Mr. Speaker, I include Dr. Mitchell's letter and the news clipping to which he refers in the RECORD at this point:

VANDERBILT UNIVERSITY,
Nashville, Tenn., January 28, 1970.

Hon. CLIFFORD M. HARDIN,
Secretary of Agriculture of the United States, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. HARDIN: A bulletin from UPI which was printed in today's Nashville Tennessean (see inclosure) is most disturbing. It is incredible that any competent scientific advisory committee would recommend easing of the Agricultural Department's regulations on the use of leukosis bearing chickens for human consumption. There is a growing mass of evidence to support the thesis that human tumors (especially leukemia, lymphosarcoma, and osteogenic sarcoma) possess a viral etiology. From the wording of the UPI story, it would appear that the advisory committee's decision was based on the belief that a fowl virus would not be transmissible to other species. This is clearly not the case with regard to the Rous sarcoma virus in fowl which can be passed to mammalian cells (Svoboda, J., Nature, *186*, 980, *1960;* Chyle, P., Simkovic, D., and Hilgert, J., Folia Biol., (Prague), *9*, 77, *1963*). It would appear that rather than relaxing the rules concerning the sale of fowl bearing probable virus induced tumors, the rules should be tightened to the point of,

1. Destruction of strains with a high leukosis incidence.

2. The banning of use in animal foods (i.e., to prevent the possible establishment of new oncogenic lines in household pets and their possible establishment as an oncogenic viral reservoir in human disease).

I would be greatly interested in the composition of the scientific advisory committee that made this recommendation to the Department of Agriculture (as reported by the UPI).

Sincerely,
WILLIAM M. MITCHELL, M.D., Ph.D.,
Assistant Professor of Microbiology and Medicine.

DISEASED CHICKEN SALE PLAN PROTESTED

WASHINGTON.—The Consumer Federation of America (CFA) and the Butchers Union protested yesterday a recommendation that the government relax its ban against sales of certain diseased chickens for human consumption.

A scientific advisory panel recommended that the Agriculture Department regulation requiring condemnation of all chickens showing signs of leukosis, a cancer-like complex of poultry diseases, be eased on grounds scientists see no link between the ailment and diseases in humans.

But the recommendation was denounced yesterday by the CFA and Amalgamated Meat Cutters & Butcher workmen who said it would permit poultry processors to sell diseased birds to unsuspecting grocery shoppers, possibly subjecting them to leukosis.

Rep. Benjamin S. Rosenthal, D-N.Y., chairman of a House consumer subcommittee, also urged the administration to give consumers a say-so in deciding whether to follow the recommendation.

Under current regulations, all chickens showing any sign of leukosis are barred from sale for human consumption, but may be sold for pet food. Under the recommendations, entire chickens would be condemned if they showed massive leukosis evidence. But if only minor tumors were found, inspectors would condemn the flawed part and the rest could be sold for human food.

Mr. Speaker, I would like to commend the Secretary of Agriculture for his prompt decision in this matter, which was announced on February 5. At that time, the Secretary announced that:

No changes will be made in the long-standing Federal inspection policy under which poultry affected with diseases of the leukosis complex are condemned.

Also, I would like to commend individuals such as Dr. Mitchell for showing their immediate concern and expressing it to Secretary Hardin. I am certain that this had a very positive impact on Secretary Hardin and influenced him in arriving at a decision at an early date.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

SENATE—*Friday, March 20, 1970*

The Senate, as in legislative session, met at 11 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

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

God of our fathers and our God, who has made and preserved us a Nation, we thank Thee for freedom's pioneers, for the heroes' valor, the patriots' devotion, and the toil of brain and hand by which this Nation has become great and strong. We bless Thee for our place in the march of life, for the sturdy warriors of the spirit who have moved ahead, and for the singing youth in the ranks behind. However few or many our days, we thank Thee for life, and that it is lived now when new vistas beckon and new disciplines are demanded.

As we offer to Thee the service of our minds and hearts this day, we pray that Thou wilt keep the Senate, our country, and our people in Thy hand. May this Nation ever be a light of hope to all who honor Thee and a means of grace to all who know Thee not.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 19, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills; and they were signed by the Acting President pro tempore (Mr. METCALF):

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President (Mr. RIBICOFF), I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECOGNITION OF SENATORS THURMOND AND McGOVERN THIS MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Kentucky (Mr. COOK), the distinguished Senator from South Carolina (Mr. THURMOND) be recognized for a period not to exceed 20 minutes and that the distinguished Senator from South Dakota (Mr. MCGOVERN) be recognized following the remarks of the distinguished Senator from South Carolina (Mr. THURMOND) for a period of not to exceed 20 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from South Dakota (Mr. MCGOVERN), there be a brief period for the transaction of routine morning business with a time limitation of 3 minutes.

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

S. 3614—INTRODUCTION OF THE FEDERAL PROCUREMENT AND ENVIRONMENTAL ENHANCEMENT ACT OF 1970

Mr. COOK. Mr. President, environmental pollution is one of the most immediate and serious problems confronting our Nation today. Of late, much has been said of the continued abuse of our air, water, and land resources.

However, it is only very recently that we have concerned ourselves with the effects of the Federal Government's activities. To his credit, the President has recognized some of the direct ill effects resulting from actions at federally operated facilities throughout the country. In the Executive order of February 4, he stated that the Federal Government must "provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources." That order required all facilities under the jurisdiction of the U.S. Government to comply with the Clean Air Act and the Federal Water Pollution Control Act. Certainly, we all agree with this policy and I hope that Congress will consider legislation extending it to the logical and ultimate conclusion.

The total Federal budget is expected to be over $200 billion this year and for several years in the immediate future. A very substantial portion of this is necessary for day-to-day operation. Because the Government of the United States is the single largest purchaser of goods, materials, and services, its impact on the environment cannot be ignored.

To insure that the Federal Government does not contribute to the continued degradation of the environment, even indirectly, I am introducing the Federal Procurement and Environmental Enhancement Act of 1970. If enacted, it would prohibit all departments, independent agencies, and other instrumentalities of the United States using federally appropriated funds, from purchasing goods, materials, or services from any person operating in violation of either the Federal Water Pollution Control Act or the Clean Air Act. In effect, it becomes the policy of the U.S. Government not to do business with pollution lawbreakers. This purpose is accomplished by amending both the Federal Water Pollution Control Act and the Clean Air Act.

Congress has often in the past declared that a specific and desirable social policy be followed in the Federal Government's dealings in the free marketplace. To cite an example, American manufactured materials and American mined supplies are required for use in public contracts for the construction and repair of public buildings. Congress has also declared that a fair proportion of the total purchases for property and services be set aside for small business concerns. In addition, standards for minimum wages, maximum hours, child labor, and safe working conditions have been established by the Congress for Government purchasing contracts. These polices have been implemented at the highest level, rather than on a piecemeal departmental basis. In this manner, a uniform—rather than a disjointed or even nonexistent—Federal effort has been achieved.

To facilitate enforcement, this bill requires the establishment of contract regulations, and the insertion thereof, in all Federal procurement contracts. The following four paragraphs summarize and explain the required language:

First, the contractor or seller agrees to furnish adequate proof of compliance with the aforementioned air and water pollution acts, or, in the alternative, at the time of contract the seller agrees to implement an affirmative plan for compliance pursuant to those acts.

Section (c)(1) takes into account those manufacturers who are earnestly trying to comply with Federal pollution laws, while penalizing those who refuse to comply. It also permits the transaction of business with those persons who have filed implementation schedules with the Federal Water Pollution Control Administration and the National Air Pollution Control Administration.

Second, upon notice of a violation—and with notice to the seller—the Government is compelled to terminate the agreement. Section (c)(2) also relieves the Government of any damages, penalties, or other liabilities that normally accrue by unilateral termination.

Third, section (c)(3) permits the continuance of a contract, otherwise terminated, if the seller has implemented an affirmative plan or schedule pursuant to the air and water pollution control acts.

Fourth, the last contractual requirement, section (c)(4) exempts the Government from adjusting either the contract price or the delivery or performance schedule due to continuation of the agreement under (c)(3).

A distinction is made in section (f) between a "contract directly related to a pollution action" and all others. Only in the former would the termination, continuance, and exemption procedures of (c)(2), (3) and (4) apply. The Secretary of the Department of Health, Education, and Welfare or of the Department of the Interior, after consulting with the appropriate contracting agency head, determines the direct relatedness of the pollution action to the contract.

As an example, where the "X" supply company's paper factory is violating either the air or water pollution control law—all "X" paper contracts with the Government are subject to immediate suspension and termination. However, all other "X" contracts supplying other office equipment are not subject to this immediate action.

Section (F) is intended to prevent undue chaos where a large manufacturer supplies a diverse number of items to many Government agencies. An immediate end to all such contracts may produce unnecessary adverse effects. Therefore, this section provides that such contracts not directly related "shall continue until completed, at which time the prohibition becomes effective." Consequently, once the Government is notified that "X's" paper factory is an unrepentant polluter, henceforth, "X" will be ineligible for all procurement contracts.

Section (A) declares that such person is ineligible for a period of up to 3 years. At the discretion of the Secretary, the seller may become eligible prior to 3 years if he determines that the pollution has been abated.

To insure that the vast reaches of the Federal bureaucracy are informed of individual violations, section (b) causes both the Secretary of the Department of Health, Education, and Welfare and the Department of the Interior to establish the necessary notification procedures.

Finally, section (d) exempts the Department of Defense from this act, if the Secretary determines that such exemption is necessary for national defense. It does provide, however, for public hearings on the pollution action. In this manner, the necessary attention may be focused on the problem to encourage voluntary compliance.

Mr. President, I do not expect this bill to be a cure-all for the restoration of the environment to its formerly pristine nature. However, we must use every available tool to combat its continued degradation. Equally important, there is a need to provide leadership and direction for both industry and State and local governments. Should the Congress enact all of the pending antipollution bills and still allow the Government of the United States to act as an accomplice to lawbreakers—we have failed in our moral obligation to the public.

Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. MANSFIELD) be added as a cosponsor of the bill.

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

Mr. COOK. Mr. President, I introduce the bill and ask that it be appropriately referred. I also ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 3614), to amend the Federal Water Pollution Control Act and the Clean Air Act in order to provide assistance in enforcing such acts through Federal procurement contract procedures introduced by Mr. COOK, for himself and Mr. MANSFIELD, was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3614

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Procurement and Environmental Enhancement Act of 1970".

SEC. 1. The Federal Water Pollution Control Act is amended by redesignating sections 12 through 13 as sections 13 through 20, respectively, and inserting after section 11 a new section as follows:

"DECLARATION OF PURPOSE

"SEC. 12. The Congress hereby declares that all Federal departments, independent agencies and other instrumentalities of the United States using appropriated funds shall not contribute to environmental pollution by contracting for goods, materials and services with those persons in violation of the Federal Water Pollution Control Act.

"COOPERATION BY FEDERAL DEPARTMENTS AND AGENCIES IN ENFORCEMENT

"SEC. 13. (a) Any person (including for the purposes of this section, an individual, corpo-

ration, partnership, or other private organization) ordered to abate any pollution by a court in a suit brought pursuant to section 10(g) of this Act, or found not complying with any law, regulation, or standard for the purpose of subsection (c)(1) of this section, shall be ineligible to enter into any contact for the procurement of goods, materials and services with any Federal department, independent agency or any instrumentality of the United States using appropriated funds (1) during the three year period following the date on which such department or agency receives notification of such order or finding from the Secretary, or (2) at the discretion of the Secretary on a date prior to the termination of such period when the Secretary determines that such abatement has been carried out as ordered or finding terminated.

"(b) The Secretary shall establish procedures to provide all such Federal departments and agencies with the notification necessary for the purposes of subsections (a) and (f).

"(c) The Secretary shall establish by regulations, which shall be made effective not later than 90 days after the effective date of this section, provisions which shall apply to each contract entered into by any such Federal departments or agencies with any person, and which—

"(1) require such person to furnish at the time of entering into such contract (A) proof of compliance with all applicable water pollution control laws, regulations and standards, or (B) an affirmative plan and implementation schedule pursuant to this Act.

"(2) upon notice from the Secretary, require the Federal Government, represented by the appropriate department or agency head, to terminate such contract, at any time and without payment of any penalties or damages, and upon due notice to that person that such person is not complying with applicable water pollution control laws, regulations, or standards; or

"(3) reserve to the Federal Government, represented by the appropriate department or agency head, the right to continue such contract if such person has implemented an affirmative plan or schedule pursuant to this Act.

"(4) exempt the Federal Government from adjusting the contract price for any resulting increased costs or the adjusting of any delivery or performance schedule due to the continuance of the contract under subsection (c)(3).

"(d) After public hearings the Secretary of Defense may exempt any contract from the provisions of this section (including regulations pursuant to this section) upon determining that such exemption is necessary for the purpose of national defense.

"(e) The Secretary shall annually report to the Congress, on measures taken toward implementing the purpose and intent of this Act, including but not limited to, (1) the progress and problems associated with implementation of this Act; and (2) the status of enforcement actions taken pursuant to this Act.

"(f) Subsections (c) (2), (3) and (4) shall apply only to a contract directly related to a pollution action of Section 13(a). Any other contracts between that person and such departments and agencies that are not directly related shall continue until completed, at which time the prohibition in Section 13 (a) becomes effective.

"(g) The Secretary, after consultation with the appropriate department or agency head, shall determine whether the action is directly related to the contract."

SEC. 2. The Clean Air Act is amended by inserting after section 111 a new section as follows:

"DECLARATION OF PURPOSE

"SEC. 112. The Congress hereby declares that all Federal departments, independent agencies and other instrumentalities of the United States using appropriated funds shall not contribute to environmental pollution by contracting for goods, materials and services with those persons in violation of the Clean Air Act.

"COOPERATION BY FEDERAL DEPARTMENTS AND AGENCIES IN ENFORCEMENT

"SEC. 113. (a) Any person (including for the purposes of this section, an individual, corporation, partnership, or other private organization) ordered to abate any pollution by a court in a suit brought pursuant to section 108 (c) or (g) of this Act, or found not complying with any law, regulation, or standard for the purpose of subsection (c)(1) of this section, shall be ineligible to enter into any contract for the procurement of goods, materials and services with any Federal department, independent agency or instrumentality of the United States using appropriated funds (1) during the three year period following the date on which such department or agency receives notification of such order or finding from the Secretary, or (2) at the discretion of the Secretary on a date prior to the termination of such period when the Secretary determines that such abatement has been carried out as ordered or finding terminated.

"(b) The Secretary shall establish procedures to provide all such Federal departments and agencies with the notification necessary for the purposes of subsection (a).

"(c) The Secretary shall establish by regulation, which shall be made effective not later than 90 days after the effective date of this section, provisions which apply to each contract entered into by any such Federal department or agency with any person, and which—

"(1) require such person to furnish at the time of entering into such contract adequate proof of (A) compliance with all applicable air pollution control laws, regulations, and standards, or (B) an affirmative plan or implementation schedule pursuant to this Act.

"(2) upon notice from the Secretary, require the Federal Government, represented by the appropriate department or head to terminate such contract, at any time and without payment of any penalties or damages, and upon due notice to that person that such person is not complying with applicable air pollution control laws, regulations, or standards; or

"(3) reserve to the Federal Government, represented by the appropriate department or agency head, the right to continue such contract if such person has implemented an affirmative plan or schedule pursuant to this Act.

"(4) exempt the Federal Government from adjusting the contract price for any resulting increased costs or the adjusting of any delivery or performance schedule due to the continuance of the contract under subsection (c)(3).

"(d) After public hearings, the Secretary of Defense may exempt any contract from the provisions of this section (including regulations pursuant to this section) upon determining that such exemption is necessary for the purpose of national defense.

"(e) The Secretary shall annually report to the Congress, on measures taken toward implementing the purpose and intent of this Act, including but not limited to, (1) the progress and problems associated with implementation of this Act; and (2) the status of enforcement actions taken pursuant to this Act.

"(f) Subsections (c) (2), (3) and (4) shall apply only to a contract directly related to a pollution action of section 113(a). Any other contracts between that person and such departments and agencies that are not directly related shall continue until completed at which time the prohibition in section 113(a) becomes effective.

"(g) The Secretary, after consultation with the appropriate department or agency head, shall determine whether the action is directly related to the contract."

ORDER OF BUSINESS

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

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

S. 3615—INTRODUCTION OF A BILL TO PROVIDE FOR ORDERLY TRADE IN TEXTILE ARTICLES

Mr. THURMOND. Mr. President, I introduce, for appropriate reference, a bill to provide for orderly trade in textile articles, in which I am joined by the senior Senator from New Hampshire (Mr. COTTON), the senior Senator from Pennsylvania (Mr. SCOTT), and the senior Senator from Nebraska (Mr. HRUSKA).

Mr. President, the legislation I have introduced today is designed to provide relief for the American textile industry from the ruinous threat of foreign imports. I am introducing this bill in response to the resolution adopted by the American Textile Manufacturers Institute yesterday at its meeting in San Francisco.

Mr. President, I regret the necessity to introduce such legislation but unfortunately the Japanese just this week have made demands and set conditions for further negotiations looking toward a voluntary agreement to curb imports that are so unreasonable as to be ridiculous.

The Japanese have said, in effect, that they must be guided in their negotiations with the United States by the principle "no injury, no restraint." They said that if the United States can provide evidence of injury on an item-by-item basis which is acceptable to the Japanese they will agree to control exports to the United States of the items in question. Otherwise, if the United States wishes to refer the matter to the Tariff Commission, which the Japanese describe as a fair and neutral organization, the Japanese Government will possibly be willing to accept the findings of the Tariff Commission with regard to injury.

In its communique to the United States, they included in their comment this incredible statement:

> On the basis of the incomplete data and explanations thus far presented by the government of the United States, the government of Japan cannot but conclude that they can find no items causing or threating to cause injury.

This is indeed a most unfortunate statement. The tenor of the Japanese memorandum to the United States has infuriated a number of people both in the textile industry and in the Government.

Mr. President, the State of South Carolina is the textile capital of the United States. What happens in the textile industry reverberates throughout the Palmetto State for textiles and textile-related industries account for 75 percent of the industrial wages in South

Carolina, 70 percent of the industrial employment, 68 percent of the annual product value, and some 50 percent of the capital investment. There is no question but that our textile industry is the most modern in the world and if that statement is doubted by anyone here I invite them to visit our plants.

While it is true that no other State has a higher degree of textile concentration than South Carolina this is nevertheless a nationwide industry essential to the interest of the country. In addition to the people who are employed in the production of textiles, there are some 3 million Americans engaged in various support activities such as transportation, the supplying of raw materials for the industry, and in the selling of the textile goods themselves.

Every State in the Union has some manufacturing process involved in the textile-apparel industry. There are over 36,000 plants operating throughout the 50 States and 19 States grow cotton whereas almost every State of the Union produces wool.

The annual payroll for the industry has been estimated at more than $10 billion and let us not forget that this industry produces products which are essential to the defense of this Nation.

Mr. President, we have had two alternatives. We could either strike a bargain with the importing countries and limit on a voluntary basis the imports that would come into this country or we could go to the Congress and seek legislation for curbing imports.

It appears at this time that we have no alternative but that the Congress act immediately and pass legislation to stop excessive imports as the survival of the textile industry is a matter of the highest domestic and defense priority.

Mr. President, I received a telegram early this morning from the executive vice president of the American Textile Manufacturers Institute, Mr. Robert C. Jackson. The American Textile Manufacturers Institute is meeting in San Francisco and its board of directors adopted a resolution yesterday calling for an immediate legislative solution to the textile problem. The telegram reads as follows:

WASHINGTON, D.C.

HON. STROM THURMOND,
Washington, D.C.:

A resolution adopted by the board of directors of the American Textile Manufacturers Institute, Inc., at San Francisco, March 19, 1970: For the past 14 months the United States Government has been attempting to implement, through international negotiations, President Nixon's policy of bringing wool and man-made fiber textile imports under comprehensive, quantitative restraints. In spite of the diligent efforts of the administration, with strong bipartisan support from the Congress, the unwillingness of Japan and other textile exporting nations to cooperate in achieving a fair, orderly, and negotiated solution is now clear.

The futility of continuing such negotiations is therefore, apparent. The situation demands an immediate legislative solution. Accordingly, we respectfully urge the President to:

(1) Immediately terminate further negotiations with Japan and other countries relating to United States imports of wool and man-made fiber textiles.

(2) Propose promptly, for enactment in this session of the Congress, legislation to impose effective, comprehensive, quantitative limitations on imports into the United States of all textile articles.

ROBERT C. JACKSON,
Executive Vice President.

Statistics compiled by the Commerce Department and by the industry graphically demonstrate that foreign imports and goods and especially those from the Far East are flooding the American market. Manmade fiber imports have doubled roughly every 2 years and compared with the 1961–62 level of manmade imports were up 855.7 percent by 1969. Mr. President, these imports are made by people who are paid low wages and in certain cases they are made by child labor. These people manufacture these goods under conditions and for wages that were long ago eliminated from the United States. The American industry has been forced to spend millions of dollars modernizing their plants to seek more efficiency and they have succeeded. In fact, Mr. President, the American textile mill today is the most efficient, mechanical operation of which I know. The result has been increased U.S. production but earnings and profits continue on a drastic downtrend. It has been estimated that the average textile mill profit in the United States was down 25 percent last year, and the balance sheets show it will be even lower this year.

When the Japanese talk about no injury they are, of course, overlooking literally thousands of pages of information that has been supplied to them by the American negotiators in Geneva and elsewhere. To deny that there is injury is to ignore the fact that many small textile plants have closed across this Nation and many medium sized ones are threatened today with liquidation. During 1968–69, some 27 textile plants closed their doors. Mr. President, thousands of textile jobs have been lost and almost 2.5 million jobs in this industry are being directly threatened across this country by the rising threat of foreign imports.

In my State of South Carolina 5,000 jobs alone were lost during the 1968–69 period and over 230,000 possible new jobs in the United States have been lost as a direct result of imports.

Mr. President, let us look at the fantastic amount of made-up goods that were sent into the United States in 1969: Cotton knit shirts, over 25 million; cotton woven dress shirts, over 12 million; cotton woven sports shirts, almost 23 million; men's and boy's work shirts, over 1.2 million.

Men's and boy's manmade fiber dress and sports shirts amounted to 168,600,000 units imported into the United States. Mr. President, that means that there were 61,600,000 men's and boy's dress and sports shirts that were not made in this country in 1969, and there were 168,600,000 dress and sports shirts of manmade fiber for men and boys that were not produced in this country.

The upshot of these statistics is that American workers were denied the opportunity to produce those goods because they were produced by foreign workers.

The Japanese have been very cunning in the way they have concentrated on the U.S. open market. When restraints were placed on cotton imports under the long-term agreement in 1962, the Japanese switched to the unprotected manmade fiber and wool markets. They have zeroed in on certain specialty items and have literally blasted them from the market. Mr. President, make no mistake about it, the Japanese intend to destroy the American textile industry and the American domestic market and control it in a monopolistic fashion themselves.

Mr. President, the incredulous thing about this whole situation is that while we are at the mercy of the Japanese imports and the other imports from the Asian countries such as Hong Kong, China, and South Korea, the Japanese maintain a closed door policy at home. They have shut out U.S. capital and shut out U.S. goods as they have concocted one of the most involved programs of restrictive regulations ever witnessed in the history of commerce.

We hear a lot of talk about free trade but the Japanese are no more involved in free trade than is a man with a monopoly. When you involve yourself in free trade, everybody plays by the same rules and there are no restrictive tariffs and there is no protection; but the Japanese are protecting their industry and they are protecting their jobs and their people, and all we are asking is that the United States protect its people and their jobs and its industry.

President Nixon said in his statement on world trade policy enunciated November 18, 1968:

> The textile import problem, of course, is a special circumstance that requires special measures. We are now trying to persuade other countries to limit their textile shipments to the United States. In doing so, however, we are trying to work out with our trading partners a reasonable solution which will allow both domestic and foreign producers to share equitably in the development of the United States market. Such a measure should not be misconstrued, nor should they be allowed to turn us away from the basic direction of our progress toward freer exchange.

What can be fairer than that; what can be more equitable than that; and what can be more beneficial to all the parties concerned than the position President Nixon took in his world trade statement? However, the Japanese turn a deaf ear to the President.

Mr. President, I will deliver further commentary within the near future concerning the arguments that the Japanese have fostered and will demonstrate point by point the fallacies of their contentions.

We call upon every Member of Congress who is concerned with the protection of American jobs to join with us in supporting this legislation. Mr. President, we are talking here about Americans and their interest and their livelihood and their well-being. It is all well and good to be concerned about our friends elsewhere and to be concerned about underdeveloped countries, but Japan is no underdeveloped country.

Let me briefly review the legislation that I have introduced. The concept and the theory of this is not new, but it is effective. This legislation would provide that after July 1, 1970, the total quantity of imports of each category of textile articles would be limited during any year to the average annual quantity of such

articles entered into the United States for consumption during the 1961–66 period.

It also provides that 1 year after this legislation becomes effective, the total quantity of any category of goods would be increased or decreased by an amount corresponding to the increase or decrease, if more than 5 percent, in the U.S. consumption of such category during the preceding year. It would provide, however, that the amount of such increase in any category would not exceed 10 percent of the amount of the increase in the U.S. consumption of that category.

This legislation would not interfere with agreements to which the United States is signatory now in force.

This legislation would provide for protection of textile articles produced in this country, including the very important primary manmade products, which, because of the great growth in the use of the manmade fiber, have become the cornerstone of the American textile industry.

Mr. President, we have tried to live by the golden rule and have tried to do unto our neighbors as we would have them do unto us and we have turned the other cheek, but now is the time to take action. The Japanese have demonstrated that they will not act in good faith and that they have no intention of continuing negotiations at this time that will produce any fruitful result.

Let us make no mistake about it. As far as I am concerned, the American workingman is, and will be, the most important individual in the world, and as long as his welfare and his interest are threatened, it is incumbent upon this Congress to take action to protect him.

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

The bill (S. 3615) to provide orderly trade in textile articles, introduced by Mr. THURMOND, for himself and other Senators, was received, read twice by its title, and referred to the Committee on Finance.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from South Dakota is recognized.

THE UNSINKABLE ABM

Mr. McGOVERN. Mr. President, had the *Titanic* had the Defense Department's determination to build an antiballistic missile system it would doubtless still be afloat.

The Nike X-Sentinel-Safeguard system has repeatedly run head on into solid ice, only to sail off in another direction.

The thought was current in the 1950's and early 1960's that we could defend our population and industry against an attack from the Soviet Union. As recently as January of 1967, General Earle Wheeler was reporting to Senate hearings on Defense appropriations the Joint Chiefs of Staff view that the whole country should have an ABM defense, with concentrated defense of some 50 of the most densely populated areas.

But Secretary of Defense McNamara laid that thought to rest most persuasively in his important San Francisco address in September of 1967. Noting the steps the Soviet Union would likely take to overcome our ABM and thus maintain her assured destructive capability, he pointed out that:

> It is futile for each of us to spend $4 billion, $40 billion, or $400 billion—and at the end of all the spending, and at the end of all the deployment, and at the end of all the effort, to be relatively at the same point of balance on the security scale that we are now.

Secretary McNamara argued, however, that there were what he called marginal grounds for concluding that a light deployment of U.S. ABM's against the emerging Chinese nuclear threat would be justified and thus evolved the Sentinel version of the Nike X ABM.

The so-called marginal reason was that the Chinese might, before they have their missiles hardened, fear a U.S. preemptive strike against their own highly vulnerable deterrent. In periods of tension, Secretary McNamara reasoned, they might be quicker to launch than the Russians because if they felt they were under attack they would want to inflict at least some damage in the process of their own destruction.

Beyond this it was argued that an anti-Chinese ABM was technologically within our capacity. While it would be impossible to provide an effective defense against the sophisticated offense of the Soviet Union, our ABM components it was said, would have a higher degree of reliability against the primitive delivery systems to be developed by the Chinese—at least for a time, probably only a few years, until China's weapons became more advanced and more numerous.

The argument was obviously a strained one. I have always believed that Mr. McNamara was really opposed to any kind of ABM, but that he accepted the limited China-oriented defense to quiet the clamor for an even more elaborate and costly system.

In any case, this argument left ABM advocates with a terrible burden of proof. They had to tell us why nuclear deterrence would prevent the Russians from attacking us, but not the Chinese. They had to tell us why the Chinese could not incorporate penetration aids in their earliest missiles, thus nullifying the protection of our cities even before the ABM was in place. They had to respond to the suggestion that if the Chinese were bent on national suicide they could use much less advanced delivery vehicles, such as a freighter stationed a few miles off our coast, against which an ABM would be helpless.

Their case was further weakened when some ABM proponents, answering the charge that it might upset arms limitation talks with the Soviet Union, said we would not build it if the Russians agreed to abandon their plans for an ABM. But this left them in the tenuous situation of saying we needed a defense against the Chinese but that we were willing to negotiate it away in talks with the Russians—regardless of what China did.

Sentinel was also set back by protests over locations of the missile farms. Residents of Boston, Chicago, and other cities, when told by site surveyors that they were getting protection from the Chinese, responded that they had not had much trouble with the Chinese lately and were not interested in having missiles in their backyards.

SAFEGUARD PHASE I

Small wonder that the Nixon administration backed away from this particular iceberg, with the President's statement of 1 year ago:

> I do not buy the assumption that the ABM was simply for the purpose of protecting ourselves from Communist China.

But the ABM still refused to sink. The new hands at the tiller guided it to a new mission, after a study of the stars led to the theory that the Soviet SS–9 buildup threatened our land-based Minutemen. Having made the determination that we wanted to build the old Nike X system if we could find any plausible reason for doing so, the advocates quickly grasped hard target protection as their major justification. The anti-China option was not closed off, of course. No bridges were visibly burned. But fears about defensive missiles located in populous areas were at least allayed with a pledge that the new plan—now to be called Safeguard—contemplated construction only in remote areas, starting in North Dakota and Montana.

Unfortunately, the administration went on to make the case too well. Based on its rather questionable premises about the accuracy of the SS–9 and the prospects that its warheads would be independently targetable, Secretary of Defense Laird's projections of SS–9 deployment showed that it might be able to threaten our Minutemen.

But, as came out late in the debate last year, the same projections indicated that by continuing deployment just a short time longer, the Soviet Union could also neutralize the Safeguard system. Especially because of the vulnerability of the Missile Site Radars—the eyes of the defense—it was clear that Safeguard was both an impractical and ill-designed method of defending the Minuteman missile. The MSR's can be destroyed by overpressures just one-tenth as powerful as would be required to destroy a hardened Minuteman. A combination of less accuracy and less force than was attributed to the SS–9 could wipe out this essential component of the system and render it useless.

It is noteworthy that Secretary Laird has since admitted that the critics were right on this score. In his statement on February 20 to the Joint Session of the Senate Armed Services and Appropriations Committees, he said:

> To be perfectly candid, Mr. Chairman, it must be recognized that the threat could actually turn out to be considerably larger than the Safeguard defense is designed to handle. That is one reason we have decided to pursue several courses which should lead to less expensive options for the solution of this problem than expanding Safeguard to meet the highest threat level.

This conclusion followed a discussion of three possible Soviet courses of action. They may stop deploying SS–9's, and SS–11's, fail to develop MIRV's, and stop making improvements in their ICBM accuracy—in which case Safeguard Phase I could be unnecessary.

They might stop building new ICBM's and forgo MIRV development, but continue to improve accuracy to the point where their missiles "could constitute a threat to the Minuteman force." In those circumstances, Secretary Laird asserted, Safeguard would be "quite effective" against the threat.

Or, he said, they may deploy multiple independently-targetable warheads, improve accuracy, and continue SS–9 deployments at the present rate. If this happens, Laird said, we will be faced in the mid-1970's with a threat which is—

much too large to be handled by the level of defense envisioned in the Safeguard system without substantial improvement and modification.

