying that a judgeship on a Federal district court is a relatively unimportant position?

Mr. KENNEDY. I am not saying that. I asked the Senator whether the previous nominee was being nominated for the Supreme Court.

Mr. DOLE. He was being nominated for the district court, but the Senator from Massachusetts maintained he was qualified throughout.

Mr. KENNEDY. That is right.

Mr. DOLE. I happen to believe it is a highly important position. It is in a trial court not an appellate court. I am a lawyer, the Senator from Massachusetts is a lawyer, the Senator from Michigan is a lawyer, as is the Senator from Florida. In jest I might add there is one honest man in the Chamber, the Senator from Delaware (Mr. WILLIAMS), who is not a lawyer. At any rate, the question is: Are we going to have a different standard for different court nominees, whoever it might be, whether Carswell, Haynsworth, White, or whoever? It is time, perhaps that new standards be established and that the Judiciary Committee have extensive hearings with respect to all nominees for all court nominations. Carswell has been approved twice, perhaps in a rather summary way, by the Committee on the Judiciary and the Senate.

Mr. HART. Mr. President, if I could interrupt——

Mr. DOLE. The Senator from Michigan has the floor.

Mr. HART. The question now is whether we bring him up to the big leagues. If the management was wrong in moving him from D to C, it was unfortunate, but we now know, with his fielding, batting, and thinking, that he should not be moved forward.

Mr. DOLE. We made mistakes, in my opinion, when Justice Douglas and others were put on the High Court. I do not believe any of those in the Chamber now were Members of the Senate when that mistake was made.

Mr. HART. The Senator from Kansas has described four lawyers here. For the record we will not say how many others are here, in addition to the Senator from Delaware (Mr. WILLIAMS), who are not lawyers; but, as lawyers, do we not agree that we should seek from among the best to put on the Court? Is there a lawyer who quarrels with that, seriously?

Mr. DOLE. I hope not.

Mr. HART. Well, should that be the test from now henceforth?

Mr. DOLE. But should it be the test for the district court, should it be the test for the circuit court, and should it be the test for the Supreme Court?

Mr. HART. And if we have to parcel our time, let us start by putting such people on the Court of the greatest importance, both in substance and symbolism.

Mr. DOLE. I raised that question with the chairman following the rejection of the nomination of Judge Haynsworth on the Senate floor. The first two nominations for judges who came up were members of the party on this side of the aisle. I heard of some comments on that proposal.

I feel very sincerely that if we intend to improve the judiciary, it will take additional effort by the Judiciary Committee. I recognize that the Senator from Michigan and the Senator from Massachusetts have many other commitments, and there is not enough time. That applies to the Senator from Nebraska and all other members of the committee. Senators have a myriad of duties, but this should be done. I am not derogating the nomination debated here but am speaking generally.

Mr. HART. I can make a suggestion as to how we can be helped, and that is to let the Department of Justice and the Chief Executive apply the test I am suggesting before they send a name of anybody in here from among the best.

Mr. DOLE. President Eisenhower attempted to do that. Mrs. Curzan carefully describes those who were proposed. I was quoting an independent source that indicates there was quite a distinction between the Eisenhower administration and the Kennedy administration on judicial appointments; they were not solely made on a political basis by President Eisenhower.

Mr. HART. Did the objective study conclude that political factors were not at work in nominations made to the court in any administration?

Mr. DOLE. No; I do not believe that conclusion was reached.

Mr. HART. And, therefore, not in the Eisenhower administration, either?

Mr. DOLE. The emphasis was on competence, as it is today.

Mr. HART. My memory fails me at the moment. I cannot recall whom the Kennedy administration proposed for a Supreme Court vacancy, and whom we consented to.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HART. Yes.

Mr. KENNEDY. I think it was Justice Goldberg and Justice White. They were the two nominees.

Mr. HART. Justice Goldberg and Justice White. I hate to mention it, but Justice White was No. 1 in his class at Yale, but he would have been just as good if it had been at Michigan.

Mr. DOLE. Had he had a great deal of experience? Did he have wide judicial experience?

Mr. HART. He distinguished himself as a Rhodes scholar. I think there is great merit in both of those measures.

I think it is generally agreed that Justice Goldberg was one of the great figures of the American bar.

Mr. DOLE. In 1965 the then Senator from Florida, Mr. Smathers, indicated, if I am correct, that of the nine sitting Supreme Court Justices, only three had had prior experience on the bench. Perhaps that is not important. Some indicate it is; some indicate it is not. I recall the testimony of Mr. Segal, Mr. Jenner, and others from time to time in the hearings. They had a different view depending on the facts and circumstances.

I believe scholarship is an ingredient, but so is experience.

I come back to the experience of Judge Carswell. We cannot wipe it off and say he is not qualified. The Senator from Michigan looks at Judge Carswell and gives him credit for experience, maybe not much, but he gives him some credit for experience.

Mr. HART. I do. He has years of service in the Federal "league."

But my point is that it is not a record on which to move him up. The experience is there, but is the quality?

I yield to the Senator from Florida.

Mr. GURNEY. I say yes, although I do not want to get into the argument about the excellence of the nominee. All of us can make up our minds on that. I think our opinions could differ.

There is nothing undistinguished about the bar of Florida. Florida is the eighth largest State of the Union; but Judge Carswell was regarded by his colleagues there as an excellent judge, with a fine legal background.

Mr. HART. If the Senator will yield, I will agree that the point he makes does have relevance. All of us ought to resolve in our own minds how we will

decide this issue. It is relevant, and I will admit that we all have our own opinions.

Mr. GURNEY. Senators could argue here all day, and I do not think they would change each other's opinion on the issue of excellence. I was not interested in that. But another point does disturb me, and that is the point of sensitivity, which has been raised here so many times. In a way, I think it may be the main issue in this nomination and the vote by the Senate.

It puzzles me how the opposing members of the Committee on the Judiciary, the Senator from Michigan, who has the floor as well as the others who joined him in the minority report, can overlook the statement of Charles Wilson.

I have done some telephone calling back home during the argument here, checking with lawyers who could tell me personally about what has gone on in civil rights cases in Florida before Judge Carswell's court. They all tell me that Charles Wilson, a Negro attorney, actually began the civil rights prosecutions in Florida. He was the first lawyer, black or white, for that matter, to engage in civil rights litigation in Florida on the side of black plaintiffs. He spent 5 years in Judge Carswell's court, in all kinds of cases, desegregation cases in the schools as well as others.

This black lawyer has had more experience before Judge Carswell and in his court on civil rights cases than any other lawyer, all during this time; and, of course, the letter he wrote to Senator EASTLAND, the chairman of the Committee on the Judiciary, is found on page 328 of the record of the hearings.

He tells about what he did:

I represented plaintiffs, in civil rights cases in the Federal Court for the Northern District of Florida, which was then presided over by Judge G. Harrold Carswell. I also represented criminal defendants and other civil clients in his court during this period of time.

This is interesting:

Previous to his taking the bench in 1958, I had opposed him as defense counsel in criminal prosecutions brought by the United States when he was United States Attorney.

Now, here is the important thing:

As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court, there was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions.

For the life of me, I cannot see how Senators, in the face of evidence like that, can come here and say that Judge Carswell is insensitive, that he is not interested in human rights, that he does not like black people, that he does not give them a fair shake in his court.

The interesting thing about Mr. Wilson is that his present service, incidentally, is as Deputy Chief Conciliator for the U.S. Equal Employment Opportunity Commission, an appointment apparently made during the Johnson administration.

It seems to me this is the kind of direct evidence, by a lawyer who was personally present and who was part of the action for 5 years in Judge Carswell's court, that is the important thing. This is persuasive to me. Not nearly so persuasive is the testimony of a law professor, however eminent he may be, or a lawyer in New York, however eminent he may be. The opinion of such a witness on insensitivity or sensitivity does not bear nearly as much weight as that of this black lawyer, who was there in that court.