In other words, what the Secretary seems to be saying is that Russian forces must be not too small, or we will not need Safeguard; not too large, or Safeguard cannot work. They must be, like Baby Bear's porridge, "just right" to fit our defense.

Mr. President, I do not pretend to know what motivates Soviet military planners. It is possible to hazard all sorts of guesses on the intentions behind the SS–9 buildup, ranging from the thought that they see themselves as simply catching up with our superiority to Secretary Laird's estimate last year that they are going for a first strike capability.

But if we cannot fathom their intent in a positive way, it is certainly possible to draw some conclusions on what it is not. It is certainly not to make last year's decision on Safeguard look good. Their aim is not to justify our decisions. They are not in the business of building an offense designed to fit precisely our defense. Yet that is what we must believe if Safeguard Phase I, standing by itself, is to reflect the slightest shred of wisdom.

Another insuperable iceberg.

But Safeguard is still afloat, searching for a mission. It comes to us not with an apology for its failure, but with a new demand for more public revenues. And we are not even allowed to abandon the last year's lost cause. Safeguard Phase I, even though it is now either plainly unnecessary or plainly inadequate, will be continued because, in Secretary Laird's words:

The additional cost needed to defend a portion of Minuteman is small if the full area defense is bought.

Translated into its real import, that means that the best way to handle waste is to make it a part of a bigger project. Then, presumably, it becomes less noticeable—even when it involves tens of billions of dollars.

BACK TO CHINA

So we return again to the anti-China rationale. although most reports see the Chinese having slipped another year in their ambitions to develop an ICBM capability, we are asked to authorize an expanded version of Safeguard in fiscal 1971. The deployments in Montana and North Dakota will be beefed up with more Sprint missiles. An additional Safeguard site is proposed for Whiteman Air Force Base, and long leadtime work on five more sites—Northeast, Northwest, the National Capital area, Warren Air Force Base in Wyoming, and Michigan/Ohio—will be undertaken. The discussion now, although Secretary Laird's statements frequently repeat the obvious—that Congress can review and stop the work at any time—is about a full 12-site deployment which would provide substantial area defense of the U.S. population for a number of years against Communist Chinese or *n*th country attack.

The essence of the reason, drawing again from Secretary Laird's statement of February 20, is "The potential capability of China to threaten serious damage to a vulnerable U.S. through nuclear attack, and thereby reduce the credibility of our Asian commitments."

If we have no ABM; if we rely only on nuclear deterrence; and if, nonetheless, we are presented with a Chinese ultimatum to let them have their way in Asia or risk a first-strike nuclear attack on a U.S. city, the President would be confronted with the terrible choice of backing down in Asia, risking the destruction of U.S. cities and loss of American lives, or initiating a strike against Chinese ICBMs before they are launched.

Our evaluation of this proposal requires several lines of inquiry—on the nature of the so-called adversary, China; on the prudence of the foreign policy which would be pursued as a consequence of a China-oriented defense; and on the technical capabilities of Safeguard to accomplish its stated purpose. All deserve the closest inspection before the Senate authorizes more billions of dollars for this highly doubtful system.

CHINA AS A NUCLEAR POWER

In a primary sense the anti-China rationale is grounded on the premise that a China equipped with nuclear weapons is likely to be unafraid of our enormous retaliatory power; that they may gamble through the delivery of ultimatums and by employing nuclear blackmail. Part of the argument is that while the Soviet Union has been deterred by our ability to absorb a first strike and deliver a society-destroying blow in return, it is reasonable that China will take a different view.

In part this fear is grounded in demographic differences between the Soviet Union and China. Mainland China is still a preponderantly agrarian society, with only 11 percent of her population residing in the 1,000 largest cities as compared to 47 percent for the Soviet Union and 63 percent for the United States. Thus, a large retaliatory strike probably could not destroy as much of China as of the Soviet Union or the United States. If there is a direct relationship between the percentage of population to be killed in nuclear war and the unacceptability of the risk, then it might be reasoned that the Chinese would take more risks than the Russians.

This view is fortified by the statements of prenuclear Chinese leaders. Administration spokesmen make much of a statement attributed to Chairman Mao Tse-tung that China, because of its huge population, could "survive" a nuclear attack. There have been numerous other reports downgrading the importance of nuclear weapons, such as an October 1960 statement by a People's Liberation Army official:

The issue of a future war will not be decided by guided missiles or atom bombs. It will stil be decided by man. Atom bombs will never be able to destroy mankind or the world. . . . The revolutionary people are always able to find ways and means for overcoming every kind of modern weapon.

And we are, of course, familiar with Chairman Mao's thesis that "political power grows out of the barrel of a gun," and with Chinese views on the inevitability of war.

Certainly if we read selectively we can find cause to be alarmed about Chinese bellicosity.

It is my view, however, that our tendency has been to overreact, to misinterpret, and to draw an enormously inflated picture of China's ambitions and China's belligerence, to say nothing of her capacity to mount a major nuclear war against the United States. Out of little more than words, we have literally constructed an imaginary nation.

It bears little likeness to the China that actually exists. The real China is beset with overwhelming internal problems and with severely limited resources. Reliable economic statistics are difficult to obtain, yet we know that this nation with a population approaching 800 million people has a total output of goods and services of much less than one-tenth of our own. Her industrial output is probably no more than one-twentieth of ours.

Militarily, China has armed forces of about 2.7 million men, compared to 3.4 million for the United States—only China's troops are on their home soil, and their mission is not exclusively military. In 1967 China had less than 900 ships, the bulk of them of kinds generally associated with defensive operations, such as patrol and torpedo-launching craft. The air force is of a similar nature, made up primarily of some 2,900 jet fighters, with only a few bombers.

For present purposes, we are, of course, more concerned with China's uses of force, and here again the image that has been conjured in the American mind is hard to sustain.

One good authority is Secretary Laird's Defense report to which I have already referred on several occasions. It points out that:

While the Chinese have proclaimed a general line of armed revolution in Asia and actively propagandize against "U.S. imperialists" and "puppet governments," they seem to be careful to avoid involvement of their own personnel in military operations associated with the so-called "liberation movements."

"Careful" may be too mild a word.

China has not, for example, given effective support or taken serious risks on behalf of Communist movements in India, even in light of the acrimonious border dispute between the two countries. While she is involved in training and equipping insurrectionary forces in Burma and Thailand, there is again no significant involvement of combat forces. Even in the case of our involvement in what they view as the remnants of the unfinished Chinese civil war, through our protection of nationalist forces on Quemoy and our support of Taiwan, the Chinese have carefully avoided direct confrontations.

The Korean war can be seen as a variation from this cautious pattern, yet in sum it still does not support the image. We should readily perceive that China was aiding a Communist neighbor under attack by forces that were hostile to China as well, and Chinese troops entered the conflict only after they had good reason to believe—having the assurance of General MacArthur, among others—that once North Korea had been defeated we planned to press on into Chinese territory. Surely we can see the strictly defensive interest involved there, just as we should be able to see it in the case of China's much more limited help to Vietnamese Communist forces over the past several years.

China's reluctance to become involved in other countries may proceed from several sources. One is probably the scarcity of resources with which to lend assistance. Another may be the policy underscored by the very explicit official denunciations of the Soviet Union's use of force in Czechoslovakia in 1968—the view that it is more reprehensible to violate the rights of a sovereign state than for a state within the socialist camp to follow revisionist policies.

But I suspect that the essence of her attitude can be found in China's view of revolution as a "do it yourself" process in which there cannot and should not be extensive reliance upon outside help.

Thus, the heavily analyzed writings of Defense Marshal Lin Piao, with their emphasis on self-reliance and nationalism, can be read to imply that the chances of revolution in Asia, Latin America, and Africa are best if the battles are fought with indigenous forces. Communist China is pictured as a model and the October Revolution as an inspiration. If China aspires to be the ideological center of worldwide revolution, she appears to cherish with equal fervor her status of noncombatant.

In my view the acquisition of a limited nuclear capability is quite unlikely to work much change in the foreign policy line followed by Mainland China to date. To be sure it will remove our present option of unilaterally attacking China—and I think we can understand why they might want to develop it for that single purpose, particularly since they must feel increasingly insecure behind the Soviet Union's nuclear shield. But it is difficult indeed to envision a situation in which the Chinese force would be useful to them for other purposes.

Most official Chinese pronouncements confirm the conclusion that they regard their nuclear force as solely defensive. In the letter of June 14, 1963, to the Soviet Communist Party Central Committee on the general line of the International Communist Movement, for example, the Chinese Communist Party Central Committee argued that:

> In contrast to the imperialists, socialist countries rely upon the righteous strength of the people and on their own correct policies, and have no need whatever to gamble with nuclear weapons in the world arena. Socialist countries have nuclear weapons solely in order to defend themselves and to prevent imperialism from launching a nuclear war.

Similarly, the New China News Agency announcement of the 1964 nuclear test described its meaning as follows:

> China cannot remain idle and do nothing in the face of the ever-increasing nuclear threat posed by the United States. China is forced to conduct nuclear tests and develop nuclear weapons. . . . The development of nuclear weapons by China is for defense and for protecting the Chinese people from the danger of the United States launching a nuclear war.

At the same time, the Chinese began advocating complete destruction of nuclear weapons and the creation of "nuclear-weapon-free" zones, and they made a unilateral commitment never to be the first nation to use nuclear weapons—something the United States has never done. Moreover, the Chinese upbraided the Soviet Union for "adventurism" following the Cuban missile crisis in 1962, again indicating a cautious attitude toward nuclear arms.

On the basis of this I do not argue that the Chinese nuclear development is insignificant or unworrisome. Certainly we must be concerned with any proliferation of these ominous weapons. Certainly the cumulative danger will mount.

But it is nonsense to suggest that China as a nuclear power will abandon its past and be transformed into an adventurous menace against whom deterrence will be ineffectual.

Nuclear weapons will enhance China's posture as a force to be reckoned with in Asia. They will make her less fearful of a preemptive strike from the United States.

But they will certainly not make nuclear war acceptable. They will not lessen the assurance that a nuclear confrontation with the United States would wipe out millions of Chinese people and all of China's painfully built industrial capacity from blast and firestorm alone, with millions more dying from radiation, fallout and other less-rapid forms of destruction.

If we yield to pressures for the expanded ABM system we will have been taken in by our own unreasoning fears and by strong words from Peking; by the bravado of a nervous nonnuclear nation asserting it could survive nuclear attack. Chinese leaders are doubtless pleased at the success of their verbal foreign policy, doubtless incredulous at our panic.

The Chinese have been noisy. They regard the United States as a bitter enemy and they see the contradiction between capitalism and communism as irreconcilable.

But they are not insane, and it would require both total insanity and total depravity for them to risk nuclear war with the United States.

POLICY IMPLICATIONS OF AREA DEFENSE

> It is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking . . . we will seek to promote understandings which can establish a new pattern of mutually beneficial actions.

These words from the President's foreign policy address of February 18, together with the resumption of talks in Warsaw, are encouraging signs of recognition that our consideration of China as an outlaw nation has been unrealistic.

The President's approach is cautious and his explorations are tentative. But ultimately they may lead to at least some fulfillment of the mutual interest both Americans and Chinese have, ideological disputes notwithstanding, in dispelling the atmosphere of hostility between our two countries.

If these early gestures give some reason for hope, however, the administration's plans for an anti-China ABM threaten to completely dismantle any prospect for normalized relations.

In terms of our view toward China it makes sense for only two eventualities. The first is that we envision a first strike by the Chinese against the United States. In light of what I have already said about the words and deeds of Chinese leaders, and about the damage China would incur in a nuclear exchange with the United States, that concept emerges as a preposterous notion. It certainly cannot help but sour any muted overtures we might make to Peking, because it presumes that Peking is populated by fools and maniacs.

The second basic purpose for which a China-oriented ABM might be built is the retention of a first-strike option against the Chinese, which might be used under some circumstances short of attack upon the United States or its allies. It, too, casts shadows upon United States-China relations through its implications that we can feel secure only if we have the ability to launch a nuclear attack upon China at will. Surely it will exacerbate Chinese fears that we intend at some point to destroy their society. Moreover, this aspect of the case raises grave questions about our general policy toward the use of nuclear weapons. They deserve specific answers during the debate on Safeguard.

I am troubled, for example, by the relationship between the effort to retain a first strike option and the new doctrine toward Asian security announced by President Nixon. In his speech of November 3 he spoke of providing "A shield if a nuclear power threatens the freedom of a nation allied with us, or of a nation whose survival we consider vital to our security and the security of the region as a whole."

And he said that:

> In cases involving other types of aggression we shall furnish military and economic assistance when requested and as appropriate. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

If this latter portion is a change from previous policies, and it has been construed that way, it is toward less extensive involvements of American conventional forces.

But the President has also spoken of the ABM giving us a more credible foreign policy in Asia. Does this mean that to the extent that we will decline to send American boys to fight battles that Asian boys should fight, we will stand more ready to intervene with nuclear force? Are we in fact embarking on an even

more dangerous course, in which our vast nuclear superiority will replace our manpower as the source of our credibility in Asia?

The presumption is that the Safeguard system will give us more flexibility by giving us an additional option in the event that the Chinese threaten an Asian ally wth nuclear force. In addition to backing down, risking American cities by holding to our threat of retaliation, or initiating a preemptive strike against Chinese weapons, we could await the the showdown in the knowledge that our cities would be safe if we were forced to retaliate.

I think we should know, however, if there are other scenarios, in which we contemplate attack upon less than nuclear provocation from China. To the extent that it is designed to preserve such options, the Safeguard system places us in a posture we would regard as irresponsible and criminal if assumed by any other nation.

Moreover, we should be aware that the Safeguard system, because of the things it cannot do, will not come near to giving us the flexibility heralded as its justification.

THE CAPABILITIES OF NIKE X-SENTINEL-SAFEGUARD

At his press conference on January 30, President Nixon gave his impression of how well Safeguard phase II will work. He said:

> I don't anticipate an attack by Communist China, but if such a power had some capability with ICBMs to reach the United States, an area defense, according to the information we have received, is virtually infallible against that kind of potential attack, and, therefore, gives the United States a credible foreign policy in the Pacific area which it otherwise would not have.

Secretary Laird's statement of February 20 gives a similar impression, with its assertion that the credibility of our nuclear shield in Asia would be "greatly enhanced if our Asian allies knew that because of a Safeguard defense the Chinese Communists had virtually no prospect of blackmailing the United States by threatening American cities."

Mr. President, it simply is not true.

The fallibility of Safeguard II is so easily documented as to make one fearful about the sources of information available to the President.

First, it is important to note that the increment this year will not provide one iota of protection against the Chinese. Nor will any increment thereafter, until the whole system is built. Since all the Chinese would have to do is target their missiles on the areas left unprotected, the area defense will not give us damage denial against the Chinese until all 12 sites are in place, even if the system works perfectly. It is all waste until it is all built.

Second, even the full 12-site deployment does not contemplate protection of two entire States, Alaska and Hawaii. Both would be left fully vulnerable to a Chinese ICBM attack. In the event of any nuclear showdown with China they could be wiped out. Safeguard, in fact, increases the danger to them, by making them the easiest targets.

Third, the full deployment does not protect other areas of critical interest to the United States, including American bases and enclaves in all parts of the word. Does the President regard them as expendable?

Fourth, the basic components of the area defense—the Spartan missile and the perimeter acquisition radar—can be easily fooled by the most elementary of penetration aids. The essence of area defense is interception outside of the atmosphere, where the friction of the air is not available to filter out the decoys from the real warheads. It is entirely probable that the Chinese will build such devices in their very first operational ICBM's—thus at least eliminating any possibility for damage denial.

Fifth, the area defense system can be exhausted by bunched targeting. If the Chinese have 100 missiles by the end of the 1970's and we have the 12-site Safeguard, they could target all of their missiles on any one city which is not protected by enough Spartans to intercept them all and be assured of killing millions of Americans.

Sixth, the Chinese might rely on some other form of delivery system to avoid our ABM. There have been suggestions that they could smuggle small nuclear devices into the country, but they could more easily station multimegaton weapons aboard fishing ships along populous coastal areas. Such vehicles could propel destruction many miles inland—area defense or not.

Seventh, we must take into account the probable technical failures of this highly complex collection of machinery. In an age when we are seeing wings crack on C–5A's and fall off of F–111's, when M–16's and Minutemen are failing to fire, it seems unnecessary to even comment that the President's confidence in Safeguard—which cannot even be tested under battle conditions—may be misplaced.

Consider the imaginary scenario in light of these factors.

China demands that we let her have her way in Asia, on pain of suffering a nuclear attack against our cities if we do not comply. What does the President do?

Without Safeguard, it seems probable that he would reiterate our policy of deterrence, declaring that such an attack would mean instant retaliation. There would be a risk to our cities from Chinese missiles, just as there is now from Soviet missiles. If the attack came millions of Americans—and millions of Chinese—woud be killed.

With Safeguard the President would do precisely the same thing, with precisely the same consequences. The President would have no additional options. He could not say "go ahead and attack we are protected," because the Chinese could respond, "Alaska is not protected. Hawaii is not protected. Your bases in Japan are not protected. Our penetration aids will assure that enough of our ICBM's will get through to incinerate millions of your people even in the continental United States. All of our missiles are targeted on one city. We have nuclear devices hidden in your country where you can't locate them. And your ABM won't work." And the President will know they are right.

The truth is, Mr. President, that the area defense will not contribute anything at all to our ability to deter a Chinese attack, an ability which we already possess in massive proportions because of our overwhelming retaliatory forces. The scenario I have described will not occur unless the Chinese are madmen, and if they are then nothing can save us. Safeguard will not change the simple truth that once the Chinese are equipped with nuclear weapons any gamble or threat involving nuclear forces on either side will risk the lives of millions of Americans.

The only thing that is virtually infallible about Safeguard is its certain fallibility.

Mr. President, there has been a great deal of speculation lately to the effect that congressional opponents of the Safeguard ABM will settle at preventing any expansion; that we should consider it a victory if the system goes no further than the phase I authorized last year. I do not agree.

In 1969, 50 Senators voted against the first step. Since then we have had but one major new development—Secretary Laird's candid admission that the threat, if it develops in precisely the way he said it would in arguing for phase I last year, will exceed Safeguard's capabilities, rendering it a complete waste in terms of Minuteman protection. But he said we would build it anyway, because if we buy phase II then the added cost of buying phase I will be small.

It boils down to this: if we reject the expansion, as I am confident we will, then the justification for what was authorized last year disappears. The barnacle loses its rock.

It is my view, therefore, that we should stop any continental deployment of this discredited system, and that we should limit funds to research and development on other approaches which might be able to do what Safeguard clearly cannot.

Let us abandon the witless notion that any expenditure on weapons will increase our security.

Let us avoid the obvious interference with the strategic arms limitation talks involved in a system which purports to protect our cities.

Instead of worsening the chances for accommodation, let us replace unreasoning terror of a poor, primitive, and cautious nation with positive steps toward a mutual quest for survival.

Let us abandon this intolerable waste of some $50 billion of our resources, when domestic needs are crying out for fulfillment.

Those who have determined that we will build this discredited system have run out of reasons. They have started to repeat. The *Titanic* has returned to an iceberg it has encountered before.

It is time we let it sink quietly beneath the waves.

MESSAGE FROM THE PRESIDENT

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

PROPOSED LEGISLATION RELATING TO ASSISTANCE TO SMALL BUSINESS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

Seventeen years ago President Eisenhower established the Small Business Administration (SBA). This marked the first peacetime recognition by the Federal government of the special needs of small businesses.

—Today there are in the United States an estimated 5,400,000 independent businesses, of which 95 percent are small by SBA size standards.

—Ninety-seven percent of our Nation's firms employ fewer than 100 full-time workers.

The small business sector of the economy contributes roughly 37 percent of the gross national product and is responsible for over 40 percent of U.S. employment.

We all know the almost legendary stories of men in the past and in our time who have started out in small business with little more than an idea and a belief in themselves and have gone on to great financial success. Yet small business can also mean other things.

—It can mean for the nation a source of independent innovation which continually offers new products and services needed by any economy if it is to remain vital.

—It can mean the everyday success of the average businessman whether he owns his own retail or service enterprise or heads a small manufacturing concern. It is a quiet kind of success that doesn't make the big news on the financial page, but makes life more rewarding for millions of Americans. It is the kind of success that offers personal services to consumers—and personal satisfaction to the businessman.

—It can mean a chance for a young American to bring not only his talent but his individuality to the challenges of the business world.

—It can also mean an opportunity for dignity and for economic and social progress for many Americans previously without access to the economic system of our nation. Small business is a way to become a part of that system—and, after seeing it work, believe in it, in its promises and in its challenges.

THE REPORT OF THE TASK FORCE ON IMPROVING THE PROSPECTS OF SMALL BUSINESS

In order to discover ways in which we could help improve the prospects of small business in the United States, I appointed a Task Force, chaired by Mrs. J. Wilson Newman of New York, to report to me. In line with recommendations of their report, I am:

—Directing the Small Business Administration to emphasize its role as the advocate of the interest of small business. I am further directing all agencies to take these interests fully into account in their activities affecting small business.

—Proposing legislation to expand research to provide a clear picture of the problems, the trends and the needs of small business and a clear picture of the impact of government on small business.

—Proposing legislation to create a new position of Assistant Secretary in the Department of Commerce to assist in formulating policy for the Office of Minority Business Enterprise (OMBE). I established OMBE early in my Administration to coordinate programs and activities within the Federal government aimed at assisting minorities to enter the American economic mainstream. This is an extremely important undertaking.

The Task Force identified three major problem areas that can be found in all parts of the small business community, including that of the disadvantaged entrepreneur:

—The need for capital and for recognition of the special financial problems small firms may face in their early years;

—The need for sound management counseling; and

—The need for people and especially for trained people.

In order to help small business in these areas, I am proposing a far-reaching legislative program.

FINANCIAL ASSISTANCE

The Small Business Task Force found in surveys of businessmen across the nation that one-fifth of those consulted ranked financing first among their problems. Interest assistance, incentives to make loans, tax reform, bonding for small contractors and Minority Enterprise Small Business Investment Companies (MESBIC) are five major areas for action.

INTEREST ASSISTANCE

The risk of failure for small business is high, and the early years are the most perilous. These are the years in which the small businessman most often finds himself short of working capital and when high interest rates can have their greatest impact. In order to help small businessmen in such crucial early years, I propose legislation to authorize the Small Business Administration to make grants to borrowers whose loans are guaranteed by the SBA. These grants would narrow the gap between the prevailing interest rates and the statutory interest rate for SBA direct loans.

INCENTIVES TO MAKE LOANS

Another problem area of financing is that of providing adequate incentives to the private sector to make high-risk loans to small business. The cost of processing a small loan may and often does equal or exceed the cost of processing a large loan. In order to help the man who needs a small loan that carries a higher-than-usual degree of risk, I am proposing legislation that would offer compensation in the form of tax incentives to those lenders who bear the additional cost of making such loans. The incentive would be an income tax deduction equal to 20 percent of the interest earned on SBA-guaranteed loans.

To further assist in this area, I am proposing legislation that the SBA be permitted to delegate to the banks to the full extent it deems advisable the authority to make loans that the SBA guarantees, provided the bank retains a portion of the risk. Also, the SBA is revising its procedures so that a bank, with SBA approval, can use its regular loan forms rather than the special SBA forms.

A variety of organizations other than banks—foundations, trusts, church groups, community groups and others—are also interested in assisting the small business efforts of the disadvantaged by loan programs. To encourage these efforts, I also propose legislation to give the SBA the authority to guarantee loans by such organizations.

TAX REFORMS FOR SMALL BUSINESS

The man who is willing to take the financial risks involved in beginning a small business should be encouraged. In recognition of these risks, I propose legislation to provide the following tax reforms:

—Revision of "Subchapter S" of the Internal Revenue Code to make it easier for small business to be treated like a partnership for tax purposes.

—A ten-year tax loss carry-forward period, instead of the present 5-year period. This extension will be of special use to those new businesses that find it necessary during the early years to spend large amounts of money on research and development.

BONDING

No treatment of the problems of small business—especially those problems in the innercity—would be complete without consideration of the problem of insurance, including crime and property protection and surety bonds for construction.

On June 30, 1970, the Federal Insurance Administrator will report on these matters as required by the Housing and Urban Development Act of 1968. However, the urgency of the need to provide assistance relative to surety bonds for small business calls for immediate action. Accordingly, I am proposing legislation that would enable the SBA to guarantee, for a fee, as much as 90 percent of surety bonds up to $500,000 for small contractors who are qualified by SBA standards but lack the resources to qualify for bonding in the open market. Additional action regarding bonding may be called for in the Federal Insurance Administrator's report.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANY

The MESBIC concept shows promise of becoming an important tool for the generation of capital and as a source of managerial assistance for the disadvantaged who need help in small business. The Federal government matches the MESBIC sponsor on a "2 for 1" basis. The "leverage" power of this concept can be seen in an example: If a sponsor puts $150,000 into his MESBIC, the government lends it $300,000. This $450,000, with the application of other loans it generates, can result in over $2 million for new enterprises. Of equal importance is the availability of the sponsor's managerial talents.

To provide additional tools to assist this program, I propose legislation to provide:

—Statutory authorization for a bank to become involved in the program as the sole sponsor of a MESBIC.

—Ordinary income tax deductions for contributions to MESBIC's organized and operating under non-profit corporation statutes. This would provide a tax incentive for doubling the commitment of funds.

The legislation being proposed also reflects the intention that the program assist all the socially and economically disadvantaged who need such assistance.

PERSONNEL AND MANAGEMENT ASSISTANCE

In its survey, the Small Business Task Force discovered that two out of every five responses listed the quality and availability of personnel as a major problem. It also is probably the most difficult one to solve. However, there are steps that can be taken at this time.

JOBS PROGRAM

The Secretary of Labor is initiating an expansion of the Federal JOBS (Job Opportunities in the Business Sector) Program that will aid small business. The JOBS Program until now has been in practice suitable only to larger corporations. But under this new program, consortiums of small businessmen—with the cooperation of local organizations such as boards of trade and chambers of commerce—will receive Federal assistance to offset the extraordinary costs of training employees until they become fully productive.

STOCK OPTIONS

In order to offset the advantages large businesses have in attracting managerial talent, I am sending legislation to the Congress which would revise the tax rules for stock options as they relate to small business. The proposal would extend the qualified option exercise period from five to eight years and reduce the required holding period for the stock from three years to one year. This should substantially assist small, technically-oriented growth companies in their competition with larger companies for managerial and other talent.

MANAGERIAL TRAINING ASSISTANCE

In order to help disadvantaged entrepreneurs get the kind of business know-how needed for success in small business, I propose legislation that would provide management training for those among the disadvantaged who are entrepreneurs and prospective entrepreneurs. Assistance would be offered for extension courses, night school and other management training courses.

* * * * *

Small business is an important part of our national life; it has been an important part of my personal life as well. My father knew the challenges and the rewards of owning and operating a small store. To him—and to our family—that store meant more than a source of income; it meant a daily chalienge, a place where we could work out the destiny of the family in our own way, taking the risks, and enjoying the satisfactions of ownership. Looking back on those years, I know now that our store was a success not only because of what it did for our family budget, but for what it did for our spirit. I know that today, in helping Americans in small business, we are helping their spirit—and the spirit of our nation.

RICHARD NIXON.

THE WHITE HOUSE, *March 20, 1970.*

REFERRAL OF PRESIDENT'S MESSAGE ON SMALL BUSINESS TO COMMITTEE ON BANKING AND CURRENCY AND COMMITTEE ON FINANCE

Mr. KENNEDY subsequently said: Mr. President, as in legislative session, I ask unanimous consent that the message from the President of the United States on small business be referred jointly to the Committee on Banking and Currency and the Committee on Finance.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED DISTRICT OF COLUMBIA ADMINISTRATION OF ESTATES ACT

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowances, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates (with an accompanying paper); to the Committee on the District of Columbia.

PROPOSED DISTRICT OF COLUMBIA EDUCATION ACT OF 1970

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting, pursuant to law, a draft of proposed legislation relating to education in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED DISTRICT OF COLUMBIA FREEWAY AIRSPACE UTILIZATION ACT

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to authorize the Commissioner of the District of Columbia to lease airspace above and below freeway rights-of-way within the District of Columbia, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

REPORT OF NATIONAL SCIENCE FOUNDATION

A letter from the Director, National Science Foundation, transmitting, pursuant to law, a report on Federal support of research and development at universities and colleges and selected nonprofit institutions, for fiscal year 1968 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. INOUYE, from the Committee on Commerce, with an amendment:

S. 1289. A bill to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes (Rept. No. 91–744).

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

S. 3072. A bill to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes (Rept. No. 91–745).

EXECUTIVE REPORT OF A COMMITTEE

The following favorable report of a nomination was submitted:

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

Robert Harry Nooter, of Missouri, to be an Assistant Administrator of the Agency for International Development.

BILLS INTRODUCED

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

By Mr. COOK (for himself and Mr. MANSFIELD):

S. 3614. A bill to amend the Federal Water Pollution Control Act and the Clean Air Act in order to provide assistance in enforcing such acts through Federal procurement contract procedures; to the Committee on Public Works.

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

By Mr. THURMOND (for himself, Mr. COTTON, Mr. SCOTT, and Mr. HRUSKA):

S. 3615. A bill to provide for orderly trade in textile articles; to the Committee on Finance.

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

By Mr. TYDINGS (for himself, Mr. BIBLE, Mr. COOK, and Mr. HOLLINGS):

S. 3616. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens; to the Committee on the Judiciary.

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

By Mr. BAKER:

S. 3617. A bill to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; to the Committee on Commerce.

By Mr. MATHIAS:

S. 3618. A bill for the relief of Felicidad Clemencia Gianan; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. BIBLE, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. EASTLAND, Mr. FONG, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MILLER, Mr. MONDALE, Mr. MUSKIE, Mr. PELL, Mr. RANDOLPH, Mr. SPONG, Mr. STEVENS, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 3619. A bill to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major

disasters, and for other purposes; to the Committee on Public Works, by unanimous consent.

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

By Mr. GRIFFIN:

S. 3620. A bill for the relief of Anastasia Pertsovitch; to the Committee on the Judiciary.

S. 3616—INTRODUCTION OF A BILL TO PROVIDE DIRECT FEDERAL AID TO LOCAL GOVERNMENTS AFFECTED BY CRIME EMANATING FROM FEDERAL ENCLAVES

Mr. TYDINGS. Mr. President, in enacting the Omnibus Crime Control and Safe Streets Act of 1968, Congress intended to embark upon a major effort to financially aid our State and local law enforcement systems in their efforts to combat crime. After 2 years of operation, it is now all too obvious that the Federal effort is not measuring up to expectations. A principal reason for this is that Federal anticrime funds are not sufficiently reaching the areas of high crime incidence where the money is needed the most. The Federal Government's failure in this regard is egregiously compounded in cases where the localities being denied adequate Federal anticrime funds suffer from lawlessness which emanates from the activities of the Federal Government itself.

That the Federal Government is contributing to the groundswell of crime which is afflicting many local communities is woefully apparent. In the prosecution of programs essential to the national defense and general welfare, the Federal Government occupies hundreds of thousands of acres of land, brings together hundreds of thousands of Americans and establishes large Federal enclaves, such as military installations, space centers and, of course, the Nation's Capital. We know that a substantial amount of crime committed by persons living or working on these Federal enclaves spills over its borders and often produces a stunning impact on the law enforcement systems of adjacent communities. In impacted localities, already overworked police units are presented with additional crime with which to cope, criminal court dockets are further congested and delayed, and prisons, ever more crowded.

Notwithstanding the impact which the Federal presence is having on law enforcement systems of contiguous communities, the Federal Government has not assumed its fair share of the law enforcement costs. This is because property under Federal ownership or control generally is not subject to local taxation. Moreover, the resources which it occupies and which might otherwise generate money to fight crime have been left untapped. As a result, already hard pressed local taxpayers must pay ever higher taxes for the increased effort needed to combat the incoming crime.