Mr. HART. Mr. President, I think in my remarks I acknowledged that there would be those among us who feel that the record does not conclusively resolve this particular question, and we shall each read the record and reach our individual conclusions.

But may I ask, how does one respond to the testimony of Professor Clark, a black lawyer who was, as I understand it, in charge of civil rights litigation generally in the southeast part of the country? He had had an opportunity to judge the performance of a number of Federal judges in that circuit, and he tells us, with respect to the nominee:

He was probably the most hostile judge I have ever appeared before. He was insulting to black lawyers, and he rarely would let me finish a sentence. . . .

It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel.

He went on to describe that he was so hostile and insulting to Negro lawyers that, when newcomers were getting ready to go to court in the interest of civil rights petitions or actions, he, Professor Clark, would spend the night before having them go through their addresses "while I harassed them as preparation for what they would get the following day."

That has a ring of truth to it, too.

Mr. GURNEY. I will say to the Senator from Michigan that of course that is a bit of evidence that we have to weigh.

Mr. HART. That is what we are talking about, bits and pieces.

Mr. GURNEY. I hope I can get some answers, not only to Clark but to Lowenthal, and I think one other professor who was involved in some of this litigation in Florida.

I do think, though, that even if you take their testimony as being of some weight, that, on a one-shot deal, which apparently is what they were engaged in down in Florida, it is not nearly as persuasive to me as a lawyer, and I am sure it is not to the Senator from Michigan as a lawyer, because he has been trying to weigh evidence and the importance of evidence, and what is perhaps more important than something else.

To me, when a black lawyer whose job it is to prosecute and defend civil rights cases, who spent 5 years in this district court of Judge G. Harrold Carswell, says that this man "was courteous at all times and fair to me, a black attorney representing black litigants," that is very persuasive, and I do not see how it can be ignored.

Mr. HART. The Senator from Florida properly describes it as a piece of evidence, when he talks about Professor Clark's testimony. The same description can attach to the piece of evidence reflected by the expression of views of Charles F. Wilson. All of us must resolve, through a multitude of these instances and examples and assertions and contradictions, precisely, first, what this man is as a person, and second, what this person on the Supreme Court would appear to be to black Americans.

That is where I find there is an analogy between the apparent conflict of economic interest that we raised as to Judge Haynsworth and the apparent conflict of human interest that we assign as a reason to reject the nomination of Judge Carswell.

Does not all this evidence raise enough serious questions about his hostility, on top of the white supremacy speech, to make us hesitant to tell the people of this country, "You can trust this man to be fair?"

Mr. GURNEY. If the Senator will yield further, turning to another bit of evidence that I noticed in the news this morning, about a lawyer in Florida, from Panama City, as I recall—and I think there is other testimony in the record about this—great weight, or some weight, I will say, has been placed upon the fact that when a lawyer was arguing before Judge Carswell in court, in some of these civil rights matters, he turned around and faced the wall, did not face the lawyer and look at him. I am not familiar with the law practice of the Senator from Michigan, but I can speak of my own personal view that I do not think I ever argued a case that took any length of time in which the judge and I locked eyes all the time and stared at each other all the time. It is just human nature that the judge will turn around in his chair and look at the wall, but listen.

This kind of evidence about the insensitivity or lack of sensitivity of a judge in these civil rights matters—I am appalled that that kind of evidence is even trotted out on the floor of the Senate, to say that a man is hostile to black litigants and black lawyers. To me, it smacks of trying to build a case that the opponents want to build and they cast around the country, so they can drum up support for their belief.

Mr. HART. Mr. President, the items we raise, we raise in an effort to assure that our decisions shall be right, that it shall be wise in history's verdict.

If there were nothing else in the record save the question—phrase it as you will—Are we discussing now one among the gifted few at the American bar who shall be put on the Supreme Court, or are we not? The answer is disturbing when we hear talk such as, "Let us raise our sights and let us apply tests uniformally," then now is the time to begin, if we have been lax in the past in insisting on demonstrable excellence.