Furthermore, when it comes time to dole out Federal Safe Street Act funds, these communities which have experienced crime's impact by reason of nearby Federal activities must wait their turn in line with no guarantee that they will not go away empty handed.

The problem of crime impacting local communities by reason of their adjacency to a Federal enclave is unfortunately well illustrated in the communities surrounding the District of Columbia. The Committee on the District of Columbia, of which I am chairman, has engaged in an in-depth examination of the spillover of crime from the District of Columbia to the suburbs of Maryland and Virginia. Our hearings have adduced information evidencing the seriousness of the problem, especially in such areas as narcotics, robbery, burglary, and organized theft.

The criticality of the problem is reflected by the type and amount of crime spilling from the District of Columbia into Prince Georges County. During the period between May 20, 1968, and February 6, 1969, 90.7 percent of the robberies in this county occurred within a few miles of the District of Columbia. Sixty-three percent of the suspects arrested for these robberies were residents of the District of Columbia. Moreover, for calendar year 1969, 49 percent of all robberies in Prince Georges County were committed by Washington residents. Statistics also reveal that a high percentage of other serious crimes in Prince Georges County were committed by District of Columbia residents. No wonder William J. Kersay, the sheriff of Prince Georges County, testified that—

> Crime spill-over from Washington, D.C., has become a major factor in the lives of Prince Georges County citizens, especially those that live on or near the District line.

These statistics bespeak of large increases in law enforcement effort and taxpayer expenses. During 1969, the Prince Georges County fugitive squad spent 166 man-days in District of Columbia court just in order to return 103 fugitives back to the county. An even greater illustration of the added burden is the fact that approximately 40 percent of the inmates in Prince Georges County jails are District of Columbia residents.

The problem of crime spillover also has been seriously impacting local communities surrounding our large military bases, such as Fort Bragg, N.C., 51,000 servicemen; Fort Lewis, Wash., 45,000 servicemen; Camp Pendleton, Calif., 40,000 servicemen; Fort Dix, N.J., 37,000 servicemen; and Fort Knox, Ky., 35,000 servicemen. Law enforcement officers near these large installations have informed me that up to 70 percent of the crime in their communities is committed by servicemen. Because of a recent Supreme Court decision, the impact of this crime on local law enforcement efforts looms even larger.

Last year in O'Callahan against Parker, the Supreme Court significantly restricted court-martial jurisdiction by holding that a serviceman may not be tried by a military court for crimes which are not service connected. Applying O'Callahan, the Military Court of Appeals has held that military courts are without jurisdiction to try servicemen who while in civilian clothes commit against civilians off-post offenses such as murder, assault, rape, armed robbery, burglary, larceny, drug possession, and automobile theft. It will now be up to civilian authorities to investigate, apprehend, try, and imprison the servicemen who perpetrate these crimes. This obviously will generate an ever heavier work load upon the criminal justice system of local communities adjacent to military enclaves. The police and the prisons will be further burdened. And, as Prof. Robinson O. Everett of Duke Law School has observed, "the dockets of civil courts will be further congested."

In assisting State and local communities to combat crime it is clearly the first responsibility of the Federal Government to come to the aid of those communities that experience crime as a result of the activities of the Federal Government itself. So far the Federal Government has failed to satisfy this primary obligation.

Mr. President, today I am introducing legislation which is designed to remedy this regrettable oversight. My proposal, which amends title I of the Omnibus Crime Control and Safe Streets Act, empowers the Law Enforcement Assistance Administration to make grants directly to units of general local government, combinations of such units, and any regional commission composed of representatives from two or more such units that are adjacent to any Federal enclave. The purpose of the grants is to plan, develop, improve or implement any law enforcement plan or project designed to prevent or control the commission of crime emanating from a Federal enclave. The Federal Government will foot 80 percent of the cost of the local plans. The Federal funds necessary to finance such programs will be drawn from the 85-percent block grant fund. However, these direct grants will in no way influence the size of the grant to States in which the eligible units of local government are located.

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

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

The bill (S. 3616) to amend title I of the Omnibus Crime Control and Safe Streets Act to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens, introduced by Mr. TYDINGS (for himself, Mr. BIBLE, Mr. COOK, and Mr. HOLLINGS), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197), Title I, is amended as follows:

1. Section 305 is amended:

(a) by renumbering the present section as subsection 305(a) and inserting after the last word in the subsection the words "except as set forth in subsection 305(b)"; and

(b) by inserting the following new subsection after subsection 305(a):

"(1) In recognition of the responsibility of the United States for the impact which the Federal presence has on law enforcement in adjacent units of local government, Congress declares it to be the policy of the United States to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens.

"(2) The Administration is authorized to make grants directly to the units of general local government, combinations of such units, and any regional commission composed of representatives from two or more such units which are adjacent to the District of Columbia; a United States military installation, or any other federal enclave for the purpose of planning, developing, improving or implementing any criminal justice or law enforcement plan or project designed to deter, control or facilitate the administration of criminal justice with regard to the commission of crime, in such units, which is influenced by the proximity of the federal presence. These grants shall in no wise affect the size of the grant made under this Act to the States in which the eligible units of local government are located.

"(3) No grant under this subsection to an eligible recipient shall be for an amount in excess of 80 percentum of the cost of the project or program specified in the application for such grant.

"(4) An eligible recipient seeking a grant under this subsection shall submit to the Administration a plan which specifies [a] the law enforcement problem or problems produced or exacerbated by the contiguity of the federal enclave; [b] the plan or project designed to solve such problem or problems; [c] the budget of such plan or project; [d] the intent and ability of the recipient to contribute no less than 20 percentum of the cost of such plan or project in funds, facilities or services of any combination thereof; [e] the policies and procedures designed to assure that Federal funds made available for such plan or project will not be used to supplant local funds, but increase the amounts of such funds that would, in the absence of such Federal funds, be made available for law enforcement; [f] procedures for fiscal control and fund accounting which assure proper disbursement of and accounting of funds received under this subsection; [g] the relationship of the plan to other relevant State or local law enforcement plans and systems; and [h] certification that a copy of the plan or project has been submitted to the chief executive of the State or States in which the unit or units of local government involved in the plan or project are located.

"(5) The Administration shall allocate funds to the eligible recipients on the basis of population, the degree of contiguity with the federal enclave, the evaluation, if any, of the chief executive of the State in which the involved local units or units of government are located, and any other factor which, in the judgment of the Administration, would assure a fair and effective distribution of funds. The Administration shall make no grant prior to 60 days after the chief executive of the State has received a copy of the plan."

2. Section 306 is amended by inserting after the word "populations" and before the word "and" the words "and the recipients set forth in subsection 305(b)".

S. 3619—INTRODUCTION OF A BILL TO PROVIDE COMPREHENSIVE DISASTER ASSISTANCE

Mr. BAYH. Mr. President, I introduce, for appropriate reference, a bill to provide a comprehensive program of assistance to individuals, organizations, and communities suffering losses in major disasters. Although Congress has enacted during the past 20 years a number of beneficial disaster relief laws, many of these have been limited in scope, temporary in duration, and retroactive responses to particular catastrophes. Moreover, the basic disaster assistance act of 1950—Public Law 81–875—was directed almost entirely toward the public sector; even though amendments have been added from time to time, especially in 1966 and 1969, which were designed to extend a helping hand to families and businesses, the severe financial losses and personal hardships often incurred by many helpless victims of major disasters are eligible for minimal assistance only.

Understandably, much of the present disaster relief legislation has been piecemeal in nature. Through the years new provisions have been added in accordance with immediate demonstrated needs in reaction to specific situations. Moreover, the bulk of the 1969 act—Public Law 91–79—while general in scope, will expire on December 31, 1970. Scheduled to terminate on that date are important sections dealing with disaster assistance for the repair and reconstruction of roads and highways not on any Federal-aid system, timber sale contracts, the $1,800 forgiveness feature of Small Business Administration and Farmers Home Administration loans, expanded authority to provide temporary dwelling, food stamp allotments for low income families, and unemployment assistance for those not eligible to receive compensation under other State programs.

The advantages to be gained from codifying the many, diverse disaster assistance statutes, as well as the need at least to extend the life of the essential provisions of the 1969 act, by themselves would be sufficient justification for a careful examination by Congress of the whole matter of disaster relief. But there is an even more overriding factor which seems to necessitate prompt and vigorous action by the National Government in this field. Recent hearings conducted by the Senate Special Subcommittee on Disaster Relief, for which I am chairman, on the Federal role in providing assistance to the thousands of people and scores of communities in Mississippi, Louisiana, and Virginia which suffered devastating losses in the wake of Hurricane Camille, have convinced members of the subcommittee that certain new approaches should be considered.

Hurricane Camille was the largest known destructive force of wind and water ever to strike the United States. However, the physical damage it caused and the human problems it created, while possibly more extensive and longer lasting, were almost identical in kind with those following other similar major disasters. Tornadoes, earthquakes, floods, hurricanes, and other catastrophes have occurred, and no doubt will continue to occur, in astounding numbers in the United States. During the last 20 years alone the havoc caused by these natural phenomena has been so great that the President has declared the existence of major disasters in more than 280 areas, an average of about 14 each year. During some of the last few years the number has been considerably higher than the average; for instance, there were 25 major disaster declarations in both 1964 and 1965, 19 in 1968, and an all-time high of 29 was reached in 1969. Already in 1970, with less than 3 months elapsed, there have been three such declarations. No doubt the approaching spring flood and tornado season will again witness an upsurge in major disasters. It must be remembered, of course, that these statistics do not include the many other hundreds of serious storms or floods which result in large losses but are not deemed sufficiently extensive to be classified as major disasters.

It is interesting to note that, while property losses attributed to violent acts of nature have greatly increased through the years, loss of life and limb has generally decreased. The development of sophisticated weather forecasting and warning techniques and the ability to track and to map out the expected paths of great storms have permitted the evacuation of large numbers of people from endangered territories who otherwise might have been killed or injured. On the other hand, the concentration of large and expensive residential, commercial, and industrial facilities in relatively small areas, coupled with general escalation of overall values, has meant huge increases in property losses incurred by certain major disasters. For instance, the terrible Galveston flood at the beginning of the 20th century cost more than 6,000 lives and some $30 million property damage; in contrast, it has been estimated by the Office of Emergency Preparedness that 69 years later Camille caused 248 deaths but about $1.5 billion in property damages. The authors of the leading work about the costs of major disasters—D. C. Dacy and Howard Kunreuther, "The Economics of Natural Disasters"—tentatively estimate that the "average damage to the United States from hurricanes, floods, tornadoes, and earthquakes has exceeded $600 million annually" in recent years.

The fact that economic loss attributed to unexpected natural catastrophes has soared so dramatically points to the needs for new approaches to the problem. While our ability to curtail loss of life or diminish personal injuries caused by certain types of major disasters has greatly improved, damages inflicted on property have soared in real costs. For example, Dacy and Kunreuther reported a marked decline from 4,650 to 762 in the number of lives lost in the United States because of hurricanes, floods, tornadoes, and earthquakes during two comparable 5-year periods—1925–29 and 1960–65—in the last half century. In contrast, during that interim the property damages increased—in 1964 price levels—from $1.5 billion to more than $2.6 billion for the same periods. At the same time, the role of the Federal Government in extending assistance to the victims of disasters has substantially increased.

Although the type and quantity of damage caused by major disasters varies according to their location, scope, and intensity, I have been impressed by the similarity of the tragedy often inflicted on those unfortunate enough to have been subjected to these perils. I first be-

came directly involved with the problems of disaster assistance after the Palm Sunday tornadoes ravaged Indiana and portions of Illinois and Michigan in 1965. As a participant since then in congressional hearings which have examined the need for Federal help, it has seemed obvious to me that the problems involved in providing relief to individuals and communities following a major disaster are much the same no matter where it occurs or what its cause.

During the last 5 years more than 100 major disasters have been declared by the President of the United States. The response by Congress and our people has been very praiseworthy; when fellow citizens, or indeed those in foreign countries, have been stricken by a great catastrophe, the American public has always been compassionate and generous. That does not mean, however, that all needs have been met or that improvements could not be made.

In my opinion the hearings have disclosed certain gaps in legislative authority and some deficiencies in administrative organization and operation which should be rectified. Among the most frequently voiced significant suggestions, complaints, and needs relating to disaster assistance programs which have come to the attention of the Special Subcommittee on Disaster Assistance are the following:

First. Delays and problems encountered in the provision, distribution, and leasing of temporary housing;

Second. The insufficiency of insurance coverage and slowness in settling insurance claims;

Third. The need for establishing immediate, effective communication systems;

Fourth. Inadequate centralized, coordinated administration and supervision;

Fifth. Relief for local governments not able to meet bonded indebtedness because of diminished tax base;

Sixth. The advantages to be gained from previously established State disaster plans providing systematic programs for refugee evacuation, emergency food and shelter, and longer range assistance to individuals;

Seventh. Need for trained emergency support teams with capability of immediate deployment in major disaster areas;

Eighth. Requirement for emergency public transportation systems to provide access to such vital places as governmental offices, supply centers, post offices, and major employment facilities;

Ninth. Charges of inequitable and discriminatory treatment, both by public and private agencies;

Tenth. Failure to recognize officially more than one charitable organization for the purpose of distributing goods and commodities provided by the United States;

Eleventh. Lack of adequate dissemination of information and clear explanation about available benefits;

Twelfth. The need for assistance in the preparation of application forms for various programs;

Thirteenth. Authorization for disaster relief funds to be used to restore facilities on a permanent and improved rather than a temporary or emergency basis; and

Fourteenth. Larger Federal contributions to those whose homes have been destroyed.

Congress cannot foresee nor provide in advance for every contingency or for all of the serious problems which inevitably arise from any major disaster. Nevertheless, it has always seemed logical to me that every effort should be made to establish by law full authority for the President and the various Federal departments and agencies to respond quickly, efficiently and without unnecessary restrictions when confronted by a major disaster. I do not believe it is either expedient or wise for Congress to attempt to enact separate relief bills each time a major disaster occurs. Until 1964, most Federal disaster relief legislation had been given general application, although it authorized assistance primarily for public losses. Since then, however, Congress enacted special bills for aid after the Alaskan earthquake, the Pacific Northwest floods, and Hurricane Betsy. The 1966 and 1969 acts did provide additional aid for the private sector, but as mentioned earlier much of the latter will no longer be in force after this year.

I believe it is time to bring together in one act the various features of disaster legislation which Congress has adopted from time to time and to supplement them with additional assistance and directions which testimony indicated to be essential. Consequently, I am introducing today an Omnibus Disaster Assistance Act which would repeal the basic acts of 1950, 1966, and 1969 and would replace them with a comprehensive measure designed to provide an orderly and continuing means of alleviating suffering and damages incurred in major disasters. Following is a brief summary of the main provisions of this bill.

TITLE I. FINDINGS, DECLARATIONS AND DEFINITIONS

Congress would recognize in title I that the extensive property damage, loss of life and limb, loss of income, and human suffering caused by major disasters generally interrupts the normal functioning of government and adversely affects individuals and families. Accordingly, it would declare its intention to render aid in such cases by revising and broadening existing relief programs, encouraging States to develop disaster plans, and consolidating the administration of Federal disaster assistance.

The definition of a major disaster would be basically the same as that provided in the Public Law 91–79, except for the addition of the descriptive words "high waters, wind-driven waters, tidal waves, and tornado." Perhaps it should be emphasized that the provisions of this bill, similar to previous disaster relief laws, would be limited only to those disasters which the President determined to be of "sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and private relief organizations."

TITLE II. OFFICE OF DISASTER ASSISTANCE

The bill would establish a new agency, the Office of Disaster Assistance within the Executive Office of the President, which would administer Federal disaster relief programs. The Office would be headed by a Director and an Assistant Director, both appointed by and responsible to the President for an unfixed term.

All of the present functions of the Office of Civil Defense, as well as the major disaster relief functions of the Office of Emergency Preparedness, would be transferred to the new Office of Disaster Assistance. The President would also be authorized to transfer during the next 6 months to the Office of Disaster Assistance any functions of any other agency or office which he determined related primarily to the functions of the new office. Likewise transferred would be all personnel, assets, liabilities, contracts, property, and records belonging to such agencies.

The Director of the Office of Disaster Assistance would be granted the standard powers usually vested in heads of agencies, including authority to issue rules and regulations, appoint and fix compensation of subordinate employees, obtain the services of consultants, acquire real or personal property, operate and maintain facilities, enter into contracts, appoint advisory committees, and delegate his functions to other officers. He would be required to submit at the end of each fiscal year a report to the President and Congress on the activities of the Office of Disaster Assistance.

Title II would take effect 90 days after enactment of the bill unless the President should prescribe an earlier date.

TITLE III. THE ADMINISTRATION OF DISASTER ASSISTANCE

Assistance provided under title III would be classified in three groups: First, emergency relief to be made available immediately after a declaration of a major disaster by the President; second, recovery assistance for long-range restoration and rehabilitation of an area; and third, certain general provisions which would be applicable to the administration of all major disaster relief.

The first category would provide for a Federal coordinating officer, emergency support teams, emergency communications systems and the cooperation of other Federal agencies. Congress stipulated in the 1969 Disaster Relief Act that the President should designate a Federal coordinating officer who would be responsible for overseeing all relief activities in a particular disaster area. Testimony presented to the subcommittee in the last few months clearly bears out the need for such unifying authority. Accordingly, section 301 of the bill would not only continue the requirement for such a coordinating officer but would also strengthen and expand his role.

The coordinating officer would be appointed by the Director immediately after a declaration of major disaster. He would be directed to make an appraisal of the types of relief needed to deploy emergency support teams, to establish field offices, to coordinate administration of relief with private organizations, and

to take other actions he deems necessary to provide assistance to a disaster area.

Because of the great confusion and chaos often ensuing after major disasters, an urgent need exists for leadership, skilled help, and workable communications systems. Persons who experienced the utter devastation wrought by Hurricane Camille and other similar catastrophes have described how helpless victims remained many hours without the bare necessities of life—homeless, leaderless, and unable to communicate their plight either to the immediate vicinity or to the outside world.

In order to help cope with these problems, sections 302 and 303 would provide for emergency support teams and emergency communications systems. The Director would be authorized to recruit, train, and develop teams of personnel which could be deployed immediately following a disaster. Furnished with such equipment and supplies as they might need, the support teams would bring immediate, emergency assistance to a major disaster area and, after a preliminary survey, report to the coordinating officer on the kinds of relief most urgently needed. The Director would be authorized to establish in any major disaster area an emergency communications system which could be made available to State and local government officials or to other persons.

Other Federal agencies would be authorized by section 304 to provide, when requested by the Director, additional emergency disaster assistance. Although based largely upon a similar provision in section 3 of Public Law 81–875, the powers conferred would be somewhat clarified and expanded. All agencies would be enabled to extend the use of or lend their facilities, supplies, personnel, or other resources, with or without compensation, to States and local governments. They could also distribute food, medicine and other consumables through the American National Red Cross or other private relief organizations. Likewise, surplus equipment and supplies could be donated or loaned, and work essential to preserve life or property could be performed on either public or private lands. This could include the clearance of debris and wreckage, making repairs to or replacing public facilities, providing emergency shelter, and making contributions to States or local governments to perform this work. Reimbursement for such services or supplies would be deposited to the credit of the proper appropriations. A disclaimer clause would exonerate the U.S. Government for any claim based upon the exercise, performance, or failure to perform any discretionary act in carrying out such emergency assistance.

With respect to longer range recovery assistance in contrast to purely temporary emergency relief, title III of the bill would renew and strengthen several programs enacted in previous disaster laws and would provide a number of new kinds of aid. Present authorization for debris removal from private property, temporary housing, subsidized loans to homeowners, food coupons, unemployment compensation, restoration of Federal, State, and local facilities, highway repair and reconstruction, loan adjustments, timber sale contracts and public land entry, several of which will expire at the end of this year, would be extended indefinitely although in some cases in modified form. In response to extensive and convincing evidence of need for other types of assistance, the bill would authorize entirely new programs for temporary public transportation, a community disaster loan fund, special aid to enterprises constituting major sources of employment, the waiver of conditions for Federal grants-in-aid, preference to local firms and businesses in recovery work, and priority for public facility and public housing assistance applications.

Grants could be made by the Director under section 305 to any State or local government to remove debris from privately owned lands or waters deposited as a result of a major disaster. The State or local governments would in turn be authorized to reimburse any person for actual debris removal costs, less any salvage value of the debris. This provision is almost identical with section 14 of Public Law 91–79, now scheduled to terminate on December 31, 1970.

In order to provide dwelling accommodations for individuals and familes whose homes have been made uninhabitable by a major disaster, section 306 would authorize the Director for this purpose to use any unoccupied housing owned by the United States, to arrange with a local public housing agency for any unoccupied housing units, or to acquire, either by purchase or lease, already existing dwellings, mobile homes, or other readily fabricated dwellings. Mobile or specially fabricated dwellings would be installed on sites furnished without charge by a State, local government, or a displaced owner-occupant. Rentals collected for occupancy of these temporary dwelling accommodations could be adjusted or completely waived according to the financial ability of the tenants for as long as 1 year, but in no case would disaster victims be required to pay more than 25 percent of the family monthly income for housing expenses, including the amortization of debt on a destroyed or damaged house.

The only significant difference between section 306 of the bill and section 10 of Public Law 91–79 is that the authority conferred on the Director to acquire housing would include the right to purchase as well as to lease dwellings or mobile homes. The three previous disaster relief bills which I introduced—S. 1861, S. 438, and S. 1685—would have authorized the purchase of housing for this purpose, and each of the two bills which passed the Senate in 1965 and 1969 included such a provision. Because the cost to the Government of leasing mobile homes from manufacturers or distributors for a year is very high, it might be less expensive under certain circumstances to purchase them outright. They could be either stockpiled or sold later, either to the disaster victim occupant or on the open market. The fact that mobile homes have recently become eligible for Government-insured loans might facilitate their disposal, perhaps in some cases to the disaster victim himself.

More important, however, is the time which might be gained in some disasters by immediate purchase of temporary dwellings. Several weeks elapsed before mobile homes in any quantity were brought into the gulf coast areas most damaged by Camille, and there were many reports of other delays in installing and connecting them up promptly with public services. Some of this can be attributed to poor road conditions and destroyed facilities, but considerable time was lost through advertisement for bids, negotiating and letting contracts, and manufacturing and shipping units from factories hundreds of miles away. At the same time it has been estimated that within a hundred miles or so of the disaster area there were local dealers who had hundreds of mobile homes which could have been purchased and moved into place quickly if the agency had been authorized to do so. It seems to me that the Director at least should be empowered to purchase such temporary dwellings; he would use that power only if in his opinion it were more expeditious and economical to do so.

Emergency public transportation service in a major disaster area could be provided by the Director under section 307. The purpose would be to enable local residents who have lost all means of transportation to make necessary trips to distant governmental offices, supply centers, employment centers, post offices, stores, and other similar places of business. The emergency service could be provided only until regular public transportation was restored, or for a maximum period of 1 year after the disaster.

Although the number of major disasters in which there would be need for such a temporary transportation system is few indeed, the subcommittee was impressed with the plight of many residents of the Mississippi gulf coast who found it very difficult to transact business, make applications for assistance, pick up food and clothing, or talk with officials. When neighborhood shopping centers and stores have been destroyed, private automobiles have been damaged beyond repair, and public buses are no longer running, those living in isolated and removed sections of large communities have great difficulty in carrying on normal life activities. In such limited cases I believe the Director should be authorized to provide temporary transportation until regular service can be restored. The type, frequency, routes and fares charged, if any, for such service would be left to the discretion of the Director.

Several important changes would be made by sections 308 and 313 of the bill in the disaster loan programs of the Small Business Administration, the Farmers Home Administration, the Veterans' Administration, and other agencies.

First, the interest rate on any loan made under the authority of a disaster loan program would be changed from the current 3 percent—in most cases—to a rate not less than the average annual interest rate on all interest-bearing obligations of the United States with maturities of 20 years or more.

Second, offsetting the proposed higher interest rate would be an increase in the amount of forgiveness in SBA, FHA, and other disaster relief loans. At present on loans in excess of $500, a maximum of $1,800 will be canceled. The new formula would provide cancellation up to 50 percent of the uninsured loss to a maximum amount of $5,000.

Third, all disaster loans could be made without regard to whether financial assistance might have been available from private sources.

Fourth, the age of any adult applicant could not be a factor in determining whether a disaster loan should be made or what the amount of the loan should be.

Fifth, any home built with the aid of a major disaster loan would have to be constructed according to minimum standards of safety, decency, and sanitation prescribed by the Secretary of Housing and Urban Development and in conformity with applicable building codes and zoning regulations.

Despite the higher interest rate which would be charged for disaster loans, substantial benefits would accrue under the new formula for many of those seeking assistance. Any homeowner whose loss exceeded $10,500 would be eligible for a forgiveness of the maximum amount, or $5,000. His total encumbrance on $10,500 would be only $5,500. One who suffered a loss of $8,000 would be eligible for a cancellation of $3,750, leaving a balance of $4,250 due. A $6,000 loss would be credited with $2,750, reducing the obligation to $3,250. On the other hand a $4,000 loss would be entitled only to a $2,000 cancellation, which would be only $200 more than that available under the 1969 Disaster Act.

It is believed that the maximum of $5,000 cancellation in disaster loans up to $10,500 would bring substantial relief to the low- and middle-income groups whose homes might not be protected by insurance. The $5,000 credit would apply to loans on more expensive houses damaged in disasters as well, but the higher interest rates paid over a number of years would tend to counterbalance this cancellation.

Congress first provided for the $1,800 cancellation feature in disaster loans after Hurricane Betsy in 1965; a similar provision was included in the 1969 disaster assistance law. Because of the great increase in building construction costs in the last 5 years and the likelihood that such costs may continue to rise, a sizable increment in this amount would not appear to be unreasonable. When a major disaster seriously damages or destroys a dwelling, one which more often than not already may be encumbered by a sizable mortgage, the hard-pressed homeowner in this day of high prices may be skeptical of the value of an $1,800 subsidy. Disaster victims have raised the question of what $1,800 would mean to an owner sustaining a $15,000 loss on a home which might be burdened with an already existing $10,000 mortgage. Cancelling $5,000 of a loan made in such a case would cut the total obligation to $20,000 rather than $23,200 under the 1969 act.

Even though the interest rate through the years would be higher, the reduction in principal to most homeowners would be a welcome, encouraging ray of hope. Especially for older borrowers a lower principal ought to be more attractive than a reduced interest over a longer period of time. Eliminating the differential between the present 3-percent disaster loan rate and the average cost of borrowing by the U.S. Government would, of course, mean a higher immediate Federal expenditure, but in the long run the actual cost would tend to balance out.

It is important to note that, if the national disaster insurance program proposed in title IV of the bill is established, no homeowner would be eligible for disaster assistance under title III for loss of or damage to real property unless he had acquired major disaster insurance within 1 year after it should become available. I fully agree with those who insist that to the extent possible the homeowner should contribute to his protection against disaster losses through payment of regular insurance premiums. However, until such time as a workable disaster insurance system can be made applicable to the Nation as a whole, it would be entirely proper to continue the partially subsidized loan program.

The bill would also prohibit the denying of a disaster loan to any adult solely on the grounds of age. Testimony has been received indicating some reluctance to grant disaster home loans to individuals whose life expectancy might not be equal to the usual length of most mortgages. Older people displaced by a disaster ordinarily are as much or more in need of adequate dwelling space as are younger families. In any case, since the equity in the home would remain no matter what happened to the mortgagee, persons in need after a major disaster should not be in a disadvantageous position because of their age.

Minimum standards of safety, decency, and sanitation as well as applicable building codes would have to be adhered to in the construction of any residence financed with the aid of a disaster loan. The purpose of this provision is to assure that no home damaged or destroyed in a major disaster would be rebuilt with Federal assistance in a shoddy, unsafe, or unsanitary condition. The Secretary of Housing and Urban Development would be authorized, after consultation, to promulgate regulations designed to guarantee that such construction would conform to these minimum standards as well as local building codes and other requirements.

Loans or grants could be made under section 314 by the Director to any industrial, commercial, agricultural, or other enterprises which have been major sources of employment in major disaster areas but which are unable because of the disaster to operate. In view of the widespread unemployment which frequently accompanies major disasters, it is crucial to restore local industries and other enterprises to a functional condition as soon as possible so that local residents can become self-sustaining. This is especially important in those communities or areas which are heavily dependent on only one or two major types of enterprise for the bulk of their employment. For example, a small village or town which depends almost entirely for its livelihood on a fishing fleet, a canning factory, or a papermill destroyed in a major disaster would be practically destitute until that business could resume normal activities. Similar to other disaster loans, the interest for loans made by the Director under this section would be a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of 20 years or more. However, the Director would be empowered to defer payments of principal and interest for a period not to exceed 3 years.

As mentioned previously, several provisions of the 1969 Disaster Act would be made permanent legislation by this bill. Prominent among them is the special unemployment compensation program proposed by section 316 for persons losing jobs because of a major disaster but who are not eligible for such compensation under laws of their States. Although the first payments under the program were not made until late in December, a large number of jobless individuals have already received substantial financial help. More than 22,500 in Mississippi and 2,000 in Virginia had filed claims with the Department of Labor by February 21, 1970; of that number nearly 19,000 in the first State and over 1,300 in the second have received one or more payments ranging between $30 and $48 per week. Total Federal expenditures for this purpose until February 21 were nearly $3.2 million, most of which had been allocated to Mississippi. Because of the proven success of this program I am proposing that it be continued indefinitely.

Worthy of reenactment also are sections 315, 318, 325, and 326 authorizing the free distribution of food coupons and surplus commodities, contributions of up to 50 percent for the repair of highways not on the Federal-aid system, the repair of timber roads, the salvage, cleanup and sale of damaged timber, and extended time for entry on public lands. The food coupon program has not yet been put into operation, although the President on November 18 by Executive order delegated authority to implement it to the Secretary of Agriculture. It is my understanding that guidelines are in the process of preparation. Assistance in the salvage and cleanup of timber damaged by disasters is essential to reduce or prevent additional losses because of insects, fire, disease, or other causes. Grants could be used only for expenses incurred in actual removal of damaged timber, offset by any value gained from salvage. The public land entry section would merely authorize the Secretary of the Interior to extend the time for entry on public lands in any State affected by a major disaster if he determined that the entryman could not comply with existing requirements because of a major disaster. Finally, although no funds have yet been expended under the non-Federal aid highway disaster program, several project applications are being processed and will no doubt be approved.

Section 317 of the bill, which would authorize the restoration of Federal facilities damaged in a major disaster, restates in somewhat simpler language the provisions of section 6 of Public Law 81-875, the Disaster Relief Act of 1950. If the President determined such action to be so urgent that it could not be deferred, he would be authorized to allow any agency to repair, reconstruct or restore facilities owned by the United States which were damaged or destroyed in a major disaster. Work on the project could begin, even if sufficient funds had not been appropriated, if other funds could be transferred from different appropriations.

Three other sections of the bill—sections 319, 323, and 324—are based upon similar provisions of the 1966 Disaster Assistance Act. In those cases where State or local government public works projects, such as flood control, navigation, reclamation, electric power, water and sewage treatment, or airport installations, were damaged or destroyed in a major disaster while they were in the process of construction, reimbursement would be authorized for not more than 50 percent of the eligible costs incurred to repair, restore, or reconstruct such projects. Priority and immediate consideration would be given in the processing of applications for assistance under various housing acts received from governmental agencies located in major disaster areas. Also, under the loan adjustment program, the authority of the Rural Electrification Administration to adjust the schedules of payment for interest and principal on loans and to extend the maturity date to 40 years in case of loss caused by a major disaster, would be continued. The Secretary of Housing and Urban Development would be authorized to refinance loans where it might be made necessary by loss or damage caused by a major disaster, but the interest rate to be charged on refinancing such obligations would be fixed at the average annual rate on all interest-bearing obligations of the United States. In line with other sections of the bill the Secretary's authority to reduce that rate by as much as 2 percent would not be continued.