If there is doubt that the bits and pieces—the Senator from Florida says every lawyer has argued a case to a judge who has turned his back. If all these items raise doubts, then let us resolve the doubt in favor of the disadvantaged American who is being persuaded to seek his relief in the court.

I probably will regret seeing this in the RECORD in the morning, although,

having said this clearly, it is not a slip of the tongue; but I know now, and every black lawyer will know, that if this nominee's back is turned to him during the course of an argument, there is on the wall above him, "I am a white supremacist, and I pledge that I always shall be."

This may not describe in the least the motive of this nominee in turning his back. It may be just as inappropriate and inoffensive as backs turned to me when I have tried to persuade judges. But there is the appearance that is now clear for all to see that I suggest raises the same kind of conflict that we talked about in the Haynsworth matter. What we seek to do is to develop those elements in this record which will enable us to answer the question wisely: Do we consent or withhold our consent?

Mr. GURNEY. Mr. President, will the Senator yield further?

Mr. HART. I yield.

Mr. GURNEY. I do not want this in any way to be interpreted as disparaging the sincerity of the Senator from Michigan; but, literally, if we take what the Senator has just said as the gospel truth, then I think we had better put a new canon in the canons of ethics of Federal district court judges: "Thou shall never turn thy back upon any attorney, but will always face him full in the face."

Mr. HART. Does the Senator know of anybody else nominated to the Supreme Court who pledged his people that he will always be governed by the principles of white supremacy? If there is such a one, we would take precisely this position, of cautioning that to preserve confidence in the Supreme Court of the United States, we can and should do better than that one.

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

Mr. HART. I hope we do not have to add as a canon of professional ethics a caution against voicing the supremacy of the white. I hope all of us understand this—that we do not need it in our canons.

Mr. GURNEY. I would answer the Senator there—as he knows what the answer is—that any one of us has made statements on the political hustings that I am sure we are ashamed of, that we would like to delete, that we would like to rephrase, that we wish we had never said. I know I have, and I suspect the Senator from Michigan has.

Mr. HART. When I visited with Judge Carswell in the committee, I said the same thing. But I also said that what troubles me, and will trouble others, is that in a basic sense part of what we are is of what we were, and what we are now is part of what we shall be. Many people understand that when they look at me and wonder whether I really meant it and whether I have ever changed my mind about some of the idiotic things I have said on the hustings. That is what people will always wonder about if, in looking at the Supreme Court, they see a man who once said that he would always be a white supremacist. Is it still a part of him?

I think it is a mistake to raise that kind of apparent conflict in the 1970's in this country.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. HART. I yield.

Mr. DOLE. Let me say that I know the Senator from Michigan to be a fair man. I have known him in other circumstances far removed from this Chamber, and there can be differences of opinion.

There is evidence to indicate that certainly Judge Carswell is highly qualified. I am not going into the discussion of mediocrity as that question was raised on your side of the aisle. But there is evidence in the record that, despite the statement made, which has been declared by the nominee as being obnoxious to him at this time, it has been repudiated.

There is other evidence. As the Senator from Florida has stated and as the Senator from Michigan has stated, these are all bits and pieces. We must weigh them. Some have more weight than others.

Frankly, I was impressed with the statement inserted in the RECORD yesterday of Prof. James Moore, professor of law at Yale, in his discussion of Judge Carswell in what he felt Judge Carswell's attitude was toward members of minority groups. He pointed out that he is part American Indian, so he can speak with some authority; and he gave Judge Carswell very high marks for his successful efforts to establish a law school. It was made very clear by Carswell that there should be no bias because of race.