A new community disaster loan fund would be established in the Treasury by section 320; local governments which have suffered a loss of more than 25 percent of their tax base because of a major disaster would be able to borrow from this fund in order to make payments of interest and principal due on outstanding bonded indebtedness which they could not otherwise do. Loans for this purpose would be for a maximum period of 20 years and would carry an interest rate similar to that for other programs, equivalent to the average annual rate on all outstanding interest-bearing obligations of the United States having a maturity of 20 years or more. However, the Director would be authorized to waive payment of interest and principal on community disaster loans for a period not to exceed 5 years. As much as $100 million would be authorized to be appropriated for the purposes of the community disaster loan fund.

If a sizable proportion of the property in a community should be severely damaged or destroyed by a major disaster, its revenue sources almost inevitably would be drastically curtailed. Most local governments depend very heavily on the property tax for much of their income; in situations where one-third, one-half, or more of the assessed property valuation might be wiped out in a few hours, those governments would not be able to avoid comparable losses in taxable revenues. As a consequence they would face a financial crisis if they could not meet unavoidable fixed obligations, especially payments on the interest and principal of outstanding bonds previously issued for governmental purposes.

Testimony was presented to the subcommittee indicating that within a few months several of the gulf coast cities in Mississippi, which have lost upward of 40 to 50 percent of their tax base, will not be able to collect sufficient property taxes to remain solvent. Under these circumstances I firmly believe that the type of community disaster loan fund which is proposed in this bill would be of real assistance and should be established as soon as possible. Loans under this program could also be used to help provide the local share on any Federal grant-in-aid program available for restoration of the major disaster area.

Two other new provisions would facilitate economic recovery in a major disaster area. Section 321 would stipulate that organizations, firms, and individuals residing in or who do business in the area should be given preference in the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other disaster assistance activities. Section 322 would authorize any agency administering Federal grant-in-aid programs to modify or waive temporarily various conditions, including the matching of funds, if a major disaster would prevent the meeting of those conditions in order to receive assistance.

Several provisions of general application would be enacted by part C of title III. Foremost among these is the section which would clarify the scope of and extend for 1 year the period in which States receiving grants for the preparation of comprehensive disaster relief plans would have in which to submit their completed plans. The 1969 Disaster Relief Act authorized the President to make grants up to $250,000 to any State for not more than 50 percent of the cost of developing "comprehensive plans and practicable programs for assisting individuals suffering losses as the result of a major disaster." The original intent of this section, dating back to S. 1861 which I introduced in 1965, was without question to assist States in developing a complete and thorough blueprint outlining in detail the necessary preparation, organization, proecdures, supplies, equipment, and other requirements which would enable them to do everything possible to minimize the terrible effects of a major disaster and to begin restoration of the normal life and activities in any disaster area. However, in the formulation of the final language of section 8 of Public Law 91-79, somehow the wording seems to limit its scope to plans and programs which would assist only "individuals" suffering losses. This has been narrowly interpreted by some to mean that State plans developed under this section could not apply to assistance for local governments, public agencies, or business enterprises. In order to resolve any doubts about this matter, section 327 would authorize the Director to make grants to States to develop "comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments." In order to give States more time to apply for and prepare such plans, the date before which they would have to be submitted to the Director would be advanced from December 30, 1970, to December 31, 1971.

Although it is not possible to predict when or where catastrophes might occur, it seems to me only good sense for governments to do as much advance planning and to prepare themselves as much as possible in order to cope with the eventuality that their areas might be subjected to a major disaster. Recently I wrote to the Governor of each State, calling to his attention the availability of Federal funds for planning assistance. While many have not yet had the opportunity to respond, I was pleased to note how widespread is the realization of the importance for States to develop disaster relief plans. A number of States have already pioneered in this field, formulating at least a preliminary program, and several others have indicated intention to proceed with application for assistance. Others pointed out the difficulties they would encounter in trying to appropriate matching funds in time to contract for and complete a comprehensive plan by the end of this calendar year. Therefore, I am suggesting that the date should be extended another 12 months.

Allegations have been made that there were some instances of inequitable and discriminatory treatment, especially after the first emergency period, in providing aid following Hurricane Camille. Such charges have been levied against both public and private agencies, and those most concerned have been investigating the facts and will no doubt report on their findings. Certainly differential treatment in the handling of disaster assistance should not be tolerated.

In order to assure that aid would be provided to all irrespective of their personal background or status, section 330 of the bill would authorize the Director to establish regulations which would be applicable to the personnel and procedures of both public and private agencies involved in handling Federal disaster assistance programs. These guidelines would stipulate that there should be no discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status in distributing supplies, processing applications or managing other relief activities.

Section 328 would authorize the Director to arrange with the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other private relief organizations for the use of their personnel and facilities in the distribution of medicine, food, supplies, or other material if he found that this would be necessary. This would resolve certain questions brought to the attention of the subcommittee about the power of the National Government to utilize officially the manpower, supplies, and skills which private organizations other than the Red Cross might be willing to provide. Considerable testimony has been presented illustrating the tremendously helpful assistance which the Salvation Army, the Mennonite Board, and others have rendered following disasters. There is no reason why the Director should lack authority to recognize them officially and call upon their services for disaster assistance. Any private relief organization entering into an agreement with the Director for this purpose would have to comply with regulations issued under section 330 discussed above pertaining to impartial and nondiscriminatory administration.

The Director also would be authorized—under sections 331 and 332—to establish emergency supply depots and to assign advisory personnel he deemed to be necessary. While some civil defense and military supply depots do exist which have been helpful in disasters, the Director should be empowered to locate and set up those which in his judgment would be essential for the accumulation of disaster assistance equipment and supplies. To meet a need often expressed to the subcommittee, upon request he also could send trained and experienced representatives to advise State or local government officers about various kinds of Federal programs and procedures. The subcommittee has been informed that in the smaller communities especially, where the chief executives often are part-time officers with little experience in or knowledge about national programs, it would be extremely helpful if well-informed consultants could be provided who would work closely with local governments when a major disaster overtakes them. These representatives, of course, would be strictly advisory and would be assigned only if the Director believed they would help enable communities to apply for and utilize fully various assistance programs.

The 1969 Disaster Relief Act—section 13—authorized grants and loans to States and local governments to assist in suppressing any fire on publicly or privately owned forest or grasslands which might threaten to become a major disaster. Congress took this action after it had been pointed out that a small conflagration, beginning either on public or private property, could become a major fire threatening large areas if there were not sufficient manpower and equipment to quell it at the start. Such a holocaust would pay no attention to jurisdictional ownership boundary lines and could in a short time devour huge quantities of timber and grassland. Although the U.S. Forest Service has a number of well-trained, able firefighters and extensive equipment, this is often not true in privately owned tracts and sometimes is lacking in State and local lands as well. To help reduce great losses from fires of the type which desolated thousands of acres of timber in the Northwest during 1967, section 333 of the bill would reenact the grant and loan provision of the 1969 act which is scheduled to expire at the end of this year.

Finally, section 329 would be designed to prevent any person, business concern, or other entity from receiving duplicate disaster relief benefits. It would be the duty of the Director to be sure that financial assistance would not be given for any major disaster loss for which compensation had been received from any other Federal program, insurance policy, or other source. This, however, would not preclude Federal assistance for any part of a loss which had not been compensated otherwise. The Treasury would have to be reimbursed for any amount of assistance paid to a person, business concern, or other entity for disaster relief in excess of that to which the recipient was legally entitled.

TITLE IV. NATIONAL MAJOR DISASTER INSURANCE

No issue was accorded more unanimity of opinion by the witnesses who appeared before the Special Subcommittee on Disaster Relief than the urgent need for adequate insurance protection against major disaster losses. Nearly all State and local officials, private group representatives, industry spokesmen and individual property owners who testified seemed to agree that some kind of comprehensive policy covering catastrophic damages would be one of the most useful and desirable ways of providing assistance. My experience leads me to believe that most citizens would prefer investing an annual premium in advance to purchase protection against major disaster losses than they would seeking private relief, personal loans, or governmental subsidies after a tragedy has occurred.

For many years comprehensive casualty insurance covering a wide variety of damages resulting from fire, windstorm, hail, and other causes has been available, but this has not been true for floods, mud slides, wind-driven waters, high waves, and earthquakes. With the exception of the new program authorized by the National Flood Insurance Act of 1968, almost no insurance protection for damage caused solely by water has been obtainable. The difficulty of determining in the area afflicted by a hurricane the proper percentage of loss caused by wind versus water has in particular given rise to many controversies. Policyholders in the gulf coast area following Hurricane Camille have in many cases been frustrated and disappointed in pressing their claims for losses because of this almost insoluble factor.

For various reasons Federal flood insurance has not yet been made available on a widespread basis. Until recently the program has been limited to a few communities. An amendment to the 1969 Housing and Urban Development Act, however, permitted the Federal Insurance Administration to institute emergency programs which could be converted later to permanent status after the necessary studies have been completed. This enabled the Administration to provide flood insurance coverage in a total of eight places by early March, while another seven have been definitely scheduled for inclusion this month. It is expected that a number of other communities will qualify for the emergency flood insurance program during the next few months, although the law currently requires that they be converted by December 31, 1971.

Nevertheless, I believe there is ample reason for Congress to reexamine the whole matter of disaster insurance. Hearings held by the subcommittee in Mississippi and Virginia clearly demonstrated the need for more inclusive and extensive insurance protection for major disasters. Despite its recent gains the Federal flood insurance program, structured as it is on a community-by-community approach, likely will not gain nationwide application for many years. What is needed, it seems to me, is a comprehensive all-disaster risk-type insurance which could be made available in a comparatively short time to property owners in all parts of the country.

To be effective, actuarially sound, and purchaseable at rates which the ordinary householder could afford, any major disaster insurance program must have a broad base of policyholders; losses from disasters are such that the burden of funding relief costs should be shared throughout the Nation. This, of course, can be done, as it has many times in the past, through public revenues raised by taxation. Using public funds to assist those who have incurred sizable losses in major disasters may in one sense resemble a system of enforced public insurance. Probably there always will be many major disaster costs which all members of society will be called upon to absorb through small contributions in the form of national taxes. With respect to private property damages, however, there is no reason why owners should not be required to subscribe through advance payments to a system which would provide them at least minimum protection against possible future major disaster losses.

It would be preferable, of course, if satisfactory, sensibly priced insurance coverage against damages to private property caused by major disasters could be established by the insurance industry. In view of the nature and size of the risk involved, some kind of national reinsurance or subsidy might be necessary to induce private insurance companies to embark on such a venture. I would welcome any reasonable proposal which insurance representatives might make suggesting a joint approach involving Government participation in an industry managed disaster insurance system, and I believe that Congress would give serious attention to such a plan.

Consequently, the bill—section 413—would provide a period of more than a year in which the insurance industry could develop an acceptable program. However, unless the Secretary of Housing and Urban Development should deter-

mine and certify to the President and Congress not later than June 30, 1971, that private insurance companies have made available on reasonable terms major disaster insurance with coverage equal to or more extensive than that proposed by title IV, the Secretary would be directed to establish a national major disaster insurance program. Although delays in the legislative process might make the above date unrealistic, it could be extended easily if chances appeared to be good that such a program would indeed become a reality. Without such a deadline, however, I fear that little progress could be made, and in any event it may well be necessary to institute an all-Federal program.

To be successful, major disaster insurance must have widespread application and must be offered at premium rates which are not inordinately expensive. With these premises in mind, the bill—section 412(b)—would blanket in to the proposed new national major disaster insurance system all residential or other structures encumbered by loans or mortgages which have been guaranteed or insured by the Federal Housing Administration, the Veterans' Administration, or any other Federal agency. This would provide a sizable base upon which the program could be founded from the beginning. Second, as will be explained, the rate structure would be devised so as to attract into the system homeowners who would not be included automatically under the above provision. Third, further additional impetus to join would be provided by the outright denial—section 510—of any other Federal financial assistance to any owner of real property for damage to his property in a major disaster to the extent the loss could have been covered by a valid claim under major disaster insurance made available at least 1 year prior to the disaster. It is believed that these three factors—mandatory inclusion of federally insured mortgagors, minimal rates, and advance warning to nonparticipants of ineligibility for other Federal aid—would be sufficient to assure that within a reasonable period of time most homeowners throughout the Nation would be encompassed by the program.

To explain the specific features in more detail, the Secretary of Housing and Urban Development would be authorized—section 401—to establish and carry out the national disaster insurance system. He would be directed, to the maximum extent possible, to encourage and arrange for the financial participation and risk sharing in the program by private insurance companies or other insurers.

Priority would have to be given—section 402—to the coverage of residential properties housing from one to four families, but, if appropriate studies and investigations demonstrated that it would be feasible, the Secretary could extend major disaster insurance to other residential, business, agricultural, nonprofit, or public properties.

The Secretary would provide by regulation for the general terms and conditions of insurability which would apply to major disaster insurance. These would include such matters as the types, classes, and locations of properties, the nature of and limits of loss to be covered, the classification, limitation and rejection of risks, minimum premiums, loss-deductibles and any other necessary terms or conditions.

Coverage provided by the bill would be divided into two categories: First, a basic minimum amount, the premiums for which could be fixed by the Secretary at a rate below established costs; second, amounts above the basic minimum, which would be charged at rates not less than those estimated to be needed for all costs of providing that protection.

The basic coverage for residential properties housing up to four families would be $15,000 aggregate liability for any single dwelling unit, $30,000 for any structure containing more than one dwelling, and $5,000 aggregate liability for the contents of any dwelling unit. If the Secretary should declare other types of property to be eligible for major disaster insurance, any single structure in those specified categories would have an aggregate liability of $30,000.

The Secretary would be authorized—section 404—to make studies and investigations which would enable him to estimate what the risk premium rates would be for various areas based on actuarial principles, operating costs, and administrative expenses. He would also be directed to estimate what level of rates would be reasonable, would encourage prospective insurers to purchase disaster insurance, and would be consistent with the purposes of the act.

Based on the above information, and after consultation with the Director, the Secretary would—section 405—from time to time prescribe by regulation the chargeable premium rates for all types and classes of property for which disaster insurance is made available. He could if necessary fix the premium rates for the basic property values covered—noted above—at less than the estimated risk premium rates. Otherwise, the rates would have to be based, insofar as practicable, on the respective risks involved and would have to be adequate to provide reserves for anticipated losses. If the rates were fixed at a lower amount, they would have to be consistent with the objective of making major disaster insurance available at reasonable rates in order to encourage its purchase by homeowners and others.

To provide working capital for the national major disaster insurance program, the Secretary would be authorized—section 406—with the approval of the Secretary of the Treasury, to issue notes or other obligations in an amount not exceeding $500 million. The Secretary of the Treasury would determine the rate of interest for these notes or obligations, and would be authorized to purchase or sell them as public debt transactions.

The Secretary would also be authorized—section 407—to establish in the Treasury of the United States the national major disaster insurance fund from which would be paid all claims, expenses, administrative costs, and debt redemption of the major disaster insurance programs. The fund would be the repository for all funds which might be borrowed, appropriated by Congress, earned as interest on investments, derived from premiums, or received from other operations. If the Secretary should determine that the fund total would be in excess of current needs, he could request the Secretary of the Treasury to invest the amounts which the latter deemed advisable in obligations issued or guaranteed by the United States.

Claims for losses would be adjusted and paid for according to rules which the Secretary would be authorized—section 408—to prescribe. It would also be his duty—section 409—to inform the general public and any State or local official about the extent, objectives, and premium rates of the national major disaster insurance system, including the basis for and the differences between the rates for the two categories of coverage.

As pointed out previously, the bill would prohibit—section 410—Federal disaster assistance to any eligible property owner for a real property loss to the extent that such loss would be either covered by a valid claim or could have been covered by a valid claim under major disaster insurance which had been made available in his area at least 1 year prior to the occurrence of the damage. On the surface this may appear to be a harsh provision, but it seems to me that it is essential if the program is to be made workable on a national basis without exorbitant rates for participants. If major disaster insurance is provided for any area, an eligible property owner would have a grace period of 1 full year in which to secure protection; subsequently, he would have to absorb any loss caused by a disaster unless he had taken advantage of the insurance opportunity provided him. It should be noted that this caveat applies only to the owners of real property, and does not exclude other types of Federal assistance such as loans for any amount of loss not recovered by major disaster insurance or for the loss of personal property.

To prevent structures being rebuilt in areas which have proven to be disaster prone, the bill would prohibit—section 411—issuing new major disaster insurance coverage for any property which the Secretary finds has been declared by a State or local government to be in violation of State or local laws, regulations, and ordinances intended to prevent land development or occupancy in those areas. In order that the major disaster insurance system would be coordinated with other programs, the Secretary and the Director would be instructed—section 412(a)—to consult with other Federal, State, and local government departments and agencies having responsibility for disaster assistance.

TITLE V. MISCELLANEOUS

Section 501 would make a number of technical amendments in existing laws to bring them into conformity with the new proposed Omnibus Disaster Assistance Act. The three extant basic disaster relief laws of 1950, 1966, and 1969 would be repealed by section 502. Such sums as would be necessary to carry out the new

act would be authorized—section 503—to be appropriated.

In general, the national major disaster insurance system would be designed to provide basic, minimum protection against disaster losses to most homeowners and possibly to other property holders as well. It would enable them to contract in advance at reasonable cost for coverage not now widely available which would assure at least partial compensation for dwellings, other structures, and personal property damaged or destroyed by major disasters. I believe that the American people on the whole would support a program whereby they could through a contributory system help share in the heavy burden which inevitably will fall on those unfortunate enough to be caught in the maelstrom of a natural catastrophe. Although the insurance plan outlined in title V may have certain unknown defects or omissions which will have to be corrected, it should provide a pattern for further discussion and the basis for a perfected program.

In conclusion, Mr. President, I believe that the Omnibus Disaster Assistance Act which I am introducing today would provide meaningful assistance to major disaster victims in several ways:

First, with the exception of aid to schools and institutions of higher education—see 20 U.S.C. 646, 758—and special limited disaster programs administered by various agencies and departments, it would consolidate into one act all of the extant major disaster laws;

Second, it would sharpen and strengthen present powers and duties relating to the providing of emergency aid to people and areas subjected to a major disaster;

Third, it would amplify and supplement present programs and authorize new ones designed to help individuals, organizations, and communities to recover from the awful consequences inflicted by a major disaster; and

Finally, it would authorize comprehensive, all-disaster risk insurance which would permit property owners to obtain protection at reasonable expense against a sizable proportion of their losses from major disasters.

Enactment of this measure would do much to insure that the Federal Government would be authorized to extend significant aid of all types to individuals and communities immediately after a Presidential declaration of a major disaster without having to wait several months for possible specific congressional action. I hope that the bill will receive prompt and favorable consideration.

Mr. President, I ask unanimous consent that the full text of the bill and a section-by-section synopsis be printed in the RECORD at the conclusion of my remarks, and that the bill be referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. GURNEY). The bill will be received and referred to the Committee on Public Works; and, without objection, the bill and synopsis will be printed in the RECORD.

The bill (S. 3619) to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes, introduced by Mr. BAYH (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3619

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 "Omnibus Disaster Assistance Act".

TITLE I—FINDINGS AND DECLARATIONS DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because extensive property damage and loss, loss of life, loss of income, and human suffering result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity, special measures, designed to expedite the rendering of aid and assistance and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief programs by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs by consolidating their administration.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any flood, high waters, wind-driven waters, tidal wave, drought, fire, hurricane, tornado, earthquake, storm, or other catastrophe in any part of the United States which in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and private relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and respecting which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act, and shall give assurance of expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for the same or similar purposes with respect to such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal corporation, or other agency of the executive branch of the Federal Government, excepting the American National Red Cross;

(7) "Director" means the Director of the Office of Disaster Assistance except where a different meaning is indicated by the context within which it is used; and

(8) "Office" means the Office of Disaster Assistance.

TITLE II—OFFICE OF DISASTER ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established, within the Office of the President, an Office of Disaster Assistance, for the purpose of administering Federal disaster relief programs, coordinating relief activities of private relief organizations in major disasters, and for other purposes.

(b) There shall be in the Office a Director of Disaster Assistance and an Assistant Director of Disaster Assistance (hereafter referred to as the "Assistant Director"), each of whom shall be appointed by the President, and shall serve at his pleasure. The Office shall be under the control and supervision of the Director. The Assistant Director shall perform such duties as may be assigned to him by the Director, and, during the absence or incapacity of the Director, or during a vacancy in that office, shall act as the Director. The Director shall designate an employee of the Office to act as Director during the absence or incapacity of both the Director and the Assistant Director, or during a vacancy in both of such offices.

(c) Subchapter II of chapter 53 of title 5, United States Code (relating to Executive Schedule pay rates), is amended as follows:

(1) Section 5313 is amended by adding at the end thereof the following:

"(20) Director, Office of Disaster Assistance."

(2) Section 5314 is amended by adding at the end thereof the following:

"(54) Assistant Director, Office of Disaster Assistance."

(d) There are hereby transferred to the Director all the functions of the Secretary of Defense carried out through the Office of Civil Defense, and the functions, insofar as such functions relate to major disaster relief, of the Director of the Office of Emergency Preparedness.

(e) Within one hundred and eighty days after the effective date of this Act, the President may transfer to the Director any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions transferred to the Director by the preceding subsection of this section.

TRANSFER OF PERSONNEL

SEC. 202 (a) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Bureau of the Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 201(d), are transferred to the Director. Except as provided in subsection (b), personnel engaged in functions transferred under this title shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(b) Personnel not under section 5337 of title 5, United States Code, shall be transferred without reduction in classification or compensation for one year after such transfer.

(c) In any case where all of the functions carried out through any agency or office are transferred pursuant to this Act, such agency or office shall lapse.

AUTHORITY OF THE DIRECTOR

SEC. 203. (a) The Director of the Office of Disaster Assistance may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to him by this Act, delegate any of his functions to such officers and employees of the Office as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(b) The Director is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Office in the performance of its functions. Members of such committees, other than those regularly employed by the United States Government, while attending meetings of such committees or otherwise serving at the request of the Director, may be paid compensation at rates not exceeding those authorized to be paid experts and consultants under section 3109 of such title, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title, for persons in the Government service employed intermittently.

(c) In order to carry out the provisions of this Act, the Director is authorized—

(1) to adopt, amend, and repeal rules and regulations governing the manner of operations, organization, and personnel of the Office, and the performance of the powers and duties granted to or imposed upon him by law;

(2) to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act;

(3) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(4) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; to provide services in connection therewith, and to charge therefor; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate;

(5) to construct, operate, lease, and maintain buildings, facilities, and other improvements as may be necessary;

(6) to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(8) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) to take such other action as may be necessary to carry out the provisions of this Act.

REPORTS TO THE CONGRESS

SEC. 204. The Director shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Office during the preceding fiscal year.

MISCELLANEOUS TRANSFER PROVISIONS

SEC. 205. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transfered under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this title takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Director, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Office. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Director, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this title shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted. No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the office as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this title takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Director; or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Director;

then such suit shall be continued by the Director (except in the case of a suit not involving functions transferred to the Director, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this title).

(d) With respect to any function transferred by this Act and exercised after the effective date of this title, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the office or officer in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect or releasing or extinguishing any criminal prosecution penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Director in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Director.

(g) In the exercise of the functions transferred under this Act, the Director shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

EFFECTIVE DATE

SEC. 206. (a) This title, other than this section, shall take effect ninety days after the date of enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in subsection (a) or (b) of section 201 may be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Director pursuant to this Act.

TITLE III—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—EMERGENCY RELIEF

FEDERAL COORDINATING OFFICER

SEC. 301. (a) Immediately upon the President's designation of an area as a major disaster area, the Director shall appoint a coordinating officer to operate in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer shall perform the following functions within the disaster area:

(1) make an initial appraisal of the types of relief most urgently needed;

(2) deploy any emergency support teams assigned to the area by the Director;

(3) establish such field officers as he deems necessary and as are authorized by the Director;

(4) coordinate the administration of relief, including activities of the American National Red Cross and such other private relief organizations as may agree to operate under his advice or direction; and

(5) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 302. The Director is authorized to recruit, train, or otherwise develop emergency support teams of personnel with the capability and responsibility of deploying themselves in a major disaster area immediately upon the proclamation of a major disaster. Such teams shall have such equipment and supplies as may be necessary to bring immediate, emergency assistance to

disaster victims upon deployment. An emergency support team deployed in a disaster area by the Director shall make a preliminary survey of the disaster area and advise the Federal coordinating officer with respect to the types of assistance most urgently needed, and, subject to the direction of such officer, give assistance and relief to the victims of the disaster.

EMERGENCY COMMUNICATIONS SYSTEMS

SEC. 303. The Director is authorized, after consultation with such other Federal agencies, including the Federal Communications Commission and the Federal Aviation Agency, as may be appropriate, to establish an emergency communications system in any major disaster area in order to carry out the functions of his office, and to make such system available to State and local government officials and other persons as he deems appropriate.

COOPERATION OF FEDERAL AGENCIES

SEC. 304. In any major disaster, Federal agencies are hereby authorized, upon request of the Director, to cooperate with the Director in providing assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing, through the American Nationl Red Cross, other private relief organizations, or otherwise, medicine, food, and other consumable supplies;

(3) donating or lending equipment and supplies, determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government;

(4) performing on public or private lands protective and other work essential for the preservation of life and property, including—

(a) clearing debris and wreckage;

(b) making repairs to, or replacing, public facilities, belonging to State or local governments, which were damaged or destroyed by a major disaster;

(c) providing temporary housing or other emergency shelter for families who, as a result of such major disaster, require temporary housing or other emergency shelter; and

(d) making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies. The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government in carrying out the provisions of this section.

PART B—RECOVERY ASSISTANCE

DEBRIS REMOVAL GRANTS

SEC. 305. The Director, whenever he determines it to be in the public interest, is authorized to make a grant or grants to any State or local government or agency thereof for the purpose of removing debris deposited on privately owned lands and on or in privately owned waters as a result of a major disaster, and such State or local government or agency is authorized, upon application, to make payments from amounts received in such grants to any person for reimbursement of expenses actually incurred by such person in the removal of such debris, but not to exceed the amount that such expenses exceed the salvage value of such debris.

TEMPORARY HOUSING

SEC. 306. (a) The Director is authorized to provide on a temporary basis, as prescribed in this section, dwelling accommodations for individuals and families displaced by a major disaster.

(b) The Director is authorized to provide such accommodations by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease, to be placed on sites furnished by the State or local government or by the owner-occupant displaced by the major disaster, with no site charge being made. Rentals shall be established for such accommodations, under such rules and regulations as the Director may prescribe, taking into account the financial ability of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is in excess of 25 per centum of the monthly income of the occupant or occupants.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 307. The Director is authorized to provide an emergency public transportation service in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible. Such service shall be provided only until regular public transportation is restored or provided on a regular basis, and shall not in any case be provided for more than one year after the date of the major disaster proclamation.

SMALL BUSINESS DISASTER LOANS

SEC. 308 (a) In the administration of the disaster loan program under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage resulting from a major disaster the Small Business Administration—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so canceled shall not exceed 50 per centum of the amount of such loss or damage, or $5,000, whichever is less, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

(b) Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)(A)) is amended to read as follows:

"(A) a major disaster, as determined by the President under the Omnibus Disaster Assistance Act, or".

(c) Section 7(f) of the Small Business Act (15 U.S.C. 636(f)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "Section 102(1) of the Omnibus Disaster Assistance Act".

FARMERS HOME ADMINISTRATION EMERGENCY LOANS

SEC. 309. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), in the case of property loss or damage resulting from a major disaster the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so cancelled shall not exceed 50 per centum of the amount of such loss or damage, or $5,000, whichever is less, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

LOANS HELD BY THE VETERANS' ADMINISTRATION

SEC. 310. Section 1820(f) of title 38, United States Code, is amended to read as follows:

"(f)(1) The Administrator is authorized to refinance any loan made or acquired by the Veterans' Administration when he finds such refinancing necessary because of the loss of or destruction or damage to, property securing such loan as the result of a major disaster as determined by the President pursuant to the Omnibus Disaster Assistance Act.

"(2) The interest rate on any loan refinanced under this subsection may be reduced to a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum, and the term thereof may be extended for such period as will provide a maturity of not to exceed forty years, except that the administrator may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

"(3) To the extent such loss or damage is not compensated for by insurance or otherwise, the Administrator shall, at the borrower's option on that part of any loan in excess of $500, cancel (A) the interest due on the loan, or (B) the principal of the loan, or (C) any combination of such interest or principal except that the total amount so canceled shall not exceed 50 per centum of

the amount of such loss or damage, or $5,000, whichever is less."

DISASTER LOAN INTEREST RATES

SEC. 311. Notwithstanding any other provision of law, any loan made under the authority of a disaster loan program administered by any federal agency, for the purpose of reconstruction, repair, or replacement of a structure damaged or destroyed as the result of a major disaster, or for the purpose of refinancing existing loans, mortgages, or liens on a structure so damaged or destroyed, shall bear interest at a rate not less than the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum.

AGE OF APPLICANT FOR LOANS TO REBUILD HOMES

SEC. 312. In the administration of any Federal disaster loan program in which a loan is requested for the purpose of reconstructing, repairing, or replacing any residential structure damaged or destroyed as the result of a major disaster, or for the purpose of refinancing an existing obligation on any such structure so damaged or destroyed, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

BUILDING STANDARDS FOR HOMES REBUILT

SEC. 313. (a) Any residential structure built with the aid of a loan granted by a Federal agency as the result of a major disaster shall be built in accordance with such minimum standards of safety, decency, and sanitation as the Secretary of Housing and Urban Development may prescribe by regulation for such purpose, and in accordance with applicable building codes.

(b) In order to carry out the provisions of this section, the Secretary of Housing and Urban Development is authorized—

(1) to consult with such other officials in the Federal, State, and local governments as he deems necessary, in order that regulations prescribed under this section shall—

(A) carry out the purpose of this section, and

(B) have the necessary flexibility to be consistent with requirements of other building regulations, codes, and program requirements applicable; and

(2) to promulgate such regulations as may be necessary.

AID TO MAJOR SOURCES OF EMPLOYMENT

SEC. 314. (a) The Director is authorized to provide any industrial, commercial, agricultural, or other enterprises, which have constituted the major sources of employment in an area suffering a major disaster, and which are no longer in operation as a result of such disaster, such assistance by means of grants, loans, or a combination thereof, as may be necessary to enable such enterprises to resume operations in order to restore the economic viability of the disaster area.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance provided, however, such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 329 of this Act. Any loans made under this section shall be subject to the interest requirements of section 311 of this Act, but the Director, if he deems it necessary, may defer initial payments of principal and interest for a period not to exceed three years.

FOOD COUPONS AND DISTRIBUTION

SEC. 315. (a) Whenever, as the result of a major disaster, the Director determines that low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 304 of this Act.

(b) The Director is authorized to continue through the Secretary of Agriculture to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Nothing in this section shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as it relates to the availability of food stamps in a major disaster area.

UNEMPLOYMENT ASSISTANCE

SEC. 316. The Director is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the Director shall provide shall not exceed the maximum amount and the maximum duration of payments under the unemployment compensation program of the State in which the disaster occurred and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance available to such individual for such period of unemployment.

RESTORATION OF FEDERAL FACILITIES

SEC. 317. The President is authorized upon a determination by him that such repair, reconstruction, or restoration is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation, to authorize any Federal agency to repair, reconstruct, or restore facilities owned by the United States, under the jurisdiction of such agency, which are damaged or destroyed in any major disaster. In order to carry out the provisions of this section, such repair, reconstruction, or restoration may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

REPAIR OF HIGHWAYS NOT PART OF FEDERAL-AID SYSTEM

SEC. 318. The Director is authorized to make a grant to any States affected by a major disaster for the permanent repair and reconstruction of those permanent street, road, and highway facilities not on any of the Federal-aid systems which were destroyed or damaged as a result of such a major disaster. No funds shall be allocated under this section for repair or reconstruction of such a street, road, or highway facility unless the affected State agrees to pay not less than 50 per centum of all costs of such repair or reconstruction.

REPAIR OF CERTAIN STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 319. The Director is authorized to make a grant of such sums as may be necessary to pay not more than 50 per centum of eligible costs incurred to repair, restore, or reconstruct any project of a State, county, municipal, or other local government agency for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction which was damaged or destroyed as a result of a major disaster, and of the resulting additional eligible costs incurred to complete any such facility which was in the process of construction when damaged or destroyed as a result of such major disaster. Eligible costs are those costs determined by the Director as incurred or to be incurred in (1) restoring a public facility to substantially the same condition as existed prior to the damage resulting from the major disaster, and (2) completing construction not performed prior to the major disaster to the extent the increase of such costs over original construction costs is attributable to changed conditions resulting from the major disaster. Payment under this section shall be made to the State, or local governmental agency which is constructing the public facility or for which it is being constructed, except that if the economic burden of the eligible costs of repair, restoration, reconstruction, or completion is incurred by an individual, partnership, corporation, agency, or other private entity (other than an organization engaged in the business of insurance), the State or local governmental agency shall pay such individual, partnership, corporation, agency, or other private entity not to exceed 50 per centum of those costs. Eligible costs shall not include any costs for which payment is received pursuant to insurance contracts or otherwise by the party incurring the economic burden of such costs.

COMMUNITY DISASTER LOAN FUND

SEC. 320. (a) There is established within the Treasury a Community Disaster Loan Fund from which the Director may authorize loans to local governments for the purposes of meeting payments of principal and interest on outstanding bonded indebtedness and for providing the local share of any Federal grant-in-aid program which is necessary to the restoration of the area as the result of a major disaster. Such loans shall be made only where the borrowing local government has suffered a loss of more than 25 per centum of its tax base and is otherwise unable to meet such payments or local share obligations.

(b) Loans from the fund established by this section shall be made for such periods as may be necessary, not to exceed twenty years, at an interest rate equivalent to the average annual interest rate on all outstanding interest-bearing obligations of the United States which have a maturity of twenty years or more, computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum. The Director may waive initial payments of interest and principal on such a loan for a period not to exceed five years or half the term of the loan, whichever is less.

(c) There is hereby authorized to be appropriated such sums, not to exceed $100,000,000, as may be necessary to carry out the provisions of this section.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 321. In the expenditure of Federal Funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given first to those persons who reside or do business primarily in the disaster area, and second to those persons residing or doing business primarily in the State in which the disaster area is located.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 322. In the administration of Federal grant-in-aid programs, any agency charged with the administration of such a program is authorized to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance, including matching funds, as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 323. In the processing of applications for assistance—

(1) under title II of the Housing Amendments of 1955, or any other Act providing assistance for the repair, construction, or extension of public facilities;

(2) under the United States Housing Act of 1937 for the provision of low-rent housing;

(3) under section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) under section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) under section 306 of the Consolidated Farmers Home Administration Act

priority and immediate consideration shall be given, during such period as the President shall by proclamation prescribe, to applications from public bodies situated in major disaster areas.

FEDERAL LOAN ADJUSTMENTS

SEC. 324. (a) Where such action is found to be necessary because of impairment of the economic feasibility of the system, or loss, destruction, or damage of the property of borrowers under programs administered by the Rural Electrification Administration, resulting from a major disaster, the Secretary of Agriculture is authorized to adjust and to readjust the schedules for payment of principal and interest on loans to such borrowers, and to extend the maturity dates of such loans to a period not beyond forty years from the dates of such loans. The authority herein conferred is in addition to the loan extension authority provided in section 12 of the Rural Electrification Act.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage to property or facilities securing such obligations as a result of a major disaster. The interest rate on any note or other obligation refinanced under this subsection may be reduced to a rate not less than a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of refinancing, adjusted to the nearest one-eighth of 1 per centum, and the term thereof may be extended for such period as will provide a maturity of not to exceed forty years from the date of the loan. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

TIMBER SALE CONTRACTS

SEC. 325. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or other specified development facility and, as a result of a major disaster a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost as determined by the appropriate Secretary (1) of more than $1,000 for sales under one million board feet, or (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Where the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The Director is authorized to make grants to any State or political subdivision thereof for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State of political subdivision is authorized, upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the remvoal of damaged timber, but not to exceed the amount that such expenses exceed the salvage value of such timber.

PUBLIC LAND ENTRYMEN

SEC. 326. The Secretary of the Interior is authorized to give any public land entryman such additional time in which to comply with any requirement of law in connection with any public land entry for lands affected by a major disaster as the Secretary finds appropriate because of interference with the entryman's ability to comply with such requirement as a result of such major disaster.

PART C—GENERAL PROVISIONS

STATE DISASTER PLANS

SEC. 327. (a) The Director is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The Director is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the Director not later than December 31, 1971, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and relief following a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments, and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 301 of this Act.

(d) As soon as practicable after December 31, 1971, the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

USE AND COORDINATION OF PRIVATE RELIEF ORGANIZATIONS

SEC. 328. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other private relief organizations, in the distribution of medicine, food, supplies, or other items, whenever the Director finds that distribution through such organizations is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross and other private relief organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities in the Office and the services of the coordinating officer upon compliance with regulations promulgated by the Director under section 330 of this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

SEC. 329. (a) The Director, in consultation with the head of each department or agency of the Federal Government administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines that (1) a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern, or other entity received assistance for the same loss from another source; and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 330. (a) The Director shall make, alter, and amend such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 328, private relief organizations shall be required to agree to comply with Office regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a

major disaster area as he deems necessary for the effective coordination of relief efforts.

EMERGENCY SUPPLY DEPOTS

SEC. 331. The Director is authorized to establish such emergency supply depots as he deems necessary for the accumulation of essential disaster relief equipment and supplies.

ADVISORY PERSONNEL

SEC. 332. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization of relief and assistance resources and programs.

FIRE SUPPRESSION GRANTS

SEC. 333. Director is authorized to make grants and loans to any State to assist in the suppression of any fire on publicly or privately owned forest or grasslands which threatens such destruction as would constitute a major disaster.

DISASTER WARNINGS

SEC. 334. The Director is authorized to utilize or to make available to other agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent natural disasters.

TITLE IV—THE NATIONAL MAJOR DISASTER INSURANCE PROGRAM

BASIC AUTHORITY

SEC. 401. (a) The Secretary of Housing and Urban Development (hereafter in this title referred to as the "Secretary") is authorized to establish and carry out a national major disaster insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any major disaster occurring in the United States.

(b) In carrying out the major disaster insurance program the Secretary shall, to the maximum extent practicable, encourage and arrange for—

(1) appropriate financial participation and risk-sharing in the program by insurance companies or other insurers, and

(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

SCOPE OF PROGRAM AND PRIORITIES

SEC. 402. (a) In carrying out the major disaster insurance program the Secretary shall afford a priority to making major disaster insurance available to cover residential properties which are designed for the occupancy of from one to four families.

(b) If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 404, and

(2) such other information may be necessary, the Secretary determines that it would be feasible to extend the major disaster insurance program to cover other properties, he may take such action under this title as from time to time may be necessary in order to make major disaster insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties,

(B) business properties,

(C) agricultural properties,

(D) properties occupied by private nonprofit organizations, and

(E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 403. (a) The Secretary from time to time shall, after consultation with the Director and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for major disaster insurance coverage under section 402, including—

(1) the types, classes, and locations of any such properties which shall be eligible for major disaster insurance;

(2) the nature of and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) any major disaster insurance coverage based on chargeable premium rates (under section 405) which are less than estimated premium rates (under section 404(a)(1)), shall not exceed—

(A) in the case of residential properties which are designed for the occupancy of from one to four families,

(i) $15,000 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit, and

(ii) $5,000 aggregate liability per dwelling unit for any contents related thereto; and

(B) in the case of any other properties which may become eligible for major disaster insurance coverage under section 402, $30,000 aggregate liability for any single structure; and

(2) any major disaster insurance coverage which may be made available in excess of any of the limits specified in subparagraphs (A) and (B) shall be based only on chargeable premium rates (under section 405) which are not less than estimated premium rates (under section 404(a)(1)), and the amount of such excess coverage shall not in any case exceed an amount which is equal to any such limit so specified.

ESTIMATES OF PREMIUM RATES

SEC. 404. (a) The Secretary is authorized to undertake and carry out such studies and investigations, and to receive or exchange such information as may be necessary, to estimate on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for major disaster insurance which

(A) based on consideration of the risk involved and accepted actuarial principles, and

(B) including—

(i) applicable operating costs and allowances prescribed under section 408 to be reflected in such rates, and

(ii) any administrative expenses (or portion of such expenses) of carrying out the major disaster insurance program which, in his discretion, should properly be reflected in such rates,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage shall be available under section 402; and

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase major disaster insurance, and would be consistent with the purposes of this title.

(b) In carrying out subsection (a), the Secretary shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority and, as appropriate, other Federal departments or agencies, and for such purposes, may enter into agreements or other appropriate arrangements with any persons.

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 405. (a) On the basis of estimates made under section 404 and such other information as may be necessary, the Secretary from time to time shall, after consultation with the Director and appropriate representatives of the insurance authorities of the respective States, by regulation prescribe—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 402 (at less than the estimated risk premium rates under section 404(a)(1), is necessary), and

(2) the terms and conditions under which and areas (including subdivisions thereof) within which such rates shall apply.

(b) Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved,

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making major disaster insurance available, where necessary, at reasonable rates so as to encourage prospective insureds to purchase such insurance, and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk primium rates under paragraph (1) of section 404(a), and the estimated rates under paragraph (2) of such section.

(c) Any chargeable premium rate prescribed under this section is—

(1) at a rate which is not less than the estimated risk premium rate under section 404(a)(1), and

(2) such rate includes any amount for administrative expenses of carrying out the major disaster insurance programs which have been estimated under clause (ii) of section 404(a)(1)(B),

a sum equal to such amount shall be paid to the Secretary, and he shall deposit such sum in the fund authorized under section 407.

TREASURY BORROWING AUTHORITY

SEC. 406. (a) The Secretary is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Administrator, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public

debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) Any funds borrowed by the Secretary under this authority shall, from time to time, be deposited in the National Major Disaster Insurance Fund established under section 407.

NATIONAL MAJOR DISASTER INSURANCE FUND

SEC. 407. (a) To carry out the major disaster insurance program authorized by this title, the Secretary is authorized to establish in the Treasury of the United States a National Major Disaster Insurance Fund (hereinafter referred to as the "fund") which shall be available, without fiscal year limitation—

(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 406 of this title; and

(2) to pay such administrative expenses (or portion of such expenses) of carrying out the major disaster insurance program as he may deem necessary; and

(3) to pay claims and other expenses and costs of the major disaster insurance program, as the Secretary deems necessary.

(b) The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 406 of this Act as may from time to time be deposited in the fund;

(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(3) interest which may be earned on investments of the fund pursuant to subsection (c);

(4) such sums as are required to be paid to the Secretary under section 405(d); and

(5) receipts from any other operations under this title which may, from time to time, be credited to the fund (including premiums and salvage proceeds, if any, resulting from reinsurance coverage).

(c) If, after all outstanding obligations have been liquidated, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

PAYMENT OF CLAIMS

SEC. 408. The Secretary is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by major disaster insurance made available under the provisions of this Act.

DISSEMINATION OF MAJOR DISASTER INSURANCE INFORMATION

SEC. 409. The Secretary shall take such action as may, from time to time, be necessary in order to make information and data available to the public and to any State or local agency or official, with regard to—

(1) the major disaster insurance program, its coverage and objectives, and

(2) estimated and chargeable major disaster insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 405.

PROHIBITION AGAINST CERTAIN DUPLICATIONS OF BENEFITS

SEC. 410. (a) Notwithstanding the provisions of any other law, no Federal disaster assistance shall be made available to any owner of real property for the physical loss, destruction, or damage of such property, to the extent that such loss, destruction, or damage

(1) is covered by a valid claim which may be adjusted and paid under major disaster insurance made available under the authority of this title, or

(2) could have been covered by a valid claim under major disaster insurance which had been made available under the authority of this title, if—

(A) such loss, destruction, or damage occurred subsequent to one year following the date major disaster insurance was made available in the area (or subdivision thereof) in which such property or the major part thereof was located, and

(B) such property was eligible for major disaster insurance under this title at that date,

and in such circumstances the extent that such loss, destruction, or damage could have been covered shall be presumed (for purposes of this subsection) to be an amount not less than the maximum limit of insurable loss or damage applicable to such property in such area (or subdivision thereof), pursuant to regulations under section 403, at the time insurance was made available in such area (or subdivision thereof).

(b) For purposes of this section "Federal disaster assistance" shall include any Federal financial assistance which may be made available to any person as a result of—

(1) a major disaster,

(2) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), and

(3) a disaster with respect to which loans may be made under section 7(b) of the Small Business Act, as amended (15 U.S.C. 636(b)).

(c) For purposes of section 329 of this Act, the term "financial assistance" includes any major disaster insurance which is made available under this title.

PROPERTIES IN VIOLATION OF STATE AND LOCAL LAW

SEC. 411. (a) No new major disaster insurance coverage shall be provided under this Act for any property which the Secretary finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in disaster-prone areas.

COORDINATION WITH OTHER PROGRAMS

SEC. 412. (a) In carrying out this title, the Secretary, in cooperation with the Director, shall consult with other departments and agencies of the Federal Government, and interstate, State, and local agencies having responsibilities for major disaster assistance in order to assure that the programs of such agencies and the major disaster insurance program authorized under this title are mutually consistent.

(b) The Veterans' Administration, the Federal Housing Administration, and any other Federal agency administering a program under which loans or mortgages on residential or other structures are guaranteed or insured by the Federal Government, shall, by regulation, require that any such structure be insured under the major disaster insurance program administered by the Secretary.

TERMINATION OF AUTHORITY

SEC. 413. The Secretary shall not establish or carry out the major disaster insurance program authorized by this title if he finds and certifies to the President and the Congress not later than June 30, 1971, that major disaster insurance with coverage equal to or more extensive than that which would be provided under this title has been made available on reasonable terms by private insurance companies. The provisions of this title shall have no effect from and after such certification by the Secretary.

TITLE V—MISCELLANEOUS

TECHNICAL AMENDMENTS

SEC. 501. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii)) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as determined by the President pursuant to the Omnibus Disaster Assistance Act;"

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso the words "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950)" and inserting in lieu thereof the words "section 102(1) of the Omnibus Disaster Assistance Act".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended" and inserting in lieu thereof "section 102(1) of the Omnibus Disaster Assistance Act".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 17151(f)) is amended by striking out of the last paragraph the words "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof the words "the Omnibus Disaster Assistance Act".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (20 U.S.C. 241–1(a)(1)(A)), is amended by—

(1) striking out "Office of Emergency Planning" and inserting in lieu thereof "Office of Disaster Assistance"; and

(2) striking out "pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof the following: "pursuant to section 102(1) of the Omnibus Disaster Assistance Act". (f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by—

(1) striking out "the Director of the Office of Emergency Planning" and inserting in lieu thereof "the Director of the Office of Disaster Assistance"; and

(2) striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Omnibus Disaster Assistance Act".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof the following: "section 102(1) of the Omnibus Disaster Assistance Act".

(h) Section 165(h)(2) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)(2)) is amended to read as follows:

"(2) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Omnibus Disaster Assistance Act,".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended

by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Omnibus Disaster Assistance Act".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Omnibus Disaster Assistance Act".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681), is amended by striking out of the last sentence the words "section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a)" and inserting in lieu thereof the following: "section 102(1) of the Omnibus Disaster Assistance Act".

(l) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to (1) the Office of Civil Defense, or (2) the Act of September 30, 1950 (64 Stat. 1109), or any provision of such Act, such reference shall be deemed to be a reference to (1) the Office of Disaster Assistance, or (2) the Omnibus Disaster Assistance Act, respectively.

REPEAL OF EXISTING LAW

SEC. 502. The following Acts are hereby repealed:

(1) the Act of September 30, 1950 (64 Stat. 1109);

(2) the Disaster Relief Act of 1966 (80 Stat. 1316); and

(3) the Disaster Relief Act of 1969 (83 Stat. 125).

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. There are hereby authorized to be appropriated, except as provided otherwise in this Act, such sums as may be necessary to carry out the provisions of this Act.

The synopsis, presented by Mr. BAYH, is as follows:

OMNIBUS DISASTER ASSISTANCE ACT, BRIEF SECTION-BY-SECTION SYNOPSIS

TITLE I—FINDINGS AND DECLARATIONS, DEFINITIONS

Sec. 101. Findings and declarations. Congress would declare its intention to provide relief to disaster areas by revising and broadening relief programs, advanced planning, and improved federal administration.

Sec. 102. Definitions. Same as P.L. 91-79, except for the addition of the words "high waters, wind-driven waters, tidal waves, and tornado."

TITLE II—OFFICE OF DISASTER ASSISTANCE

Sec. 201. Establishment. The Office of Disaster Assistance (ODA) would be established within the Executive Office of the President, headed by a Director. ODA would subsume the functions of the Office of Civil Defense, which would be abolished, and the national disaster functions of the Office of Emergency Preparedness.

Sec. 202. Transfer of Personnel. Personnel, property, contracts, and records of the Office of Civil Defense and the disaster relief functions of the Office of Emergency Preparedness would be transferred to ODA.

Sec. 203. Authority of the Director. The Director would have the usual powers conferred on the head of an agency.

Sec. 204. Reports to Congress. The Director would submit a report to Congress on the activities of the Office of Disaster Assistance at the end of each fiscal year.

Sec. 205. Miscellaneous Transfer Provisions. Provides that certain administrative responsibilities, obligations and functions would be transferred to the new Office of Disaster Assistance.

TITLE III—THE ADMINISTRATION OF DISASTER ASSISTANCE

Part A—Emergency relief

Sec. 301. Federal Coordinating Officer. Would strengthen and expand the role of the Federal coordinating officer established by the 1969 disaster relief act.

Sec. 302. Emergency Support Teams. The coordinating officer would deploy emergency support teams where needed, and coordinate relief administration with private organizations.

Sec. 303. Emergency Communications System. The Director would establish an emergency communications system which would be made available to state and local governments.

Sec. 304. Cooperation of Federal Agencies. Other federal agencies, at the request of the Director of ODA, would be authorized to provide facilities, supplies, personnel, food, medicine, etc., for distribution, and to provide machinery for clearance of debris, to make repairs, etc.

Part B—Recovery assistance

Sec. 305. Debris Removal Grants. Grants to state and local governments for removal of debris from private property would be authorized.

Sec. 306. Temporary Housing. Provisions for temporary housing would be similar to those in P.L. 91-79, but the Director of ODA would be authorized to *purchase* as well as lease mobile homes. Temporary housing rentals would be charged according to ability to pay, and could not exceed 25% of family income for one year after the disaster.

Sec. 307. Emergency Public Transportation. Emergency public transportation would be authorized in a major disaster area where regular public transportation has been disrupted. Service would be terminated when regular public transportation has been restored but in no case would it continue for more than one year.

Sec. 308. Small Business Disaster Loans. SBA disaster loans could be made for refinancing the repair or reconstruction of homes and businesses, regardless of the availability of loans from other sources. Cancellation of up to 50% of uninsured losses in excess of $500 up to a maximum of $5000 would be authorized through the forgiveness of principal and/or interest. Payments of principal and/or interest could be deferred up to 3 years.

Sec. 309. Farmers Home Administration Emergency Loans. FHA disaster loans would be treated the same as those made by FHA in Sec. 308.

Sec. 310. Loans Held by the Veterans Administration. Veterans Administration loans could be refinanced in disasters under terms similar to SBA and FHA disaster loans.

Sec. 311. Disaster Loan Interest Rates. All disaster loans administered by any Federal agency would bear an interest rate not less than the average of all U.S. interest-bearing obligations maturing in 20 years or more, adjusted to the nearest ⅛th of 1%.

Sec. 312. Age of Applicant for Disaster Home Loans. All Federally administered disaster loan applications must be considered without discrimination because of age.

Sec. 313. Building Standards for Homes Rebuilt. Any home repaired or rebuilt with the aid of disaster loans would have to be constructed according to minimum standards of safety, decency and sanitation as prescribed by HUD.

Sec. 314. Aid to Major Sources of Employment. The Director would be authorized to make grants or loans to industries and businesses which are a major source of employment in a disaster-stricken area. Loans would be at interest rates prescribed in Sec. 311, but the Director would be authorized to defer payments of principal and interest for up to three years.

Sec. 315. Food Coupons and Distribution. The Director would be authorized to distribute, through the Secretary of Agriculture, food stamps and commodities in areas where he determined that low-income family households would be unable to purchase sufficient quantities of nutritious food.

Sec. 316. Unemployment Assistance. Unemployment compensation would be provided for individuals made jobless by disasters but who would not be eligible for unemployment compensation under the laws of their states.

Sec. 317. Restoration of Federal Facilities. The President would be authorized to order the reconstruction of any federal facility damaged or destroyed by disaster. Any agency could begin reconstruction, even if sufficient funds were not available to complete the job, provided that sufficient funds could be transferred from another agency's appropriations.

Sec. 318. Repair of Highways Not Part of Federal-Aid System. The Director would be authorized to approve grants for the restoration of state and local highways not on the federal-aid system damaged by disasters. Grants could not exceed 50% of the total cost of restoration.

Sec. 319. Repair of Certain State and Local Government Facilities. The Director would be authorized to make grants up to 50% of the costs of restoring public works projects in the process of construction but not yet completed which might be damaged or destroyed by major disasters. Eligible public works include projects for flood control, navigation, reclamation, electric power, water and sewage treatment, airports.

Sec. 320. Community Disaster Loan Fund. $100 million would be authorized for a Disaster Loan Fund in the Treasury which could be used for loans to local governments which have lost at least 25% of their tax base because of a major disaster. Loans would be made at interest rates specified in Sec. 311, except that the Director would be authorized to waive payment of interest and principal for up to five years.

Sec. 321. Use of Local Firms and Individuals. In the expenditure of federal funds, preference would be given to those persons or firms who work or do business in the areas which are receiving major disaster assistance.

Sec. 322. Federal Grant-in-Aid Programs. Any agency administering aid to disaster areas would be authorized to waive the conditions for receipt of federal grant-in-aid programs for the duration of the disaster proclamation, if inability to meet such conditions resulted from the disaster.

Sec. 323. Priority to Certain Applications for Public Facility and Public Housing Assistance. In processing applications for various housing programs, priority would be given to applications from public bodies located in disaster areas for the duration of a Presidential major disaster proclamation.

Sec. 324. Federal Loan Adjustments. The Secretary of Agriculture would be authorized to readjust payment schedules of borrowers from Rural Electrification Administration, if the borrowers are unable to make payments because of disaster damage. The Secretary of HUD would be authorized to refinance any note or other obligation which could not be paid because of disaster damage. The interest rate could be reduced to the rate provided by Sec. 311 above. The Secretary would be authorized to suspend payment of interest and principal and to extend maturity of loans which may cause financial hardship.

Sec. 325. Timber Sale Contracts. Grants could be made to assist in the increased

costs for the repair of forest roads and for the salvaging and clean-up costs of disaster-damaged timber.

Sec. 326. Public Land Entrymen. The Secretary of Interior would be authorized to give public land entrymen additional time to comply with legal requirements for land entry if disaster damage prevents immediate compliance.

Part C—General Provisions

Sec. 327. State Disaster Plans. The President would be authorized to grant up to $250,000 to any State for not more than 50% of the cost of preparing comprehensive plans and practicable programs for preparation against and for relief to individuals, businesses and local governments suffering losses in major disasters.

Sec. 328. Use and Coordination of Private Relief Organizations. The Director would be authorized to make agreements with private relief organizations to help distribute food, clothing, medicine and other supplies, in accordance with Sec. 330, below, which would bar discrimination. The Director would be authorized to make agreements with private organizations which would allow the federal coordinating officer to coordinate all relief activities of private agencies in a given disaster area.

Sec. 329. Duplication of Benefits. The Director of ODA would be required to ascertain that no person or business would be receiving aid from more than one source for the same disaster damage. No person or business could receive assistance from the government for any loss compensated by insurance. The Director would be required to determine whether any person had received duplicate benefits and direct him to reimburse the Treasury for the excess amount.

Sec. 330. Non-discrimination in Disaster Assistance. The Director would be required to issue regulations forbidding discrimination by race, color, age, sex, nationality, religion or economic status in providing disaster relief supplies and services.

Sec. 331. Emergency Supply Depots. The Director would be authorized to establish emergency supply depots for disaster assistance materials.

Sec. 332. Advisory Personnel. The Director would be authorized to assign advisory personnel to the chief executive officer of a state or local government.

Sec. 333. Fire Suppression Grants. The Director would be authorized to make grants and loans to any state in order to assist in the suppression of fires on publicly or privately owned forest and grass lands.

Sec. 334. Disaster Warnings. The Director would be authorized to make available facilities of the civil defense communications system for warnings against imminent disasters.

TITLE IV—THE NATIONAL MAJOR DISASTER INSURANCE PROGRAM

Sec. 401. Basic Authority. Unless a suitable program is established by the private insurance industry by June 30, 1971, the Secretary of HUD would be authorized to establish a national major-disaster insurance program to enable property owners to buy comprehensive major disaster insurance.

Sec. 402. Scope of Program and Priorities. Dwellings in which are housed one to four families would be given priority for insurance. The Secretary would be authorized, however, to make disaster insurance available to other residential, business, agricultural, non-profit, and publicly owned properties if studies have deemed such insurance would be feasible.

Sec. 403. Nature and Limitation of Insurance Coverage. The Secretary, in consultation with the Director of ODA and appropriate State insurance authorities, would issue regulations for major disaster insurance pertaining to the classes of property, damage covered, classification of risks, premium amounts, loss-deductibles, and other matters. Coverage provided by the bill would be divided into two categories: first, a basic minimum amount, the premiums for which could be fixed by the Secretary at a rate below established costs; second, amounts above the basic minimum, which would be charged at rates not less than those estimated to be needed for all costs of providing that protection.

The basic coverage for residential properties housing up to four families would be $15,000 aggregate liability for any single dwelling unit, $30,000 for any structure containing more than one dwelling, and $5,000 aggregate liability for the contents of any dwelling unit. If the Secretary should declare other types of property to be eligible for major disaster insurance, any single structure in those specified categories would have an aggregate liability of $30,000.

Sec. 404. Estimates of Premium Rates. The Secretary would be authorized to make studies and investigations which would enable him to estimate what the risk premium rates would be for various areas based on actuarial principles, operating costs and administrative expenses. He would also be directed to estimate what level of rates would be reasonable, would encourage prospective insurers to purchase disaster insurance, and would be consistent with the purposes of the act.

Sec. 405. Establishment of Chargeable Premium Rates. The Secretary would from time to time prescribe by regulation the chargeable premium rates for all types and classes of property for which disaster insurance is made available. He could if necessary fix the premium rates for the basic property values covered (noted above) at less than the estimated risk premium rates. Otherwise, the rates would have to be based, insofar as practicable, on the respective risks involved and would have to be adequate to provide reserves for anticipated losses. If the rates were fixed at a lower amount, they would have to be consistent with the objective of making major disaster insurance available at reasonable rates in order to encourage its purchase by homeowners and others.

Sec. 406. Treasury Borrowing Authority. The Secretary would be authorized with the approval of the Secretary of the Treasury, to issue notes or other obligations in an amount not exceeding $500 million. The Secretary of the Treasury would determine the rate of interest for these notes or obligations, and would be authorized to purchase or sell them as public debt transactions.

Sec. 407. National Major Disaster Insurance Fund. The Secretary would also be authorized to establish in the Treasury of the United States the National Major Disaster Insurance Fund from which would be paid all claims, expenses, administrative costs and debt redemption of the major disaster insurance programs. The Fund would be the repository for all funds which might be borrowed, appropriated by Congress, earned as interest on investments, derived from premiums or received from other operations. If the Secretary should determine that the Fund total would be in excess of current needs, he could request the Secretary of the Treasury to invest the amounts which the latter deemed advisable in obligations issued or guaranteed by the United States.

Sec. 408. Payment of Claims. The Secretary would be authorized to establish regulations for adjustment and payment of claims.

Sec. 409. Dissemination of Major Disaster Insurance Information. The Secretary could make available to state and local agencies data and information with regard to the coverage, objectives and premium rates for disaster insurance programs.

Sec. 410. Prohibition Against Certain Duplications of Benefits. No property-owner would be eligible for disaster relief assistance if a person or business is covered for losses by insurance or could have been covered by disaster insurance which had been made available in his area at least one year prior to the occurrence of the damage.

Sec. 411. Properties in Violation of State and Local Law. No new major disaster insurance would be provided for properties which the Secretary found to be in violation of State and local zoning laws and ordinances.

Sec. 412. Coordination With Other Programs. The Secretary would consult with the Director of ODA and other departments and agencies of the federal, state and local agencies in order to coordinate the insurance program with their activities. Veterans Administration, Federal Housing Administration, and other federal agencies which guarantee or insure loans and mortgages would have to require that any such structures must be insured under the major disaster insurance program administered by the Secretary.

Sec. 413. Termination of Authority. The major disaster insurance program would not be established if the Secretary determined that by June 30, 1971, private insurance companies have provided equivalent coverage on reasonable terms.

TITLE V—MISCELLANEOUS

Sec. 501. Technical Amendments. Existing statutes would be brought into conformity with the Omnibus Disaster Assistance Act.

Sec. 502. Repeal of Existing Law. The disaster relief acts of 1950, 1966, and 1969 would be repealed.

Sec. 503. Authorization of Appropriations. Funds needed to carry out provisions of the act would be authorized to be appropriated.

Mr. SPONG. Mr. President, it is a pleasure to join the Senator from Indiana, the distinguished chairman of the Special Public Works Subcommittee on Disaster Relief, in the introduction of the Omnibus Disaster Assistance Act.

As a member of the subcommittee, I participated with him in several days of hearings in Mississippi and Virginia for the purpose of evaluating the effectiveness of the Federal response to victims of Hurricane Camille, and determining the need for additional Federal legislation.

The testimony we received was most helpful and enlightening. It demonstrated the need for: First, better coordination between Federal, State, and local officials; second, improvement in the administration of the temporary housing program for disaster victims; third, better systems of communications in disaster areas; fourth, better insurance coverage and quicker settlements of insurance claims; fifth, financial assistance to localities unable to meet their financial obligations because of extensive losses in their tax base; sixth, better dissemination of information, readily understandable to the general citizenry, on the types of available assistance; and seventh, official recognition of additional charitable groups having the capacity to distribute goods and commodities to disaster victims.

The bill being introduced today seeks to accomplish these purposes. A broad range of disaster relief programs would be established on a permament basis. This would facilitate a quick and effective response to natural disasters which may occur in the future. It is a sounder approach than attempting to respond legislatively to disasters on a piecemeal and

individual basis after they have occurred. Congress cannot be expected to foresee every need arising from every emergency, but the bill we have developed offers great flexibility and establishes a foundation for an efficient response by Government agencies.

The Disaster Relief Act of 1969—Public Law 91-79—has been a useful tool in the Virginia effort to recover from damage inflicted last summer by Hurricane Camille. It was my privilege to serve on the conference committee which developed the legislation. Several key sections of that measure will expire on December 31, 1970, however, and it is important that they be continued and in some cases expanded.

Provisions scheduled to terminate deal with the removal of debris from private property, assistance for the repair and reconstruction of non-Federal aid highways, forgiveness of a portion of disaster loans made by the Small Business Administration and the Farmers Home Administration, authority for temporary housing for disaster victims, and food stamp and unemployment assistance.

Besides establishing these programs on a permanent basis, the bill would consolidate into one act all major existing disaster laws. Such a codification would lead to better coordination of relief machinery, and enable disaster victims to refer to one statute to ascertain the various types of available assistance.

The Omnibus Disaster Act would transfer the functions of the Office of Civil Defense, and the major disaster relief responsibilities of the Office of Emergency Preparedness, into a new Office of Disaster Assistance.