So as the Senator from Michigan and the Senator from Florida have said, it is all evidence that must be weighed by each of us. Some may reach a different conclusion. But I share the hope that the Senator from Michigan has expressed that perhaps, whatever may happen here, this signals a closer examination of judicial nominees—Democrat or Republican, district court or circuit court or the Supreme Court. If we confirm the nomination of a man once, twice, or three times in a perfunctory manner, that is our fault, and we do a disservice. We have a right to raise a question at any time but nonetheless I believe the evidence at this point favors Judge Carswell.

I might add that I have not made any final determination. I want to support Judge Carswell unless there is evidence that I should not.

I tried to reach Judge Tuttle this morning by telephone because of some confusing statements—at least in my thought—about his telegrams. He said the telegrams were solicited by the senior Senator from Maryland. He felt that they were very clear, and he did not want to discuss the nomination further. I believe he has some obligation. If he now is opposed to Judge Carswell, as a responsible member of the judiciary he has an obligation to those of us in the Senate to make his views known. Why should he hide his views? If he is opposed to Judge Carswell for some specific reason, we should know, and if he is not, we should know that; because, apparently, much weight has been given to the three telegrams. But again I say to my friend from Michigan that I trust he will permit us to weigh the evidence, the same evidence he does, and perhaps reach a different conclusion.

Mr. HART. Mr. President (Mr. GURNEY), of course that is what we are about. That is what we are seeking to do. In the case of Judge Haynsworth, we weighed the evidence and we resolved the doubts, perhaps hesitantly and reluctantly, against Judge Haynsworth to preserve confidence in the Supreme Court. I believe that we cannot do any less here, and I would hope that the nomination will not be confirmed.

Mr. President, I yield the floor.

SENATE RESOLUTION 373—SUBMISSION OF A RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT LAWS RELATING TO STRIKES BY GOVERNMENT EMPLOYEES SHOULD BE ENFORCED

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent, as in legislative session, to submit a resolution. For the information of the Senate, I ask that it be read.

The PRESIDING OFFICER. The resolution will be stated for the information of the Senate.

The legislative clerk read as follows:

S. RES. 373

Whereas section 7311 of title 5, United States Code, provides, inter alia, that an individual may not accept or hold a position in the Government of the United States if he participates in a strike, or asserts the right to strike, against the Government of the United States, or is a member of an organization of employees of the Government of the United States that he knows asserts the right to strike against the Government of the United States;

Whereas section 1918 of title 18, United States Code, makes it a Federal criminal offense, punishable by a fine of not more than $1,000 or imprisonment of not more than one year and a day, or both, to violate the provisions of section 7311 of title 5, United States Code; and

Whereas, reportedly numerous employees of the postal field service have participated in a strike against the postal service in New York City and other cities in the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Postmaster General should immediately take such measures as may be necessary to enforce the provisions of section 7311 of title 5, United States Code, and

(2) the Attorney General should immediately take such measures as may be necessary to enforce the provisions of section 1918 of title 18, United States Code,

with respect to any individual striking, or asserting the right to strike, against the United States Post Office Department.

Mr. WILLIAMS of Delaware. Mr. President, I am sure we all recognize the importance of this resolution. Rather than proceed tonight, I ask unanimous consent that the resolution be placed directly on the Senate Calendar.

The PRESIDING OFFICER (Mr. GURNEY). Is there objection to the request of the Senator from Delaware? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADJOURNMENT TO 11 A.M.

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the previous order that the Senate stand in adjournment, as in legislative session, until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 5 minutes p.m.) the Senate adjourned, as in legislative session, until tomorrow, Friday, March 20, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 1970:

U.S. DISTRICT JUDGE

Andrew W. Bogue, of South Dakota, to be U.S. district judge for the district of South Dakota, vice Axel J. Beck, retired.

U.S. MARSHAL

Donald D. Hill of California to be U.S. marshal for the southern district of California for the term of 4 years, vice Wayne B. Colburn, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, March 19, 1970*

The House met at 11 o'clock a.m.

The Right Reverend Protopresbyter Nikolaj Lapitzki, Byelorussian Orthodox Church of St. Euphrosynia, South River, N.J., offered the following prayer:

In the name of the Father, and the Son, and the Holy Ghost.