It would expand the role of the Federal coordinating officer provided for in the Disaster Relief Act of 1969 to include responsibility for appraising the types of assistance necessary in a disaster area, for establishing field offices, and for coordinating the administration or relief with private organizations.

The housing provisions of the bill are similar to those in existing law, except authority would be added to purchase as well as lease mobile homes. Rentals would be based on ability to pay, but in no event would exceed 25 percent of family income for 1 year after a disaster.

Emergency public transportation would be authorized in a major disaster area where regular public transportation has been disrupted.

Several changes are proposed in the disaster loan programs of the Small Business Administration and the Farmers Home Administration. Interest rates charged for most loans would be increased from the current 3 percent to the average rate for interest-bearing obligations of the Federal Government. However, this would be offset by increasing the amount of disaster loans which can be forgiven. Under present law, for loans in excess of $500, a maximum of $1,800 can be cancelled. A revised formula would provide forgiveness of up to 50 percent of the uninsured loss, to a maximum amount of $5,000.

I have some reservations over the community disaster loan fund which would be established under the bill. Localities that have suffered a loss of more than 25 percent of their tax base would be permitted to borrow from the fund in order to make interest and principal payments on outstanding bonded indebtedness.

I have no objection to the intent of the fund, but believe the Federal Government should not be required to bear the burden alone. There should be some requirement for participation by State governments before Federal funds could be loaned to a locality. I expressed the view at the subcommittee's hearings in Virginia that State governments have a responsibility in this area of disaster assistance, and the Senator from Indiana is aware of my feelings. No criticism of the bill is intended by my observation, but I look forward to receiving additional testimony on the point.

The bill provides that both public and private agencies involved in disaster relief work cannot discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status.

Another provision would give official status to the Salvation Army and the Mennonite Board of Missions and Charities in the utilization of their manpower and supplies during disaster recovery efforts. Only the American Red Cross now has such status.

Our subcommittee heard considerable testimony in support of improved insurance protection against major disaster losses. Coverage presently is available for damage from fire, windstorm, and hail, but it is not generally available for floods, mudslides, wind-driven waters, high waves, and earthquakes. Congress sought to remedy the problem of water damage through the enactment of the National Flood Insurance Act of 1968, but that program has not been fully implemented.

The bill seeks to encourage the private insurance industry to develop a major disaster insurance program. I join the Senator from Indiana in inviting industry proposals on a joint approach involving Government participation in an industry-managed insurance system.

In any event, I welcome industry comment on insurance proposals which would become operative under the bill in the event a private plan is not developed. Some of its provisions, particularly those which would deny eligibility for a portion of disaster assistance to property owners who do not have insurance, seem somewhat harsh and restrictive.

However, the insurance section of the bill serves the worthwhile purpose of establishing a basis for comment and discussion. I reserve judgment on this aspect of the measure until the subcommittee has had the benefit of testimony from experts on estimated premium costs, and the possible effect of such costs on lower economic groups.

Mr. President, the bill is deserving of prompt consideration in view of the fact that the most important provisions of last year's Disaster Act will expire on December 31. The Nation has experienced an average of 14 major disasters per year over the past 20 years. The legislation being offered today would establish the means to alleviate promptly and effectively the damage and human suffering that accompany these phenomena.

ADDITIONAL COSPONSORS OF BILLS

S. 3579

Mr. PROUTY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Vermont (Mr. AIKEN), the Senator from Maine (Mrs. SMITH), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Rhode Island (Mr. PASTORE) and the Senator from Rhode Island (Mr. PELL), be added as cosponsors of S. 3579 to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States.

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

S. 3596

Mr. GOODELL. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Vermont (Mr. PROUTY) be added as a cosponsor of S. 3596, the Humane Seal Protection Act of 1970.

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

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

S.J. RES. 61

Mr. McCARTHY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Washington (Mr. MAGNUSON), the Senator from Illinois (Mr. PERCY), and the Senator from Oregon (Mr. PACKWOOD), be added as cosponsors of Senate Joint Resolution 61, proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

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

SENATE RESOLUTION 374—RESOLUTION SUBMITTED TO AUTHORIZE THE COMMITTEE ON COMMERCE TO STUDY RESTRAINTS IMPOSED ON U.S. COMMERCE BY FOREIGN IMPORT RESTRICTIONS

Mr. COTTON. Mr. President, I am submitting for appropriate reference a Senate Resolution to authorize the Committee on Commerce to study restraints imposed on U.S. commerce by foreign import restrictions.

Just about every foreign country imposes restrictions on the importation of American goods, but we have none on theirs. The result is the United States has become a dumping ground for cheap shoes, cheap textiles, foreign-made electronic products, and many, many other manufactured goods. For a long time many Members of the Senate have been striving to save American industries and American jobs from being destroyed by this ever-increasing influx. Our efforts have been misunderstood by many who have gained the impression that we are seeking to invoke a protectionist policy and that we are opposed to free trade.

Speaking for myself and I believe for most of my colleagues who share my concern about this situation, I want to again make it clear that we are not seeking a return to a protectionist policy. What we do want is free trade that is a two-way street.

Recently the Senate voted overwhelmingly by a better than 2-to-1 margin in favor of the so-called Cotton amendment to the tax bill which authorized the President to impose quotas or other restrictions on the importation of goods from countries that imposed restrictions against American goods and to remove such restrictions whenever such other country removed theirs.

This amendment was dropped from the tax bill in the conference between the House and the Senate because the Ways and Means Committee of the House and the Finance Committee of the Senate believe they should not get involved in trade matters and that the tax bill was not the proper legislation to carry such an amendment. I have no quarrel with the position of the Finance Committee in this regard.

However, it is high time that the Congress gets involved in trade matters and asserts itself. In my section of the country over 10,600 shoe jobs have been lost in the last 3 years, fully one-quarter of these in my own State of New Hampshire. The electronics industry is one of the hardest hit by cheap-labor foreign imports. They now account for 98 percent of the portable and transistor radios sold in this country, nearly that percentage of the black and white television sets, and now serious inroads are being made in color TV sets.

I believe that an immediate study should be made of the barriers against American goods imposed by other nations, including import licenses, tariffs, and many other forms of restriction. I believe that the Senate Committee on Commerce, formerly known as the Committee on Interstate and Foreign Commerce, is the logical committee to make this study. I believe that an early report to the Senate cataloging and analyzing these trade barriers will be an eye opener not only for the Congress but for some of those in the executive departments who have been so slow to move toward saving our industries and our jobs. I would hope that hearings before the Committee on Commerce or any authorized subcommittee would include testimony from Secretary of Commerce Stans, as well as officials of the State Department.

One more word, much of the opposition to congressional action in the field of foreign imports comes from those who are concerned about the consumers and want them to have the full advantage of low-priced foreign goods. There are two answers to this. First, the workers in our maunfacturing plants are consumers and, as such, are entitled to keep their jobs. The second and more important answer is that history has shown that, whenever a foreign industry has succeeded in virtually destroying its American competitor, the price of its goods goes up immediately. The contention that allowing American industry to be destroyed for the benefit of the American consumer is completely fallacious.

Mr. President, I ask unanimous consent that a speech by Kenneth N. Davis, Jr., Assistant Secretary of Commerce for Domestic and International Business, before the Electronic Industries Association on March 9 be printed at this point in the RECORD. I would like to direct the attention of my colleagues particularly to that part of the speech which quotes a letter from the president of Zenith Radio Corp., Joseph S. Wright, to Secretary Stans, in which Mr. Wright describes the plight of the electronics industry and a planned reduction in the Zenith working force by about 3,000 jobs this year due to the opening of their new plant in Taiwan.

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

U.S. INTERNATIONAL TRADE PROSPECTS—CAN AMERICAN BUSINESS, LABOR, AND GOVERNMENT MEET THE CHALLENGE OF NEW WORLD COMPETITIVE FORCES?

(Address by Hon. Kenneth N. Davis, Jr.)

It is a particular pleasure and privilege to appear before the Electronic Industries Association. As you have heard, my entire business background was in one of your member industries. It is especially appropriate to discuss world trade prospects in this forum, because you are representatives of exactly the kind of industry on which the nation's future economic strength depends—strentgh which we must have if we are to be able to deal with our burning national issues.

I am proud to have been a member of the Nixon Administration during this past year. It has been a great thrill to work with others in government in their efforts to create effective programs to deal with the massive problems facing the nation and the world. I can tell you quite honestly that this year has taught me that the problems of government are more difficult than most businessmen imagine. I am convinced, though, that we are making real progress. We will do even better in the months ahead.

IMPORTANCE OF MAINTAINING U.S. WORLD COMPETITIVE POSITION

There is one overriding responsibility which should command the ultimate dedication of the Commerce Department and of U.S. industry. That is the responsibility to see that America does what is needed to assure its continued economic strength. *If our great industries and the nation as a whole do not maintain their strength and vitality, we will not have the financial resources to solve our massive national social and economic problems. Also, we would not be able to continue to provide leadership in international economic development which is so vital to the whole world's future.* It will cost many billions of dollars to bring economic and social equality to our minority citizens, to rebuild urban America, and to win the fight against environmental pollution. Does anyone here deny that we need our full strength now as never before in our history?

For a business to be strong today, it is no longer enough just to be able to compete effectively with other American companies here at home. The world has suddenly become a global marketplace! *We must now compete more effectively in this new global environment if we are to stay strong as industries and as a nation.*

Since coming to Washington, I have had the rare opportunity of observing the full range of problems being faced by business and labor in this country. I have also been working with the many others in government who share responsibility for our international trade and investment policy. *Government policy-makers must constantly remind themselves of the increasingly competitive international world in dealing with many matters which could formerly be looked at as strictly domestic problems.* No longer can we treat inflation, consumerism, and antitrust matters from a strictly domestic viewpoint. In the antitrust field, for example, we have not yet found ways to get other countries to adopt as tight anti-merger laws as our. Yet our companies must compete with their companies both overseas and here in the United States. In the consumer area, it is sometimes argued that we should permit unlimited imports of low cost foreign products such as textiles, oil, or steel because of the beneficial effect on consumer prices. However, from a truly national standpoint, our precarious balance of payments position simply will not permit such a policy. Also, from the standpoint of business and labor, the country cannot afford to see its major industries lose their strength just because of the existence of low cost labor or raw materials overseas, or because other countries subsidize their industry or have lax antitrust laws.

INTERNATIONAL TRADE MUCH IN CURRENT NEWS

There has been much in the news of late about world trade problems. It is difficult for those of us in government to try to assimilate and make sense out of the many conflicting reports. It must be virtually impossible for those of you who must devote most of your time to running your companies.

I have here just a few of the speeches, statement, and news reports on trade gathered in the past two weeks. They include major items from the departments of state, justice, and labor urging freer access to the United States market for foreign firms. There is a major policy statement from the AFL–CIO decrying the shift of U.S. jobs to overseas plants owned by foreigners and by American companies. From one newspaper, there is an editorial criticizing U.S. trade policy as too protectionist, but also a news story from the same paper criticizing the European Common Market for being unfair to the U.S. There are numerous stories, pro and con, about the U.S.-Japan textile talks. The most surprising item to me is the report of the press conference held by European Common Market officials after their "informal" discussions with various government agencies here last week. The Europeans appear to have misunderstood what we were trying to say to them. I will comment more on that later.

Rather than attempt to sort out all of the seeming contradictions, I am going to read a portion of another letter to you. The letter was just received by Secretary Stans from a highly respected member of your own industry—Mr. Joseph Wright, Chairman of Zenith Radio. As you will soon see, this is obviously an unsolicited letter, but its message is so important for everyone in business, labor, and government that I called Mr. Wright to get his approval to quote from it today.

FEBRUARY 26, 1970.

DEAR MR. SECRETARY: I am sure you are aware that the electronics industry, both components and finished goods, is engaged in a life and death struggle with the Japanese. On several occasions I have sought to interest the Department of Commerce in what is going on in this field, but apparently without any success.

* * * * * * * *

I am always struck very forcibly by the great difference between our situation and that of our Japanese competitors. The latter have the complete cooperation and support of their government in two major areas. First, in substantially subsidizing and pro-

moting Japanese export trade and, second, in keeping out any United States competition which they do not regard as desirable. We attempted to break into the Japanese market, where TV sets that sell for $500 in the United States command a retail price of $1300 or more and we were kept out by denial of import and exchange licenses. We are sending a new high level team to Japan in a few weeks to try to break this open again, but I am absolutely sure that we will be met by the same kind of reception.

It is a very discouraging thing to us when our own United States Government agencies apparently have little if any interest in our problems, many of which could be solved, not by some new law or new bureau, but by effective and aggressive use of the machinery that is already on the books. I hope the Department can look into this matter, and at least stop indicating to people that there isn't any significant problem. Zenith's United States employment will be down an average of 3000 jobs in 1970 against 1969. When our new plant in Taiwan comes on stream in early 1971 it will have a capacity of 4000 jobs which will probably be lost in this country. This most tragic part of this story is that the heaviest impact of our 3000 lost jobs this year is on the blacks we have worked to train and give a sense of identity and pride, and the economic ability to escape the ghetto. Due to seniority, 38% of those laid off are blacks.

Respectfully yours,

JOSEPH S. WRIGHT.

PROTECTIONISM VS. FREE TRADE

Those of you who know Mr. Wright know that he is anything but a "protectionist.' What he is saying is that our government is not helping sufficiently in obtaining fair competitive conditions for American industry in world trade. He wants equal access to the Japanese market. When Japan engages in illegal "dumping" of merchandise in our market, which they sometimes do, he wants government action in far less than the 18 to 24 months taken today. He wants our government to object more strenuously to foreign export subsidies and cartels which would be illegal in this country.

The old "protectionism vs. free trade" argument has become a very sterile issue, I believe. Instead, we should all recognize that there are strong competitors all around the world today—in Europe, the Far East, and elsewhere. After World War II, the United States set out to build up industrial strength in all parts of the world to meet the needs of all people. An expansionist trade policy was a key part of the program. Now that we have been successful in creating worthy competitors, and with the onward thrust of modern transportation and communications technology, *we should not turn back toward protectionism! Rather, we must keep moving ahead toward trade expansion! But now, we must insist more firmly on receiving fair competitive treatment—treatment which just isn't being given to us by many of our trading partners!*

I am afraid that many of the "free trade" speeches made by American business and government leaders (and I admit to making my own share this year) are misunderstood by other nations, particularly by their officials who are responsible for coping with the problems of their own industries. *Foreign misunderstandings of U.S. intentions in the trade field can be most unfortunate.* For example, the failure of Japan to understand the firmness of the U.S. intent to secure reasonable limitations on textile imports to this country may well result in protectionist U.S. legislation soon. The failure of the Common Market to be more constructive in working on non-tariff barrier reduction with us, to take more progressive steps in its agriculture policy, and to recognize that we cannot stand idly by while it makes trading agreements which discriminate against the U.S., is endangering the passage of our Trade Act of 1969. And yet, this bill contains the repeal of the American Selling Price system of chemical import valuation, a change long sought primarily by Europe.

Of particular interest to this audience is the point that right now, *while Europe is calling for the repeal of ASP as the key to progress in other non-tariff barrier reductions, it is about to impose a new non-tariff barrier against the American electronic component industry.* The so-called Tripartite Accord between France, Germany, and Britain would impose discriminatory inspection standards against outside manufactured components. The EIA has estimated that U.S. exports of electronic components to Europe could be reduced by as much as 35% under the new restrictions. We could not help but be very disappointed with the lack of interest shown by the Common Market officials when we raised this matter with them last week.

EUROPEAN COMMON MARKET ATTITUDE ON TRADE POLICY

I mentioned earlier the news reports of comments by Common Market officials on our "informal" talks last week. They had met with various Washington agencies at their own suggestion. After the talks, their Director General of External Trade Matters was quoted in the press as follows:

1. The U.S. is no longer concerned over European border taxes.

2. The American Selling Price System must be repealed or international trade relations will suffer a grave setback.

3. The textile agreement which the U.S. seeks with the Far Eastern countries should be limited to selected items where injury can be proven.

4. The Common Market is alarmed by quota bills in the U.S. Congress and rising protectionist sentiment here.

5. Non-tariff barrier negotiations probably can't start until after 1971.

Frankly, it is hard for me to believe that this is an accurate report of the Common Market's understanding of the U.S. Government attitude. Here is what we said to the Common Market people at the Commerce Department:

1. The U.S. considers European border taxes a major non-tariff barrier, particularly with respect to export rebates in sales to third countries in competition with U.S. suppliers.

2. We are concerned about the prospects for obtaining Congressional approval of the repeal of ASP, both because of the lack of a textile agreement and because of little progress is being made with Europe toward non-tariff barrier reduction.

3. The Common Market has been reported to be interfering in U.S.-Far East textile discussions. Europe was asked to participate last spring and refused. It should not interject itself into these sensitive discussions at this late date.

4. Common Market preoccupation with enlargement of the European trading area through agreements with other European and Middle Eastern countries on a basis which discriminates against the U.S. is a matter of grave concern.

5. The Tripartite Electronic Components Agreement now being finalized by France, Germany, and Britain would be a major new non-tariff barrier. It would impose discriminatory inspection standards against U.S. electronic components. Congress is not likely to repeal the American Selling Price System for chemicals just as Europe sets up a new non-tariff barrier against the American electronics industry. Although the Tripartite Accord is technically not a Common Market proposal, we could not understand why Common Market officials appeared unwilling to intercede to stop the setting up of this new barrier to free trade.

6. The European Common Agricultural Policy continues to discriminate against U.S. exports and is therefore a major obstacle to better trade relations.

7. The Common Market view that non-tariff barrier negotiations probably can't start until after 1971 is most discouraging to the U.S. Such a long delay will result in strong objections by many important elements in U.S. industry. Europe and the U.S. should be eliminating barriers today in such significant areas as government procurement.

As you can see, we appear to be far apart in our thinking. *What could be particularly troublesome is that there does not appear to be recognition by the Europeans that there are serious differences between us which need attention now.*

SUMMARY

To summarize, Europe and Japan have become worthy and strong competitors in world trade. Their industry and government work closely together to plan global trading strategy, to develop markets and to determine government policy. *On the whole, foreign government, business, and labor leaders are better coordinated than we are.* Europe and Japan talk much of free trade, but are not doing enough about it. In the United States, we continue to move toward freer trade with far more dedication than our trading partners.

It seems that Europe and Japan are failing to realize that sentiments like those expressed by Mr. Wright are becoming widespread here. These are not "protectionist" sentiments, but rather an insistence that our government obtain fair and equitable trading terms with other countries.

CONCLUSION

In conclusion, *I believe that the United States will not, in fact, become "protectionist". But I also believe that we will become more and more insistent on being treated fairly.* We must close ranks between business and labor and among the various government agencies if we are to be successful. There are legitimate differences to be worked out among ourselves, but they can and must be worked out. *We should find ways to settle our internal differences more expeditiously than ever before if we are to compete successfully in the world.*

Referring again to Europe and Japan, it is urgent that these nations re-examine their current trade attitudes toward the United States, the world's biggest market. The benefits of continued trade expansion for all the world are inestimable. The losses from a turn toward world protectionism or to policies of national or regional special advantage would be irretrievable. *For the benefit of all the world's trade it is time for Japan and Europe to respond more fairly than heretofore to the 20 years of U.S. leadership in expansionist world trade policy!*

The PRESIDING OFFICER (Mr. RIBICOFF). The resolution will be received and appropriately referred.

The resolution (S. Res. 374), which reads as follows, was referred to the Committee on Commerce:

S. RES. 374

Resolved, That the Committee on Commerce, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study of the nature and extent of restraints imposed on United States commerce by foreign import restrictions.

SEC. 2. For the purpose of this resolution, the committee, through January 31, 1971, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other

assistants and consultants; (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government; and (4) to establish and defray the expense of such advisory committees as it deems advisable.

SEC. 3. The committee shall report its findings, together with such recommendations as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $75,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 357

Mr. MONDALE. 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 Senate Resolution 357, expressing the sense of the Senate on inflation.

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

NOTICE OF HEARING ON EXTENSION OF DEFENSE PRODUCTION ACT

Mr. MONDALE. Mr. President, the Production and Stabilization Subcommittee of the Senate Banking and Currency Committee will hold hearings on March 31, April 1 and 2, 1970. These hearings will be on S. 3302, the legislation to extend the Defense Production Act, which would otherwise expire on June 30, 1970. That bill would also require that uniform cost accounting standards be implemented in regard to defense procurement contracts.

In January 1970 the GAO filed an extremely comprehensive report in regard to the question of uniform cost accounting standards. Recently, as a followup to this report, the GAO submitted to me two alternative proposals which would implement the recommendations contained in the GAO report. In the hearings we will consider the GAO proposals as well as the other measure I have mentioned.

Those wishing to testify on these measures should contact Mr. Hugh H. Smith of the committee staff—202–225–7391—to make the necessary arrangements. We have received many requests to be heard on this subject, and I anticipate there will be many more such requests. Under these circumstances, I hope that as many as can will choose a common spokesman. In this way, I hope we can cut down on the volume of testimony while insuring that all viewpoints are heard. In addition, it will be necessary that all statements to be presented to the committee be delivered to the committee offices at least 24 hours before the scheduled appearance. The subcommittee will be unable to receive testimony from anyone who is not able to comply with this requirement.

Mr. President, I ask unanimous consent that the two alternative proposals submitted by the GAO be printed in the RECORD at this point.

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

PROPOSALS

ALTERNATIVE 1

"(a) The Comptroller General, as an agent of the Congress, shall promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting practices followed by contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all Federal agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of negotiated contracts with the United States Government.

"(b) The Comptroller General is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (a). Such regulations may require contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting practices including methods of distinguishing direct costs, and to agree to a contract price adjustment, with interest, for any increased costs incurred by the United States because of the contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data.

"(c) The rules, regulations, cost-accounting standards, and modifications thereof promulgated hereunder shall have the full force and effect of law and shall become effective not less than 30 days after publication in the Federal Register.

"(d) For the purpose of determining whether the contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, the contracting agency concerned and the Comptroller General or any representative of either shall have the right to examine and make copies of any documents, papers or records of such contractor or subcontractor.

"(e)(1) There shall be established in the Office of the Comptroller General a Cost-Accounting Standards Advisory Board of no more than five members to be appointed by the Comptroller General. The Board shall be comprised of members both from the Federal Government (with the consent of the head of the agency concerned) and from outside the Federal Government. One member shall be selected by the Board as its chairman. The Board shall advise and assist the Comptroller General in the preparation of cost-accounting standards and of regulations implementing such standards. The Board shall also review promulgated standards and regulations and, as it deems appropriate, make recommendations to the Comptroller General with respect to such existing standards or regulations.

"(2) The Comptroller General may appoint personnel from the Federal Government (with the consent of the head of the agency concerned) or from outside the Federal Government to serve on advisory committees and task forces to assist the Comptroller General and the Board in carrying out their functions and responsibilities under this section.

Members of the Board and other appointees under this subsection who are officers or employees of the Federal Government shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. The appointment of Board members and others under this subsection from outside the Federal Government may be without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointments in the competitive service. Appointees under this subsection from outside the Federal Government shall receive compensation at rates fixed by the Comptroller General not to exceed the rate prescribed for level V in the Federal Executive Salary Schedule if serving full-time and not to exceed 1/260 of such rate for each day of actual duty (inclusive of travel time) if serving on a part-time or intermittent basis. While serving on an intermittent basis away from their home or regular place of business, appointees under this section shall be allowed travel expenses in accordance with 5 U.S.C. 5703.

(4) The Comptroller General, after consultation with the Chairman of the Board, shall have the power to appoint, fix the compensation of, and remove an Executive Secretary, without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The Executive Secretary of the Board may be paid compensation at a rate not to exceed the rate prescribed for Grade 18 of the General Schedule (5 U.S.C. 5332).

"(f) All departments and agencies of the Government are authorized to cooperate with the Comptroller General and the Board and to furnish information, appropriate personnel with or without reimbursement, and such other assistance as may be requested by the Comptroller General.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

ALTERNATIVE 2

"(a) There is hereby established a Cost-Accounting Standards Board of not more than five members to be appointed by the President. A majority of the Board shall be appointed from the executive branch of the Government and the remainder from private life. The President shall designate one member as Chairman. Board members appointed from private life shall receive compensation at the rate of 1/260 of the rate prescribed for level IV in the Federal Executive Salary Schedule for each day of actual duty (inclusive of travel time).

"(b) The Board shall have the power to appoint, fix the compensation of, and remove an Executive Secretary and two additional staff members without regard to Chapter 51, Subchapter III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The Executive Secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

"(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

"(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

"(e) Members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private

life shall receive compensation at rates fixed by the Board, not to exceed 1/260 of the rate prescribed for level V in the Federal Executive Salary Schedule for each day of actual duty (inclusive of travel time). While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with 5 U.S.C. 5703.

"(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the agency concerned.

"(g) The Board shall promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting practices followed by contractors and subcontractors under Federal Contracts. Such promulgated standards shall be used by all Federal agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of negotiated contracts with the United States.

"(h) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations may require contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting practices including methods of distinguishing direct costs from indirect cost, and to agree to a contract price adjustment, with interest, for any increased costs incurred by the United States because of the contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data.

"(i) The rules, regulations, cost-accounting standards, and modifications thereof promulgated hereunder shall have the full force and effect of law and shall become effective not less than 30 days after publication in the Federal Register. The functions exercised under this section shall be excluded from the operation of the Administrative Procedure Act.

"(j) For the purpose of determining whether the contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned or of the Board and of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers or records of such contractor or subcontractor.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

NOTICE OF FURTHER HEARINGS ON THE IMPACT OF FRANCHISING ON SMALL BUSINESS

Mr. WILLIAMS of New Jersey. Mr. President, I would like to announce that my Small Business Subcommittee on Urban and Rural Economic Development will hold additional hearings on "The Impact of Franchising on Small Business," on Monday, March 30, in New York City.

The hearings will begin at 9 a.m. in the ceremonial courtroom, 1 Federal Plaza, New York City, and they are open to the public.

NOMINATIONS

Mr. MANSFIELD. In executive session, I move that the Senate proceed to the consideration of nominations on the Executive Calendar under new reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations on the Executive Calendar will be stated, beginning with the Department of Transportation.

DEPARTMENT OF TRANSPORTATION

The bill clerk read the nomination of Charles D. Baker, of Massachusetts, to be an Assistant Secretary of Transportation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I move that the Senate now proceed to consider the nominations placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the clerk will state the nominations placed on the Secretary's desk.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The bill clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I move that the Senate now proceed to consideration of the nomination of Director of Selective Service.

The PRESIDING OFFICER. The clerk will state the nomination.

DIRECTOR OF SELECTIVE SERVICE

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

Mr. STENNIS. Mr. President, this position is a highly important one. There has been a little delay in the filling of the position of a new Director. But, we had the nominee before the Armed Services Committee on yesterday. The Armed Services Committee is the parent committee on this matter, and after a very satisfactory hearing, at which all Senators had an opportunity to ask questions, and did, there was a unanimous vote in the recommendation that Mr. Tarr be confirmed for this position.

I am very glad to be able to report that to the Senate.

The Armed Services Committee has an added responsibility this year that hearings will have to be held with reference to the eventual renewal of the Selective Service Act. I want to assure the Senate that the Armed Services Committee will keep a surveillance over the operations of the Selective Service Act and take action from time to time, should such action arise, and, if it sees fit, to make reports to the Senate.

The Armed Services Committee, being the parent committee on this matter, is the one having the chief responsibility for the Selective Service Act, its amendments, its operation, and its renewal. I want to make this special statement to that effect, that we will follow up.

Mr. THURMOND. Mr. President, I want to say, speaking for the minority side, we feel that Mr. Tarr is a very fine gentleman and especially well qualified to be Director of Selective Service.

I join unanimously in the remarks just made by the distinguished Senator from Mississippi.

The PRESIDING OFFICER (Mr. ALLEN). The question is, Will the Senate advise and consent to the nomination of Curtis W. Tarr of Virginia to be Director of Selective Service?

The nomination was confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business as in legislative session?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for 7 minutes.

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

ORDER FOR ADJOURNMENT TO MONDAY, MARCH 23, 1970, AT 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 11 a.m. on Monday next.

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

SECTION 203—DEFENSE AUTHORIZATION FOR FISCAL 1970

Mr. MANSFIELD. Mr. President, the defense authorization for fiscal year 1970—Public Law 91-121—has been the law for 4 months:

Section 203 provides that:

> None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct or apparent relationship to a specific military function or operation.

This section was not sought by the Department of Defense but was adjudged necessary by the Congress; the purpose of the amendment was clear. Over the past 25 years there has developed within the scientific and research community a dependence on the Defense Department of unusual dimensions. With section 203 Congress has expressed the view that such a dependence is not in the long-term

best interests of the Nation, of the scientific and research community or for that matter of the Defense Department.

During these years the ease with which the Defense Department has been able to obtain funds has been responsible for generating a sense of security on the part of the researchers who have grown so dependent upon the Defense Department. It has been total security in the sense that temporary fluctuations in overall Federal budget emphasis have not affected their source of research funds. This sense of security was understandable; it probably accounts in part for the expansion of research by the Defense Department into almost every conceivable field.

Section 203 makes no judgment that any of the scientific work sponsored was poor; or that the Federal Government should not have sponsored it. The total Federal contribution to research may very well need to be increased but, as is implicitly required in section 203, the agency through which the most significant Federal contribution should be made to basic research should not be the Defense Department.

The response to section 203 by the Office of Research at Defense was at first to ignore this new congressional policy. On last November 25, I addressed the Senate and commented on this apparent disdain for a duly enacted law of the land. It was in large measure to the great credit of Deputy Secretary Packard that this initial response was overturned. On December 6, I commented on Secretary Packard's constructive attitude in recognizing that the laws of the land are made in the Congress and that the policies of this Government are intended to be made by elected officials. Appointed officials may disagree, but it is not their function to ignore the law. I think the initial reaction of ignoring section 203 was the byproduct of a generation of almost absolute "permissiveness" on the part of the Congress toward the Defense Department and its role in this area. But hopefully that attitude was reevaluated last session.

Secretary Laird in his official remarks before the House committee last February 27, also spoke constructively with respect to section 203. An interview after this congressional testimony reported in the Evening Star of February 28, expresses a different attitude. I was hopeful at that time that the Evening Star report gave misplaced emphasis to a remark of Secretary Laird and that his public testimony to the House committee was accurate. Apparently I was totally dismayed and somewhat alarmed when I learned that Secretary Laird last week in addressing the Electronics Industry Association convention at the Statler Hilton Hotel discarded his prepared remarks that expressed a policy of compliance with section 203, and openly admitted that his Department was working with industry against the clear expression and intent of section 203.

This is the first instance that I recall of an open and public admission by a Defense Secretary that the Defense Department works directly with industry to undermine congressional judgments to accomplish its ends. Some have questioned the existence of a military-industrial complex; at least we now know that its operations are no longer camouflaged and indirect. The new public attitude of Secretary Laird is shocking because it admits to stimulating lobbying activities by industries dependent upon Defense contracts for their survival. It is shocking, moreover, because we find a Government official actively enlisting the support of contractors to overturn a law of the land.

I read with great interest a series of articles by Doug Wilson in the Providence Journal concerning the application of section 203 and the dismay that some researchers have found to the renaming of their projects—renaming to give the appearance of a direct relationship—by the Defense Department. I ask unanimous consent that this series of articles be inserted at the conclusion of my remarks, as well as the news story from the Evening Star.

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

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, is it that the efforts of the Defense Department as reported in the Providence Journal were also contrived to circumvent the policy of section 203, but upon disclosure, the attack is now directed to the contractors to seek a change—to remove the restriction imposed upon the Defense Department in its sponsoring of basic research? Why can the reaction not be positive? It is deplorable indeed when a vital institution of this Government cannot accept the fact that the laws are made in Congress, not at the Pentagon.