Almighty God, and our Father, the source of justice, on this day commemorating the anniversary of independence of Byelorussia, we humbly bow our heads and pray that Byelorussia, and all other captive nations, may soon receive a new birth of freedom.

O, all generous God, the source of wisdom, bless and instruct the leaders and legislators of the United States of America, so that they would arrive at the decisions which would lead to peace and freedom for all mankind in the world.

Almighty Father, the source of love and kindness, shorten the days of misunderstanding among nations, and give peace and Your blessings to all the people on the earth.

Thou art the Saviour and Protector, and we glorify Thy name today and shall forever. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2882. An act to amend Public Law 394, Eighty-fourth Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Ariz.

The message also announced that the Vice President, pursuant to Public Law 91–213, appointed Mr. TYDINGS and Mr. PACKWOOD to the Commission on Population Growth and the American Future.

THE RIGHT REVEREND PROTOPRESBYTER NIKOLAJ LAPITZKI

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTEN. Mr. Speaker, it was our privilege to hear the opening prayer by the Right Reverend Monsignor Protopresbyter Nikolaj Lapitzki of the Russian Orthodox Church of South River, N.J.

I would like the Members of the House to know that the Byelorussians consider themselves a separate nation. They have long been in the forefront for real freedom and religious liberty.

They consider their people in Russia as one of the captive nations. You would love these people. They love America. They love freedom, and they love their God and their church.

Mr. Speaker, it was a pleasure to hear one of their leaders, the Right Reverend Protopresbyter Nikolaj Lapitzki give the opening prayer here today.

MINE OFFICIALS SYMPATHETIC TO COAL MINERS ARE BEING FIRED

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute.)

Mr. HECHLER of West Virginia. Mr. Speaker, an article by Mike Causey in yesterday's Washington Post indicated that the White House, in its attempts to "purify" the staff of the Bureau of Mines, is firing or planning to fire certain employees who have been associated with the United Mine Workers. If such a step is being taken because of the recent turmoil within the United Mine Workers, I would like to state that this is a cruel, tragic development. Bureau of Mines officials who have had experience as coal miners probably were good, faithful, honest, and efficient members of the United Mine Workers. If there are prejudices being exercised against them, the administration of the Bureau will be lopsided. What about those with past experience as coal operators?

Mr. Speaker, this practice must stop, and honesty, objectivity, and fairness be restored to the Bureau of Mines.

DISTRICT OF COLUMBIA OMNIBUS CRIME BILL

(Mr. HOGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOGAN. Mr. Speaker, today we are taking up one of the most important pieces of legislation ever considered for the District of Columbia.

I would like to try to correct some of the misconceptions in circulation about the so-called no-knock provision in the District of Columbia omnibus crime bill, H.R. 16196.

The most important point I wish to make is that the police already have no-knock authority. H.R. 16196 provides an additional protection to the citizen and clarifies the doctrine for the policeman.

The U.S. Supreme Court in Ker against California upheld the constitutionality of an entry without notice and recognized the existence of the doctrine of exigent circumstances under which an officer may dispense with notice. The 29 States that have confronted the issue have allowed entry without notice either through express statutes or judicial application of the common law exceptions to the general rule requiring notice.

The second misconception is that entry without notice is an unwarranted and unconstitutional invasion of the citizen's right to privacy. This is also totally inaccurate. The provision deals only with the method of entry into premises. It has nothing to do with whether the entry is legal.

The misconceptions pertaining to entry without notice make it clear that some definite standards should be enacted to govern when police must announce and when they need not. If Congress does not set out guidelines, how can we expect our law enforcement officers to know what to do on the spur of the moment in a dangerous situation?

Unfortunately, dangerous robbers, rapists, and murderers in the Capital City consider an identifying policeman at their door an appropriate shooting target. We cannot tolerate this. We must give the police a method of avoiding injury and death by enacting this no-knock provision.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORTS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight tonight to file certain reports.