The Secretary of Defense on February 27 expressed his concern about the broader implications of section 203 with respect to the overall level of research in the United States. He endorsed as an important principle that each major mission agency maintain the necessary level of excellent, imaginative research in those fields related to its long-range mission needs—which, in my opinion, is precisely the intent of section 203. He stressed that if Defense does not seem to be related directly to military programs, then it is essential that the support of high-quality basic research projects of broad national interest be provided immediately by some other agency. That is precisely what I had hoped would be accomplished. Why is no suggestion forthcoming along these lines? Why cannot the Bureau of the Budget coordinate a transfer in conjunction with the President's Office of Science and Technology? Why is it that the Secretary of Defense proposed only the negative—a change in 203?

The budget request for fiscal year 1971 for the National Science Foundation for support of research projects is increased by $15 million. Part of this is to meet a substantial growth in proposal pressure that NSF expects to result from changes in the amount of support provided for fundamental research by other Federal agencies. When the Director of the National Science Foundation testified recently on his fiscal year 1971 authorization bill, he made it clear that any Defense research project affected by section 203 will have to compete with all others for NSF project research funds. That is how it should be. I hope it does not imply a "let Defense stew in its own juices" approach which I suppose could result from inattention at the Budget Bureau level. The executive branch must recognize the spirit and intent of section 203 as well as its letter. The Federal contribution to scientific inquiry should not be diminished by force of section 203. If it is, it is because of ineptness at the interagency level. I suspect that the new expressions from Defense on section 203 might be accounted for by inattention at the Budget Bureau level.

I look forward to a proposal for interim funding by civilian agencies of research communities affected by section 203 until permanent arrangements can be made to fund them; the public investment to date should not be discarded. If it is, it is by the intentional acts of those formulating and administering the science policy of this Nation.

From the standpoint of the universities, probably the worst problem is the concentration by chance at one institution of far more than its fair share of reduction in defense and other agency research funds. Perhaps a temporary contingency fund should be established to assist those most affected.

In sum, I think greater attention must be given to these problems which affect the fundamental relationships of Government agency to Government agency and Government agency to the academic and research community. Inattention can no longer be tolerated. A laissez-faire attitude is not justified in the implementation of a sound national science policy. This is not the time for benign neglect when it comes to this Nation's research and scientific efforts.

EXHIBIT 1

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

NOT VIABLE: LAIRD APPEALS FOR END OF CURB ON RESEARCH

(By Orr Kelly)

Defense Secretary Melvin R. Laird has made his strongest appeal so far for repeal of a controversial congressional restriction that forces the Pentagon to prove the military usefulness of all of its basic research.

Laird said such a policy is "not a viable course of action for our country at this time."

His comment came yesterday during a recess in his testimony before the House defense appropriations subcommittee, of which he was formerly a member.

His criticism of the provision, known as Section 203 of the 1970 Military Procurement Authorization Act, went well beyond what he had to say in his formal report to Congress on the nation's military posture.

In that statement, he said:

"If we reduce our support of research projects on the theory that they do not seem to be related directly to military programs, I believe it is essential that the support of high quality basic research projects of broad national interest be provided immediately by some other agency of the government."

The restriction was tacked on the authorization act during last year's congressional debate over military spending.

Testifying earlier this week, Dr. John S. Foster Jr., director of defense research and engineering, told Congress that it was important that provisions of the restriction "not be interpreted so as to threaten further reduction or expulsion of the Department of Defense support for basic research in general and the university research community in particular."

"Such a consequence would cripple defense research and technology, especially our ability to respond rapidly in time of national crisis," Foster said.

He did assure the congressional committee, however, that every project in the research and exploratory development category had been checked this year to make sure it complies with the congressional restriction.

[From the Providence (R.I.) Evening Bulletin, Feb. 23, 1970]

PENTAGON-SCIENCE ALLIANCE UNDER MOUNTING ATTACK: THE SCIENTIST AND THE MILITARY—I

(By Douglas C. Wilson)

WASHINGTON.—American science today is shaken by a national controversy that could alter the main thrust of technology in this country for many years.

The scientific community and one of its biggest allies, the U.S. Military Establishment, are being charged with too great a complicity in each other's affairs.

Each is accused of having feathered—and shared—the other's nest for so long that the Pentagon's influence is overextended and science is now distorted and misdirected.

Forces are at work that could reduce science's role as handmaiden to military technology and turn more of its attention to the country's domestic problems.

These forces are coming from two powerful groups—the anti-establishment young people at the universities and the liberal establishment in Congress, where the Pentagon's pervasive activities are under increasing attack.

Both groups regard today's "military-scientific complex" as an unholy alliance, either in whole or in part.

Congress is putting new limits on this consortium. Young activists are out to downgrade it, or even destroy it.

Both groups have made gains in the last year, cutting back the Pentagon's authority and forcing the universities to consider reforms in their scientific activities.

But the Defense Department has no intention of seriously reducing its basic ties to the scientific community. And the universities are anxious to avoid drastic change.

As a result, scientists, the government and the universities are now in a struggle of cross-purposes that is laced with uncertainty and at times with bitterness and hypocrisy. These may be inevitable, for the issues involved political pressures, questions of academic honor, and hundreds of millions of dollars.

The Defense Department has been one of the chief patrons of American science for a quarter of a century. It is now spending 500 to 600 million dollars a year for scientific research.

This exceeds the entire annual budget of the National Science Foundation.

It is twice as big as the budget of the Federal Water Pollution Control Agency, and three times that of the National Cancer Institute.

Pentagon money, in short, is a lifeblood element in American science. It helps to pay scientists' salaries, buys their equipment, and hires their research assistants.

This bond is an outgrowth of World War II and the subsequent Cold War era. Military leaders cultivated the science and technology they needed to develop sophisticated weapons in a tense and threatening world.

In the process, they also came to support science in more and more areas without direct connection to the Defense Department's immediate needs.

Scientists have been glad to get this extra support, but it has led to tenuous relationships and potential stresses in some areas, since the interests of science and those of the military are often dissimilar.

The Journal-Bulletin has learned, for example, that the Pentagon has put military titles on nonmilitary research projects, without the knowledge of the scientists involved. Informed of these titles, some scientists say they are misleading and potentially embarrassing, both here and abroad.

The wider, public debate over Pentagon spending has international aspects because the U.S. military spends several million dollars a year for research activities to foreign areas.

Interviews with scientists who engage in this activity showed that it carries political hazards. A biologist said that, because he went to Asia with Army support for his medical research, he got a poor reception there and was "automatically suspected of being an intelligence agent." Other defense-supported projects abroad have sparked serious international incidents embarrassing to the United States.

In addition to supporting American research abroad, the Pentagon also gives support to many foreign scientists who share their knowledge freely with the rest of the world's scientists.

A Canadian scientist emphasized this point, saying that if his Army-supported work is "of any use to the (U.S.) military then it's equally available to the Viet Cong." He proposed this as an answer to any of his fellow countrymen who might charge him with "selling out for the war effort" of another country—the United States.

Meanwhile, at home, critics in Congress attack this Pentagon "foreign aid" to science as a dangerous form of U.S. military interference in other nations' institutions.

But the centers of greatest controversy are the troubled universities and colleges in the United States.

The military spends 250 million dollars of its annual research money to support more than 5,000 scientific projects at 260 campuses—including more than four million dollars at Brown University of Rhode Island.

At leading universities, the Pentagon pays between a quarter and a third of all the federal money for scientific research. It outspent the National Science Foundation in this field by roughly 75 million dollars last year.

Congress, on one side, has passed a new law to get the military out of the business of subsidizing nonmilitary research.

Campus activists, attacking the "military-scientific complex" from another side have demanded that university scientists reduce or stop altogether their work for the military. Much of this dissent arises from their opposition to the war in Vietnam.

The law passed by Congress, called the Mansfield amendment, stipulates that the Pentagon cannot spend money for science unless the research has "a direct and apparent relationship to a specific military function or operation."

The law was enacted three months ago, and efforts to apply it already are agitating many university scientists.

In one recent interview, a scientist said the amendment could mean "anything from zero to catastrophe" to his own work and that of his colleagues.

Another scientist charged the leaders of Congress with "legislative blackmail."

Still another indicated that he had composed debatable statements of military "relevancy" to ensure that his projects will continue to receive Pentagon support:

"I may be a prostitute," he said, "but at least I can tell myself I'm a million-dollar-a-year prostitute."

Student activists have stirred the ire of other professors who defend their Pentagon subsidies openly and say the critics pose the greatest threat to their academic integrity.

"We fought long and hard in this country for academic freedom," said Prof. Guenter Lewy, a political scientist at the University of Massachusetts, "and I deeply resent self-appointed vigilantes coming to tell me what I can and cannot do. I will fight it."

On-campus criticism has been destructive at some institutions and constructive at others.

At Stanford University, militants last year seized a building at the Stanford Research Institute, a major defense contractor, and so embittered relations there that the university and the institute finally agreed to end their affiliation.

The laboratory complex is now the university's loss and the Pentagon's gain, joining the ranks of many other independent research centers and "think tanks" controlled largely by the military—another research realm that also has come under the pruning shears of Congress.

The Independent Research Laboratories and think tanks now nourished chiefly by the Pentagon are another great source of scientific and technological know-how.

Sixteen of these centers alone received a total of 263-million dollars from the Defense Department in fiscal 1969, more than all the Pentagon research money spent at colleges and universities.

But in the independent laboratory area, too, Congress is imposing new controls on Pentagon spending. To cushion themselves against the increasing military budget constraints, some of these centers plan to diversify their activities.

An example of this is the Research Analysis Corp. (RAC) in McLean, Va., where all but 10 per cent of the current research is devoted to military contracts.

"In another year," reports Frank A. Parker, the corporation's president, "we would like to see about 20 per cent of our effort applied in nonmilitary lines. People at RAC do have social motivation."

In Congress, even Sen. George Murphy, R-Calif., an outspoken defender of military contract centers, has suggested that these institutions "could, in fact, be our most important national resource when we turn them to the problems of pollution, waste disposal, communications, crime, delinquency, transportation, urban renewal, and the eradication of poverty, all of which are approaching crisis proportions."

Change appears likely to occur more rapidly at the Massachusetts Institute of Technology, now the center for more than 120-million-dollars a year in military research and development spending.

Unlike Stanford, M.I.T. intends to retain control over its prestigious military research laboratories. And there is growing talk, at the university's highest policy levels, of partially "converting" these centers into tools for attacking domestic problems.

MISLEADING TITLES ON RESEARCH

Defense Department officials have put misleading titles on some of the Pentagon's costly scientific research projects in an effort to justify their support.

Certain titles supplied to Congress a year ago were found to be misleading in recent interviews with researchers at U.S. and foreign universities. Most scientists have not even heard of the Pentagon titles, and in some cases they call them potentially embarrassing.

Projects have been given titles indicating a military aspect to nonmilitary research supported in the Defense budget. A scientist at York University in Toronto, for example,

complains that an Army title linking his work to "missile reentry" is "a misrepresentation," and says his work does not have "any military applications that I know of."

A scientists at Brown University, surprised to hear that his Navy project was listed as a study related to "missile technology," said "if it has anything to do with missiles, I'm not aware of it." Similar cases were discovered at other universities.

While Defense officials acknowledged writing military titles for research studies, and say it is done to justify military funding, they maintain that the titles are not misleading.

A Navy research official said the special titles are "not intended to be descriptive of what the scientist is doing." Rather, they are supposed to be "descriptive of our interest in what he's doing," he said, "and that's quite another matter." No distinction of this kind has been made in title lists which the Pentagon sends to Congress, however.

Titles for projects supported by the Office of Naval Research, the official said, are written "to avoid scientific jargon and to express the Navy's interest in the particular work being supported."

He said he has to "justify these projects in terms of their potential relevance to the Navy," in order to make this relevance "clear to the people who are going to provide the dollars."

There is no clear pattern in the way the titles appear. The nonmilitary title for a project has sometimes appeared in Pentagon lists obtained by Sen. J. William Fulbright, D-Ark., who has put them in the Congressional Record, while a different, military title for the same project may appear in the separate catalogs that were sent to Congress a year ago. The reverse also has occurred—with a military title appearing in lists used by Senator Fulbright and a nonmilitary title appearing in the catalogs.

But the military titles are there, and the effect of some can only be misleading.

A political scientist at the Massachusetts Institute of Technology, Prof. Frederick W. Frey, said he was "furious" when he learned that a major research effort he directed with Navy support totalling $700,000 had been labeled the "Impact of Modernization Upon Future Military Operations." His own title was "Human Factors in Modernization."

Because the project involved foreign countries, "we had to show no military applications," he said, "and preferably there were none."

More than 12,000 projects are supported by the Pentagon, and titles have been a principal guide used by Congress in debating the military relevance of these activities. Last Aug. 12, for instance, it was on the basis of picking out project titles in the social and behavioral sciences that Sen. Mike Mansfield, D-Mont., the majority leader, questioned the relevance of certain studies "to the military needs of the nation." This was during a lengthy floor debate on the involvement of the Pentagon in many research activities.

Pentagon officials have said the titles were intended for internal, government use only. Yet they are unclassified, and—as noted—some have been published in the Congressional Record, available to all.

Since the titles give a military cast to university studies, they can make school officials even more hard-pressed by those who want to sever campus ties with the Pentagon.

Since the titles also tie scientific work outside the U.S. to the Pentagon's "mission," they can make this work an easy target for anti-American feelings. They can even create such feelings.

And since the effect of the titles, here in Washington, is to misinform Congress, they hamper its ability to judge the nature and merits of research activities supported by the Pentagon, and reduce the likelihood that Congress will exercise intelligent control over such activities.

The Defense Department requested authority to spend more than $630 million in support of scientific studies in the current fiscal year, but Congress reduced this authority by $95 million, or 15 per cent, two months ago. In an effort to restrict military involvement in science, it also passed a new law, the Mansfield amendment, saying that the Pentagon may not spend money for research unless the work has a "direct and apparent relationship to a specific military function or operation."

With this, David Packard, the deputy defense secretary, told Defense research officials in a memorandum Dec. 3 that "insufficient attention has been given to making clear to the Congress the basis for deciding to support work in the particular field, and particularly the connections between relatively basic research and the long-range Defense problems and missions which require such research."

To comply with the new law, he directed the officials to take another look at all Pentagon-supported projects and provide "a written statement which describes, as clearly and simply as possible, the project or study and its purpose, together with its direct and apparent relationship to one or more designated military functions or operations." The review will be completed this month. Projects which are not relevant to the military must be terminated, he said.

Past results in the Pentagon's practice of writing military titles for research projects show that a new, in-house effort to stress the military nature of projects may have dubious value.

Senator Mansfield, an outspoken critic of the Pentagon's nonmilitary research, hailed Mr. Packard's directive at the time and noted approvingly that the Defense Department also was asking an outside agency, the National Academy of Sciences, to make an independent review. But the Academy has decided to stand aside for the time being and let the Pentagon make the "first pass" at projects, according to Dr. Philip Handler, the academy's president.

The high-ranking Defense official, mentioned earlier, who allowed himself to be interviewed but did not want his name used, said Pentagon experts, rather than outside scientists, can best determine the military relevance of the projects. Pentagon research directors do not expect university scientists to be aware of military problem areas, he said.

Echoing this argument, the Navy research official said "it's assumed that we have better knowledge of the Navy's interest than he (the scientist) does."

The clear implication of these arguments is that the Pentagon officials are supporting the work for reasons best known to themselves, and not always fully understood by the scientists.

The York University professor tried to speculate about possible "missile reentry" applications of his work. Such a connection had "never occurred" to him, he said, adding: "If I thought that was what it was being used for, I think I'd quit."

Another scientist said "it could be that somebody honestly thinks" his research has an application to missiles. "After all," he said, "the technical competence of military officers is not the same as the technical competence of fulltime scientists."

What these scientists are saying suggests that if Pentagon officials buy this research as a contribution to missilry, they are fooling either themselves—or scientists. And if they are not really supporting the work in the interest of missilry, then somebody else is being fooled.

IT IS FUNDAMENTAL STUDY

The York University scientist is Dr. Harold L. Schiff, a Canadian chemist and dean of the sciences faculty, who has conducted a three-year study called "Kinetics of Atmosphere Constituents" with U.S. Army support totaling $33,480. The three-year period ends this April.

He said his project is "absolutely fundamental research" into the daily and seasonal variations of "naturally-occurring chemical reactions" in the upper atmosphere—phenomena such as the aurora and "night airglow," he said.

He had never heard of the Army title for his project: "Study of Upper Atmosphere Reactions Involving Energy Transfer Between Species of Importance in Missile Reentry." This title appears in a catalog of Army projects prepared in January, 1969, and sent to Congress.

Dean Schiff called it "an extremely far-fetched title" and "a misrepresentation," and said it was "probably an artifice."

He said it was "certainly not a title which I have given my approval to." The chemist added that he would never sign a contract if it carried that label. He also felt that the title was potentially embarrassing. If a student editor discovered it and asked him about it, "I'd have to do some fast talking," he said.

The scientist at Brown is Dr. Joseph H. Clarke of the engineering department, who has received Navy support for a study of "Radiating and Reacting Gas Dynamics for Entry of Bodies Into Atmospheres."

"The work has to do with Mars and the planets," Dr. Clarke explained. The research would apply to "meteors and spacecraft," but not to missiles, he said, "because the temperatures and velocities I use are too high."

He had never heard the Navy title, "Thermally Induced Radiation Fields in Missile Technology."

Professor Frey, the political scientist at MIT's Center for International Studies, said he discovered inadvertently that the Navy was calling his ambitious, long-term research project a study of the "Impact of Modernization Upon Future Military Operations."

We were furious when, on their own hook, they came up with that title," he said. This project, originally called "Human Factors in Modernization," was supposed to be a study of "the dynamics of developing societies," using comparative data from seven countries: the United States, India, Brazil, Italy, Sweden, the Philippines, and Tanzania.

Professor Frey had hoped to enlist teams of specialists, both American and foreign, to work on the project in each of these countries. They would gather, interpret and compare information about attitudes and behavior relating to such matters as illiteracy, urban migration, the mass media and government. In view of these plans, a title linking the work to "future military operations" of the United States "would have killed us abroad," he said.

Detailed information of this kind is "urgently required," he believes, "if many vital development policies are to succeed."

Professor Frey said the project was touchy enough without the money coming from the Defense Department. The estimated cost of the five-year project was $4.2 million, and the only source for that kind of research money was the Pentagon, he found. To get foreign participation, however, "we had to show no military applications," he said, "and preferably there were none."

Professor Frey supposes that the Pentagon simply "wanted an in-house title that looked more relevant to military operations. I think it's the kind of thing they do fairly routinely," he said.

The project is ending prematurely, after an expenditure of $700,000, because the Defense Department has reduced its support of foreign studies in recent years.

"I don't know that what we've produced is worth $700,000," the political scientist said frankly. The cut-off means "a lot of waste" because "there are other things we were

tooling up to do," he explained, "and they've fallen by the wayside." This included a large investment in training people to use computers for the project.

Another political scientist, Professor Guenter Lewy of the University of Massachusetts, was surprised to hear that his project, entitled "Religion and Revolution: A Study in Comparative Politics," was officially described as an effort to "provide empirically derived conclusions about ideological movements which support insurgency."

"That's completely off," he said when he saw this description in the Congressional Record. "This description is misleading, to put it mildly. If this is Department of Defense language, I can say flatly, I don't like it."

Professor Lewy said he did not believe the Advanced Research Projects Agency (ARPA) which sponsors his work, "could think or hope that this kind of research could help solve any kind of current problems," and he added that "counterinsurgency is not my cup of tea—not that I have anything against it."

Later he stressed that he did not want to make a major issue of the Pentagon's language; the description might be justified if the word "revolution" had been used in place of "insurgency," he said.

Professor Lewy, a scholar and author whose special interest is in the field of religiously motivated political behavior, is in the fourth year of the project—a four-year, $69,800 research effort involving several studies financed by ARPA. The studies are historical analyses of "revolutionary situations in which religion has played a central role."

Much of the funding in this project, as in others supported by the Defense Department, is divided between the university, the principal researcher, graduate assistants, overhead costs, and other expenses.

One of Professor Lewy's studies, "The Ataturk Revolution in Turkey," has been a favorite target in Senator Fulbright's criticism of defense-sponsored research. He has cited the study frequently as an example of projects having little connection to the Pentagon's needs.

Other scientists were less disturbed by the Pentagon titles on their projects.

Both "Interaction of Drugs with Other Factors Determining Human Performance," and "Assessment of Military Performance Enhancement by Drugs" are titles given to a completed, $139,000 Navy study directed by a McGill University psychologist in Montreal. The investigator, Dr. Dalbir Bindra, knew of the second title.

Since he was studying human faculties of attention, memory and decision-making, he considered that "enhancement" of military performance was "one possible application" of his research. He said the work was "not related to the military in any immediate sense," however. As for the title—"I think it doesn't represent the facts," he said, "but I don't think it is an embarrassment to me."

The Navy title for a political science study by Prof. George Guthrie of Pennsylvania State University is "Military Implications of Modernization in the Far East." A telephone call to Professor Guthrie disclosed that he had never heard of this title for his $330,000 study, which covered a three-year period ending last June.

His own title was "Impact of Modernization in the Philippines." The part about "military implications" was "not part of the title," he said. "It never was. I don't know where that title came from."

He called his study "the kind of thing that people in all phases of government, including the military, should look at. And I think it has implications for the Defense Department," he said, "otherwise, they wouldn't support it." But he added: "I haven't written a report that would bear that title."

Professor Guthrie said he had done much of his research in the Philippines. Asked if the Pentagon's military title for the project would have been an embarrassment there, he said, "Yes, it would have been. Some of my Philippine colleagues would have been reluctant to participate."

These examples came to light in a check of relatively few projects, based mostly in New England and Canada. The Defense Department supports hundreds upon hundreds of projects at universities in all parts of the United States, and in 44 other countries. There is no telling how many more titles are at variance with the scientists' own definition of their research—or how much the variance would be a source of their embarrassment and dismay.

[From the Providence (R.I.) Evening Bulletin, Feb. 24, 1970]

THE SCIENTIST AND THE MILITARY: NEW LAW MAY HALT RESEARCH—II

(By Douglas C. Wilson)

"The study was 'to determine the psychological differences between sailors who had been tattooed once, sailors who had been tattooed more than once, sailors who had never been tattooed but wished they had, and sailors who hadn't been tattooed and didn't want to be.' "—Admiral Rickover.

WASHINGTON.—A Canadian scientist wrote to the student newspaper at McGill University in Montreal a few months ago to explain, light-heartedly, his "personal contacts with the U.S. war machine."

"It is patently obvious," he wrote, "that my work was not of military value, unless of course they have dropped my collected works on Hanoi or somewhere, which would be, I suppose, a shrewd blow against international communism."

The scientist was Dr. Richard Stevenson, director of McGill's Magnet Laboratory. He referred to his research in magnets, which has received support from the U.S. Office of Naval Research (ONR).

In testimony before Congress, the Navy's own gadfly-in-uniform, Vice Adm. Hyman G. Rickover, once spoke derisively of another Navy-sponsored research project involving submarine sailors at New London, Conn. The study, he said, was "to determine the psychological differences between sailors who had been tattooed once, sailors who had been tattooed more than once, sailors who had never been tattooed but wished they had and sailors who hadn't been tattooed and didn't want to be."

If congressmen laughed at the time, the laughing is over. They have passed a new, 40-word law designed to end Pentagon support of research projects which have little or no military value—whether these are valid scientific studies, like Dr. Stevenson's, or dubious projects like that at New London.

The new law, called the Mansfield Amendment, prohibits the Defense Department from supporting any research that does not have "a direct and apparent relationship to a specific military function or operation."

If a rigid interpretation of this language is enforced, it will have a serious impact at all of the country's leading universities, where defense agencies provide major support for science.

But defense officials have recently made it clear to Mr. Mansfield that they do not plan to reduce their research as much as he and others in Congress appear to expect. While congressmen meant to enact a strict law, to bring about a major reform of the Pentagon's activities, it is now obvious that the Pentagon plans to interpret the law as permissively as possible, making minimal changes in its research program.

The Pentagon supports university research in science at the level of 250-million dollars a year. This goes to support 5,500 research and development contracts at 260 institutions—including Brown University and the University of Rhode Island, where the annual defense outlay totals more than 4 million dollars.

The Defense Department's total spending for outside scientific research in recent years has been between 500 and 600 million dollars annually.

Almost all of the University contracts give salary support to professors and graduate students. A strict enforcement of the Mansfield Amendment would force a sharp cutback in these projects and reduce graduate school enrollments across the country.

It would probably hurt faculty sizes as well.

One measure of the problem was calculated by a worried scientist at Brown University. In his department alone, he said, the new law could mean the loss of about 20 graduate students out of 90, along with two or three faculty members.

He said he's afraid the new law "will throw the universities into a tailspin." It already has placed demands on scientists at some institutions.

The long-range impact of the Mansfield Amendment will depend, however, on a current test of wills between Congress and the Pentagon.

Senate Majority Leader Mike Mansfield, D-Mont, has suggested that "some of the abuse that is being heaped upon the Defense Department in recent times can be traced to the involvement of the Defense Department in matters more far-reaching than its mission or needs really require. The sponsorship of non-mission oriented research . . . is a clear example of this over extension."

He said the amendment "expresses a clear policy of Congress to reduce this dependency by the scientific community on the Department of Defense."

A strict interpretation of the Mansfield Amendment was intended by Congress. On the House side, the armed services committee endorsed the limitation and warned that it meant to interpret the law "in the narrowest sense."

Senator Mansfield and the other senator most responsible for the new law, J. William Fulbright, D-Ark, say it should rule out Pentagon support for many current programs, especially in the area of basic research. They have estimated that, altogether, more than 400 million dollars in projects now funded by the Pentagon, including many at universities, would be brought into question by the new law.

In discussing the amendment, they have suggested that it would rule out defense support for most basic research because basic research cannot have "a direct and apparent relationship to a specific military function or operation."

Before the Senate passed the amendment, Senator Fulbright said that basic research, in his view, "Is the type of research we would expect to be done in a graduate school at Harvard or Yale or Princeton, and so on, generally. It is sometimes called pure science. It has nothing specific in mind."

And Senator Mansfield has said that basic research, "by definition, cannot be closely, directly and visibly linked to a given need or problem."

The senators say it also would be difficult to justify many other Pentagon projects in areas which might be considered as applied research.

But Pentagon officials disagree with this view. Much basic research, they insist, is directly relevant to the needs of the military, and they estimate the Mansfield Amendment will force them to drop less than 95 million-dollars in Pentagon research spending, the amount Congress already has cut from their fiscal 1970 budget for science.

Pentagon officials claim that approximately 100 million of the 250 million dollars that they spend annually for campus re-

search goes to support applied rather than basic science. One high-ranking defense official also stressed in a recent interview that basic research can be tied to given military problems. He cited the example of research into the basic chemistry of boron, used in propellants, which could sharply reduce the cost of producing these fuels.

In broader terms, a similar argument is made by the leading congressional champion of U.S. scientists, Rep. Emilio O. Daddario, D-Conn., who fears the Mansfield Amendment may cause severe damage to American science.

"Mission-oriented agencies have a responsibility—an obligation—to conduct a certain amount of basic research," he contends, because they need it "to innovate in the applied area" and "meet future needs."

Pentagon officials who share this viewpoint told the U.S. General Accounting Office in a letter of Dec. 16 that the total cost of projects "failing to comply" with the Mansfield Amendment would be "significantly" less than the 95 million cutback already imposed.

Thus, while those who backed the amendment in Congress appeared to seek an end to Pentagon involvement in research totaling far more than 95 million dollars, the Pentagon has no intention of doing this.

New budget proposals for fiscal 1971, approved by the Nixon administration, show that Pentagon officials hope to maintain the current level of research spending by asking Congress for 585-million dollars.

The General Accounting Office has indicated to Senator Mansfield that the Pentagon view would be hard to challenge. In a letter of Dec. 24, it told him it "seems unlikely" that the amendment "will have a significant impact on the amount of research sponsored by the Defense Department."

A scientist at Brown, Dr. Gerald Heller of the engineering department, described the situation accurately in a recent interview when he said "the Defense Department doesn't want things to change, and the question is how much pressure Congress is going to exert."

The fate of many scientific programs depends on the answer.

Brown University received 9.75-million dollars in federal support for science in fiscal 1969, and 2.79-million dollars of the amount—more than 28 per cent—came from defense agencies. The University of Rhode Island received 4.75-million dollars in federal research funds during the same year, with 1.26-million dollars—more than 26 per cent—being supplied by the Pentagon.

Much of this support is concentrated in one area at each university—1.36 million dollars a year in material sciences at Brown, and $70,000 a year in marine sciences at URI.

These projects and others like them, at other universities, appear likely to survive the first application of the new law, which is now being made by the Pentagon. But Congress isn't out of the picture, and Sen. Mansfield for one, said he will keep close watch on how the law is applied.

If Congress follows through with its original determination to cut most of the ties between the Pentagon and basic research, the programs at Brown and URI, which are essentially basic, could be among the many casualties.

A prominent Harvard psychologist, Dr. Edwin B. Newman, notes that the Mansfield Amendment could lead to "a far more radical reorientation of the government's research policy than anything which has happened in recent times."

"You don't sharpen up a sword that sharp and not have it cut somebody," he observed.

Ever since World War II, the Pentagon's research agencies have been a major source of financial support for American science. This support mushroomed after Russia launched the first Sputnik in 1957. Now scientists naturally want the government to continue supporting them in the style to which they're accustomed.

Many scientists agree that research money might more properly come from civilian agencies, like the National Science Foundation; but they fear Congress is not about to make up for the research money it cuts down from the defense budget by increasing the money for science in other federal agencies.

The fear is justified. Along with cutting 95-million dollars from the defense research budget, Congress also slashed 40-million dollars from the fiscal 1970 request of the National Science Foundation.

Understandably, therefore, university scientists tend to side with the Pentagon in defense of the status quo. The Pentagon, after all, has been a generous provider, dispensing grants with very few strings attached.

The M.I.T. scientist observed that university scientists "are now in the crossfire" between Congress and the Pentagon on this issue. He said the military relevance of his own defense-supported project is open to question, but the Mansfield Amendment makes him "gun-shy" about saying so, "and I wouldn't want to be quoted," he said.

The Mansfield Amendment has suddenly made many scientists "gun-shy," and they are now reluctant to say—as Dr. Stevenson said three months ago—that their work has no military value.

In fact, the new law has sent some campus research administrators scrambling to justify current scientific studies supported by the Pentagon. Defense officials say that they, and not the university scientists, have the expertise necessary to make the final decision about each project. But they have asked scientists to help them establish military relevance in some of the more doubtful cases.

The scramble to justify military support has occupied scientists at M.I.T.'s National Magnet Laboratory for more than a month. More Defense Department research money goes to M.I.T. than to any other university. The Pentagon's support for on-campus research there totaled 17 million in fiscal 1969, when it also supplied more than 100 million to M.I.T.'s off-campus laboratories.

Of these, probably the most esoteric is the magnet laboratory, which receives 2.4-million-dollars in annual basic research money from the Air Force.

Dr. Donald Stevenson, assistant director of the laboratory, said recently that the Mansfield Amendment has caused "a very serious situation." He wouldn't guess at the outcome: "A lot depends on who's determining relevancy," he said.

For the moment, the judge is the Pentagon, where one research official estimated, in December, that up to 20 per cent of the work at the laboratory ($480,000 a year) might be threatened.

The Defense Department has asked laboratory officials to help with the review of their work. "A few of our programs were said to be nonrelevant," Dr. Stevenson reported.

The Pentagon was not satisfied with the first, "very hurried description" of projects which the laboratory officials wrote, so "revised descriptions of all our programs" were submitted, he said. "We're hopeful that we did a better job."

Another person with his fingers crossed is Dr. Heller at Brown, who coordinates the university's program in material sciences. This program, supported by the Defense Department's Advanced Research Projects Agency (ARPA), involves separate research activities by nearly 50 scientists in five departments—physics, engineering, applied mathematics, chemistry and geology. About $300,000 of the 1.36 million in this year's ARPA support of the program helps to pay salaries of the faculty participants, and a similar amount supports 55 graduate students.

"I think that for the good of the country, the Defense Department has to support basic research," Dr. Heller said in a recent interview. "They can't afford not to. Applied science goes down the drain if there's no good basic science to back it up.

"And you never know what may grow out of this," he added. "People are interested in stress waves through metals, for instance. It's not applied research—yet the consequences of such research could lead to developments, say, in armor-piercing"

At URI, oceanographers have not been asked to justify the Navy's support for their work. The Office of Naval Research (ONR) supports marine sciences at URI with about $700,000 a year. Most of this goes to the Charles J. Fish Oceanographic Laboratory at the Narragansett Bay campus. It includes more than $200,000 for the lab's research vessel, Trident, covering about half of the Trident's annual operating cost.

Although the connection between oceanography and the Navy is obvious, many marine studies lack any direct relationship to "a specific military function or operation."

As interpreted by the Pentagon, however, the Mansfield Amendment apparently will not hurt marine activities at URI, nor at larger, Navy-backed laboratories at Woods Hole, Mass., and the University of California.

Perhaps the reason was best explained recently by William Hansen, a young British graduate student engaged in $28,000-a-year, Navy-supported oceanographic studies at McGill, in Montreal.

"Navies are the senior service in every way," he said. "It's the Navies that gave us charts of the oceans. And all mariners—whether or not they're Navy men, have tremendous spirit of kinship. Anything to do with the sea concerns them. It seems very traditional that the Navy studies anything of scientific interest that has to do with the ocean. In all the standard journals, you'll find that 60 per cent of the oceanographic studies got support from the ONR."

A "spirit of kinship" has developed over the years between military research agencies and science generally. Congress may yet succeed in breaking up the military-scientific complex. But the job, at the moment, looks tougher than splitting the atom.

A STATEMENT ON EVERY PROJECT'S MILITARY ROLE

To meet the requirements of the Mansfield Amendment, Deputy Defense Secretary David Packard has ordered Pentagon officials to prepare a written statement for each Defense-supported research project, showing its relationship to "a specific military function or operation."

He said they have given "insufficient attention," in the past, to showing Congress why they need this research.

Statements of relevance are required as a standard practice by the Canadian Defense Board, which also spends money for scientific research.

In Canada, the scientists themselves are asked to indicate the military relevance of proposed research at the time they apply for support. But neither the officials nor the scientists take the requirement very seriously.

The Canadian practice was described by Dr. Harold I. Schiff, dean of the sciences faculty at York University in Toronto, in a recent interview. He knows this procedure from the inside, because he serves on an academic review panel which screens the applications.

"You read these paragraphs and you're really amused at how far-fetched some of them can be," he reported. "It's obvious that someone has had to sit around for half a day to dream up some far-fetched relationship."

According to Dean Schiff, panelists reject a proposal on this basis only when they think "it would be a laughing-stock if it got into the press." The panel approves about 50 per

cent of the proposals, judging nearly all of them on their scientific merit alone.

"The vast majority of them have very tenuous relationships to the military," he said, and the Defense Board accepts the panel's recommendations almost without exception.

Asked why statements of relevance are demanded in the first place, Dean Schiff said he assumes they're required as protection against anyone who might criticize this kind of nonmilitary spending by the Defense Board.

[From the Providence (R.I.) Evening Bulletin, Feb. 25, 1970]

THE SCIENTIST AND THE MILITARY: THEY SAY THE PENTAGON IS ROOT OF MONEY, BUT FEW ADD OF EVIL—III

(By Douglas C. Wilson)

WASHINGTON.—Looking out from their university laboratories, many scientists in recent years have had reason to regard the Pentagon as the root of all money—or a major source of it.

Very few of them call it an evil. The Defense Department provides some of the leading universities in this country with up to a third or more of all their federal support for scientific research.

Today, however, more and more students, professors and others—including some U.S. senators—think this is wrong.

One of the senators is J. William Fulbright, D-Ark., the unrelenting critic of Pentagon influence, who sees a conflict "between the role of the academician as a teacher and independent thinker, and as a hireling of the Defense Department."

Other critics might drop the word "hireling." It's a fighting word. But they agree with the senator's basic view that the "dependence of colleges and universities on Defense Department largesse is not a healthy situation."

The issue is hard to judge, especially in the case of nonmilitary research supported by the Pentagon.

Dr. Lee A. DuBridge, the White House science adviser, said a year ago he disagrees with those who say that universities should not accept any research support from the Department of Defense.

"Many agencies within defense have for many years been supporting in a fine and intelligent way excellent basic research projects in physics, chemistry, astronomy, mathematics, aeronautics, and other fields without any visible relationship to weapons work," he observed, "and without any restriction on full publication of results."

A professor at the University of Massachusetts, Guenter Lewy, has received Defense Department money for nonmilitary studies in history and political science for the last three and a half years. He expresses a view held by other grant recipients when he says: "This is the kind of thing that I would do anyway. This is my research, not the Defense Department's. I am not a hireling. It is research that any academic would do."

Members of Congress say that Pentagon money is Pentagon influence, however. While they accept the Pentagon's right to buy research in defense problems, many want to reduce the military's influence in areas that are essentially nonmilitary.

To accomplish this, Congress recently passed the Mansfield amendment, which prohibits the Defense Department from supporting nonmilitary research.

Senate Majority Leader Mike Mansfield, D-Mont., said that his amendment "expresses a clear policy of Congress to reduce this dependency by the scientific community on the Department of Defense."

Ironically, his amendment could have the effect of satisfying the critics in Congress without placating the critics on campus. In fact, it may actually increase campus attacks on defense-supported research.

Many scientists agree that the new law damns them either way: If they say their work is not related to specific needs of the military, they may lose their support. If they say it is related, the critics of military activities on the campus will take this as all the more reason to attack it. "If we claim too much relevance for our research, then we aggravate the radicals," one scientist said.

A research officer at one of the smaller Ivy League universities has chosen to duck the problem, at least for the time being. He said he provided Pentagon officials with statements they requested, relating to more than a million dollars' worth of research to military interests. He said a valid relationship could be shown and was.

But he said he deliberately kept no copies of the statements because they could fall into the hands of students who might then attack the projects as "warmongering."

He did not even clear the statements with all of the faculty researchers involved, he added, because some of them might have raised objections to anything attributing a military side to their work.

In the short run, therefore, the Mansfield amendment is adding to the academic dilemma.

To decide whether the longer-range effect of this law may resolve other, more insidious dilemmas, one must decide whether it is, in fact, harmful for academic scientists to depend on the Pentagon for support of essentially nonmilitary research.

While university people differ about the degree of the harm and some insist there's no harm at all, most of them agree on the standard to be applied. They agree that a spirit of open inquiry is essential at universities. If there is one yardstick they use to determine what is good for universities, it is academic freedom—the freedom to explore and discuss problems without constraint.

Whatever abridges this freedom is considered bad for students, bad for teachers, and bad for universities.

On this score, secret research has been a particular sore point. The Pentagon has realized this and reduced its classification of defense-supported campus research. At one time, eight per cent of the Pentagon's university projects were classified. This is now below four per cent.

But many critics of Pentagon support for research say it is harmful even when projects are not classified, because it damages the universities' freedom and character. A leading critic of Defense money at the Massachusetts Institute of Technology, Prof. Noam A. Chomsky, argues that ties to the Pentagon are detrimental because "academic freedom is violated, not ensured, when the university merely bends to the will of outside forces."

Professor Chomsky and others also argue that the Pentagon's science-subsidy is bad for science because it builds up defense-oriented science to the neglect of other scientific and technological needs which are becoming more urgent—needs in transportation, protection of the environment, and other domestic areas.

A former assistant director of the U.S. Budget Bureau, William D. Carey, has observed that the Cold War forced American science to evolve "not as a distinct function of balanced social goals but rather as a contented agent of other political ends, chiefly national defense, space and nuclear technology."

Until recently, one "contented agent" was M.I.T., but now there is increasing criticism on that campus. Part of this censure has been voiced by an M.I.T. student in management, George N. Katsiaficas.

"By working almost solely for the military," he asserts, "M.I.T. has trained its students in military technology and thereby induced them to continue in defense work after graduation. In addition, by accepting military contracts, M.I.T. inculcates in its students a positive attitude concerning war research. Instead of focusing on militaristic concerns, M.I.T. should be preparing its students to confront a far broader spectrum of problems."

Many scientists agree that there should be new priorities. But they disagree with the argument that Pentagon money damages their academic freedom. Some even protest that the biggest threat to their freedom comes from the critics, rather than the Pentagon.

A political scientist at Yale, Prof. Bradford Westerfield, states the first point very flatly: "None of us is committed to working for the Defense Department as such," he said. "They have not made the slightest effort to dictate what we were doing at any point. If we ever felt we were being manipulated, the relationship would be terminated."

He and three other Yale political scientists are engaged in studies that the Pentagon supports with $108,000 a year. Most of their research is in problems of international alliances.

The threat posed by the critics is seen by Professor Lewy and others. Campus radicals at the University of Massachusetts have erroneously linked Professor Lewy's own work—a study of revolutions—to the Pentagon's interest in counterinsurgency.

"That's not my cup of tea," he said. "But if a professor wants to do counterinsurgency, that's his business. We fought long and hard in this country for academic freedom, and I deeply resent self-appointed vigilantes coming to tell me what I cannot do. I will fight it."

A Canadian scientist, Dr. Harold I. Schiff of York University, shares much of this feeling. Protests, in the long run, may be counterproductive, he says, because "scientists may give up and go elsewhere, finding that the universities are no longer the havens of freedom they once were."

Certainly much of the criticism, especially by student radicals, is implied guilt by association: The Pentagon's activities in Vietnam are wrong, so it is wrong—the radicals say—for scientists to have ties with the Pentagon.

The anti-war argument carries its main force against weapons research. But the argument about academic freedom is directed against all Pentagon research. It is subtler and harder to grasp.

There is no question that academic science depends heavily upon the Pentagon for support:

University scientists now depend on the Pentagon for 250-million dollars a year. This money supplies them with laboratory equipment, research assistants, and often a large part of their own salaries. In one project alone—the material sciences program at Brown University—it provides 50 faculty students with about $300,000 a year in salary support.

Three members of the Brown faculty draw 75 per cent of their pay from the Pentagon, while others are subsidized as much as 50 per cent.

Recent interviews with candid people like Professors Lewy and Westerfield brought assurances that their ties with the Pentagon do not bend them to "the will of outside forces."

Other interviews gave a different picture, however. In ways which are usually unwritten, and often not acknowledged, the tie between scientists and Pentagon resources has placed many sincere individuals under subtle constraints.

This was clear even in the way some scientists took advantage of the ground rules allowed in interviews. The spirit of open

inquiry, dear especially to science, was often compromised by a protective anonymity.

Nine, or exactly half of the scientists interviewed in recent visits to seven American and Canadian universities, did not want certain comments attributed to them. Four of them did not want to be quoted by name at al'

These scientists agreed to be counted, but they did not want to stand up.

One scientist went "off-the-record" simply to say he agrees with many Americans who believe the Pentagon has too large an influence in American society.

Another scientist said he did not want his name or project to appear in the papers. The work was unclassified, and it cost taxpayers more than $60,000. But he said publicity might endanger the project unless the Pentagon was allowed to clear it in advance.

Such men do not say, in so many words, that they hesitate to bite the military hand that feeds them. Instead, they merely excuse themselves: "I am a scientist, not a politician," they say.

Other constraints appeared, too.

A geologist had no hesitation about discussing the immediate aspects of his research in seismology, currently supported by a $70,000 grant from the Air Force. These aspects were clearly humanitarian. At the same time, the scientist noted that his work had other applications, of more interest to the military.

What were they?

"I'd rather not say," he replied firmly. "I try to stay away from what they (the military) do. I don't like to know."

Like his colleagues, he's doing what he wants to do, and the work is valuable. But it is not open to full and candid inquiry. ("Like Lord Nelson," another scientist acknowledged, "you sometimes clap your glass to your sightless eye.")

Another professor emphasized that his work was never classified. He proved it by handing out a copy of his final report. Yet a constraint appeared on the last page, where he told Army officials he hoped to publish some of his findings: The articles, he assured them, would first be sent to the Army "for checking, before such manuscripts are submitted to the journals."

Another subtle form of influence is possible at the very inception of scientific research projects. The Pentagon is known to be a major source of money for large scientific investigations. Demand for this money is great, and competition increases the temptation to make proposals as attractive to the money-dispensing agencies as possible.

Scientists answer that they are proposing work they would like to do no matter where the money comes from.

Referring to Brown University's Defense-supported program in material sciences, Dr. Gerald Heller of the engineering department said, "We judge the work only on its scientific merits. We don't try to pick out any subjects that look to be more directly relevant than others."

But he added that "a professor writing a proposal is certainly going to color his proposal to the thinking of the person who's giving out the money. Otherwise, he's not going to get the money.

"It's the same if you write a proposal for the National Institutes of Health: you will color your proposal. This would be true no matter what the source is," he said.

An engaging scientist in Montreal indicated that a certain amount of gamesmanship is involved: "We're very skilled in means of getting search funds to do just what we want to do," he said.

Other scientists feel that they can't always do "just what they want to do," once a project is agreed to, however. Prof. Frederic W. Frey, a political scientist at M.I.T. makes this point:

"You may know what they want," he said, "and usually they're talking about such large amounts of money that you bend over backward."

Professor Frey found, to his chagrin, that his own Pentagon research contract led to serious constraints. He obtained Pentagon support for a seven-nation suvey of "Human Factors in Modernization."

As he and other political scientists began to set up the program, he said, the Pentagon vetoed plans to use the funds in one country after another.

"Finally we were saying the hell with it," he related. "I would rather have spent those two years rather more productively. Being involved in the whole hassle leaves a bad taste in your mouth."

The Pentagon reduced its support of overseas research to help restore the U.S. balance-of-payments. But it also curtailed this activity in response to congressional criticism—showing one of the ways in which Congress, itself, is a major source of constraint.

A few scientists even regard Senator Mansfield's new concern about the Pentagon's influence on campus as unwelcome meddling.

Dr. Edwin B. Newman, a psychologist at Harvard, recently was angered by a report that Senator Mansfield's office agreed to have "The Cambridge Project"—a joint Harvard-M.I.T. research program—evaluated by the General Accounting Office (GAO). The GAO was to see if Pentagon support for this program would be ruled out by the Mansfield Amendment.

"It's just plain legislative blackmail," Dr. Newman declared. "At what point does one senator have a right to assert his own definition of what's allowed, and then send investigators around to harass people in universities and see whether they conform?"

The Cambridge Project, nickednamed "Cam," is an ambitious and costly effort to develop better computer methods for behavioral science. It will cost 1.5-million-dollars a year in Pentagon funds. The GAO informed Senator Mansfield after a recent initial check on the project that the Pentagon is convinced it meets the requirements of the Mansfield Amendment.

Because of the amendment's restrictions, other scientists who consider their work to be nonmilitary are now reluctant to say so.

One university laboratory director even said the Mansfield Amendment might lead his center to change the nature of its research, to avoid cuts in Pentagon funding. "We may have to change the items that are supported by these funds or run the risk of losing them," he explained.

At the same time, many scientists also say that the Mansfield Amendment may be beneficial in the long run, because it may realign the pattern of support so that the "civilian" field of science is tied to civilian agencies.

Perhaps the clearest sign that scientists themselves question Pentagon support is the frequency with which they say they would rather get the money from somewhere else.

"We would rather have our money from the National Science Foundation or from the National Institutes of Health," says Prof. John O. Edwards, a chemist at Brown, expressing the general view. "But there's little chance that they'll take over where the Defense Department is being cut back." (The National Science Foundation was able to spend only $186 million for campus research in the last complete fiscal year, compared with the Pentagon's $250-million investment in this activity.)

Professor Frey says bluntly that the congressional critics "are utterly hypocritical because they kill the Defense Department support for research and do not offer any replacement."

Senator Mansfield has emphasized that "as sponsor of this amendment, I can clearly state that there was no intention on the part of the Congress when it enacted this section into law, of depriving the scientific community of proper funding for valid research projects."

If this is so, and if Congress holds the Pentagon to a strict application of the amendment, many scientists will expect Congress to appropriate more for the government's nonmilitary research agencies in the years ahead.

About the time that the Senate passed the Mansfield Amendment, the House passed a different, more controversial amendment of its own. It would have required the Defense Department to provide Congress with a behavior report on each university before the Pentagon awarded research money to the institution.

The report was to give "the record of the school, college or university with regard to cooperation on military matters such as the Reserve Officer Training Corps and military recruiting on its campus."

The House armed services committee, ruled by its arch-reactionary chairman, L. Mendel Rivers, D-SC, said it wanted the law because "research projects should be placed in universities which are cooperating fully with the Department of Defense in the national defense efforts."

This provision was tantamount to a bribe, and obviously a threat to academic freedom. The amendment was killed in a Senate-House conference.

This attitude is a backlash against recent campus debate over hard military research, a debate which has raged at several universities for the last year and a half.

Although most weapons-related research is done in "off-campus" laboratories, radicals who are angered by the war have made this kind of research their principal target. They have attacked "weaponeering" at one university after another.

The controversy has been especially heated at two leading centers for work of this kind—M.I.T. and Stanford University.

At M.I.T., one articulate graduate student in science, Jonathan Kabat, has voiced the concern of many students:

Weapons research, he says, is incompatible with the main purpose of a university—which seeks "to establish reason and understanding as the fundamental principles for human activity and interaction."

On this basis, university people tend to oppose violence in their affairs—whether it is student violence aimed against weapons research or weapons research itself, which provides the tools for international violence.

Still others are not so sure.

A chemist at Brown, Prof. John O. Edwards, agrees that "most academic people don't want to be in a position where they could hurt anybody else."

In past years, he has worked on antidotes to chemical warfare agents under contracts with the Army's Edgewood Arsenal Research Laboratories in Maryland.

"I have no reason to believe that any of the things I worked on could be used to increase a war capability," he said emphatically. "I have never been asked even to hint what might be a poison. They were interested in antidotes.

But he hesitates to condemn fellow scientists who work on projects related to other, more conventional weapons.

Other scientists are more positive in defending weapons research, saying—as Professor Edwards suggests—that weapons are needed to protect freedom, including academic freedom.

At a gathering of scientists last December, Dr. Charles W. Schilling of George Washington University put it succinctly:

"To be successful, universities require freedom. To insure freedom, national defense requires the advanced technology often pioneered by universities. This is the simple, strong, mutual bond about which there should be little debate."

Similarly, Dr. DuBridge, the White House science adviser, reminded a University of Chicago audience last year that "during World War I and World War II, the scientists and engineers of this nation did a tremendous service to their country and the free world.

"If we had allowed military research and development to come to a halt after World War II," he added, "or if we allow it to come to a halt now, we would now or soon be in very grave danger indeed. A weak or disarmed America would be an invitation to the destruction of the free world. This will continue to be the case until firm disarmament agreements are reached—which we all hope will be soon."

Like others who seek disarmament, however, many scientists believe that military research and development have already gone too far. This feeling is strongest among young people—including tomorrow's scientific and technological experts.

Two months ago, an opinion poll at M.I.T. showed that 76 per cent of the undergraduate and graduate students who voted in the poll disapprove of the university's Defense contracts for work on the controversial MIRV missile system.

The poll also indicated that a majority of students would like to see one of M.I.T.'s defense contract center, the Instrumentation Laboratory, "converted" to non-defense research activities.

A campus "Review Panel on Special Laboratories," led by faculty members, recommended last fall that work in this laboratory and M.I.T.'s other major research center, the Lincoln Laboratory, be diversified to include more nonmilitary projects "devoted to the major problems of society." Panel members felt that "a university role in defense research is appropriate," but they agreed that the institute's involvement in the development of certain offensive weapon systems had been highly inappropriate.

At Stanford University, the movement against weapons research became a frontal assault last year when militants seized a laboratory at the Stanford Research Institute (SRI) and held it for nine days.

The SRI scientists finally announced they would quit "rather than submit to control of their work by some outside morals committee," in the words of SRI president Charles Anderson.

Stanford and SRI have agreed, since then, to let the institute become an independent research center, entirely divorced from the university.

Many scientists think that far from being a satisfactory solution, such a falling apart between the university community and defense research is bad for the country.

Dr. Philip Handler, president of the National Academy of Sciences, believes with others that the "external scientific community" provides the Defense Department with invaluable "advice and monitoring."

"We must be certain that we do not totally separate the military from the best of American science," he told the Journal-Bulletin. "We still require a Defense Department, and as long as we do, there's an obligation to see that it has access to the best brains in the country."

[From the Providence (R.I.) Evening Bulletin, Feb. 26, 1970]

THE SCIENTIST AND THE MILITARY: TRIP TO A "THINK TANK"—IV

(By Douglas C. Wilson)

WASHINGTON.—One of the country's biggest military "think tanks" is perched on a hilltop in Virginia, less than 10 miles from the Pentagon.

A tank, of course, can be an aquarium of sorts—and this particular thought center, the Research Analysis Corp., almost gives that first impression. Lush, tropical plants fill the glass-enclosed entrance to the building, creating an air of serenity.

The atmosphere is disarming—perhaps by design. For the Research Analysis Corporation, known as "RAC," actually is tight with security. It takes more clearance to get beyond the reception desk, here than it does at the Pentagon, where strangers come and go as they like.

Each visitor signs a register at RAC and records his citizenship, time-of-arrival, and the nature of his mission: "classified" or "unclassified."

Then he is given a colored name tag, marked "Escort Required," and someone comes to lead him inside.

The Pentagon relies heavily on the research done by RAC and 15 other think tanks—officially called "federal contract research centers"—and it supports their wide range of activities with many millions of dollars.

In fiscal 1969, the Defense Department poured 263-million dollars into "tanks" like RAC. The Pentagon also gave out large contracts to many other research corporations, buying everything from hard chemistry in gas warfare to speculative studies of what the United States might do if Israel should suddenly decide, in 1972, to unleash 20-to-50 kiloton atomic weapons against the Arabs.

The prestigious Arthur D. Little Corp. of Cambridge, Mass., is one company that provided the Defense Department with know-how in the development of "incapacitating" chemical warfare agents in recent years. The general public has known little or nothing about this Arthur D. Little program, a $1,091,300 research effort which lasted from January, 1965, until November of last year.

The company has not gone out of its way to publicize this activity. To be sure, the work was only a small fraction of Little's many ongoing activities, which are mostly nonmilitary. When asked about it, however, company officials frankly acknowledge the chemical warfare research.

They say they cannot give details of the work, which are secret, but they confirm two unclassified project titles listed by the Army Chief of Research and Development: "Feasibility Studies in Chemical Agents," and "Search for New Incapacitating Agents."

One Army manual on chemical agents describes two groups of incapacitants: "psychochemicals," which produce "temporary physical disability such as paralysis, blindness or deafness," and "anesthetics," which produce "temporary mental aberrations."

Because only 30 per cent of its contracts are with the government, the Little company is not an official "federal contract research center." To fall in this category, a company must be engaged primarily in research for the government. Arthur D. Little, instead, is an independent, highly competitive enterprise, and its officials prefer to keep it that way.

But Donald C. Bowersock, the vice president in charge of research and development, says that defense research falls easily within the broad scope of the company's interests and capabilities.

"We're prepared to do work for any client where we feel we have something to contribute," he said. "Our judgment is on that basis, rather than on the basis of who the client is."

George Baker, directer of public relations, stressed that incapacitating agents may be preferable to other forms of weaponry, because "people get zonged, and then—in a few minutes—they're okay again. It may not be nearly so dangerous as shooting somebody, or beating them around the ears," he said.

Another public relations official, John H. Crider Jr., reported that some of the same work also yielded new insights into "therapeutically useful compounds."

Unclassified reports on this aspect of the research show it included a study of marijuana and its chemical analogs, which "produce ataxia (loss of muscle coordination) and motor deficits and generally act as central nervous system depressants in mice, cats, and monkeys when administered intravenously. . . ." Some of the Army-backed studies had possible applications to brain tumor therapy.

The Army support ended in November, when the company was told there was no further money available. "A good deal of what we could do had been accomplished anyway," Mr. Crider said, "and we were nearing the end of our contribution."

Three other concerns which have worked on incapacitating chemicals for the Army are the Aerojet General Corp. of Sacramento, Calif.; FMC Corp. of Princeton, N.J.; and Hazleton Laboratories, Inc, of Falls Church, Va.

An entirely different "contribution" to the nation's defense is made by the Hudson Institute at Croton-on-Hudson, N.Y. This center has provided the U.S. military with countless policy studies, including "scenarios" like the Arab-Israeli bomb drama.

The Army is spending $8,550,000 this year in engaging the energies and talents of Research Analysis Corporation.

RAC is roughly the size of two other military think tanks—the Institute for Defense Analyses in Arlington, Va., and the Center for Naval Research, here in Washington. Only the mammoth, 20-million-dollar-a-year Rand Corp., of Santa Monica, Calif., is larger.

Frank A. Parker, a friendly, unassuming veteran of government and university service, is president of RAC.

He directs a staff of 500 people, including economists, engineers, mathematicians, social scientists, statisticians, retired Army officers and other specialists—many with Ph.D.'s—who provide the Army with expertise in war games, foreign policy, manpower scheduling, and a variety of other activities. Eighty per cent of the work is classified.

Mr. Parker noted that Congress has forced the Pentagon to reduce its support of think tanks gradually over the last four years.

Surprisingly, he said he approves "of Congress imposing this kind of control."

"I think there is a tendency to contract for too much of this work," he said. "With respect to RAC, there's no question our program is a better program under money constraints than it was when it was growing. Both RAC and the military services have become more selective of the work they are doing."

At the same time, he stresses that the corporation's basic services to the Defense Department are indispensable. He said war gaming, for example, is an elaborate, highly specialized and computerized activity, but it costs the Army much less than it would pay for comparable field exercises, using live and fully equipped troops.

The simulated "war zone" at RAC, similar to facilities at the Rand Corp. and elsewhere, is composed of a "Red Room," where the "enemy" initiates and responds to military actions, a "Blue Room," where friendly forces operate, and a "Control Room," which calculates the outcome.

"Gaming's most useful purpose is to understand the impact of what you're doing, rather than the specific result of the engagement," Mr. Parker explained. "Actually, the Army has taken over much of this activity. We've done a lot of work in developing games that the Army now plays in its own facilities."

Mr. Parker said RAC has devised one war game, "Carmonette," which is "totally computerized" for small, tactical unit engagements.

"Carmonette," he said, allows RAC analysts to tell the Army: "This is what the outcome of this particular kind of engagement would be, under these particular circumstances."

One brain child of RAC's computer technicians is an "Automated Force Structure Model," designed to help the country's top command choose the right number, size and type of military units it should deploy for greatest effect against given enemy forces, under given circumstances, in any part of the world.

For instance, Mr. Parker said it normally would take months to design the best unit structures for use in Vietnam. The "Automated Force Structure Model" can do this in a few weeks.

Other specialists at RAC engage in foreign studies. The military shorthand titles for some of these projects sound like labels from an apothecary's shelf: SASSA, SANESA, SASEA, SALA, SACNEA, and COLSEC. But they refer to "Strategic Analysis of Sub-Saharan Africa," "Strategic Analysis of North Africa, the Middle East, and South Asia," "Strategic Analysis of Southeast Asia," "Strategic Analysis of Latin America," "Strategic Analysis of Northeast Asia," and "United States and Regional Collective Security Arrangements."

Pentagon support for foreign affairs research has been sharply criticized by Sen. J. William Fulbright, D-Ark., and others who say it encroaches upon the State Department's area of responsibility. He complains that military planners "are busily engaged in blueprinting strategies where our military will play the key role in trying to maintain order in a disorderly world."

But Mr. Parker believes that foreign studies are "something that the military definitely needs."

"There's no question in my mind that this kind of work is justifiable," he said. "If I were in the Defense Department (like many think tank executives, he was, before he joined RAC), I would want to know the political and economic environment I was working in," he said. "I'd want to know how it relates to my particular job."

Much of the corporation's work is in "housekeeping" areas, involving manpower and logistical studies—"like getting the maximum life out of equipment," Mr. Parker said. "This kind of work produces savings in the many, many millions of dollars."

The point once was dramatized by former Defense Secretary Robert S. McNamara, who said that the Rand Corp., for instance, had saved the Pentagon $10 for every dollar given to Rand by the Air Force.

Military think tanks have been associated with universities in past years. A few of them still are—like the Center for Naval Research, which is administered by the University of Rochester. But many universities, feeling new qualms about their ties to the "military industrial complex," recently have severed these connections. One of the first to do so was the Johns Hopkins University, which helped to establish RAC in 1948 and remained affiliated with it until 1961.

Twelve universities were "member institutions" of the Institute for Defense Analysis until June, 1968, when they and the IDA mutually agreed to end the relationship. Cornell University recently broke its tie with the Cornell Aeronautical Laboratory, and Stanford University and the Stanford Research Institute also have agreed to go separate ways.

"Within an hour of the Arab armored crossing of Israel's borders, Israeli aircraft received authorization to drop two atomic weapons near each of the attacking Arab armies."

This chapter in future "history" was written more than a year ago in a study commissioned by the U.S. Department of Defense. The Middle Eastern holocaust was seen in a crystal ball at the Hudson Institute, an American think tank that is famous for "thinking about the unthinkable."

The headline "event" was part of a hair-raising scenario in "Peacekeeping Studies" which the institute completed for the Pentagon in December, 1968.

Pentagon officials always emphasize that the ideas expressed in such studies do not necessarily represent the viewpoint of the Defense Department. But the scenario, written by a Michael E. Sherman, does illustrate one kind of thinking done for the Pentagon by the Hudson Institute. The Pentagon paid this establishment, headed by nuclear war strategist Herman Kahn, $1,074,000 for its thoughts in fiscal 1969.

Returns on the investment included the "Peacekeeping Studies." The authors explained that they wrote a few scenarios for the project to "make more vivid the understanding of problems that may occur in the near future."

Nuclear proliferation, they noted, could occur in the Middle Eastern conflict between the Arab states and Israel, and the "resulting possibility of nuclear use by one or both sides, and those possible reactions which the U.S. should support, must be thought through well in advance," they said.

Mr. Sherman's scenario is based on an initial presumption that "Israeli leaders continued to resist Soviet and American pressure to sign the nonproliferation treaty," developing their own "stock of fifteen or twenty 20-to-50-kiloton weapons by late 1972."

The purpose of this soothsaying is to explore the question: "If atomic weapons were to spread to this area of high political tension, what are the possible implications for peacekeeping in any future war that might erupt?"

From here on, the author gives a free rein to his imagination. Israel feigned a "spoofing" attack against the Arabs, late in 1972, and the Arabs called the bluff. As a result, "between half and two-thirds of the Israeli air force were destroyed or damaged on the ground," and the Arabs then launched an armored, land invasion of Israel.

In desperation, Israel dropped two atomic bombs near the invading Arab armies, precipitating a world crisis. At the United Nations, "the representatives of the two superpowers struggled for a diplomatic resolution of the volatile situation."

The United States supported a Russian motion in the Security Council which censured Israel and called upon that country to withdraw all her military forces to the borders that existed before the outbreak of the Six Day War in 1967.

The scenario closes with Israel acceding to this demand and Defense Minister Moshe Dayan resigning from his post.

Mr. Sherman added a note of caution: "It may be advisable to anticipate a criticism of this scenario," he wrote, "by acknowledging that it rests on some relatively optimistic assumptions . . . It is in the nature of all scenarios, however, that they must make controversial assumptions that cannot be proved or disproved except by time and actual events."

The insights generated by this "optimistic" exercise and other problem studies led Mr. Sherman and his colleagues, Raymond D. Gastil, Johan J. Holst, and Andrew J. Pierre, to conclude that "the United States should give very careful attention to the possibility of increasing its support and use of multilateral tools for the resolution of conflict situations."

For one thing, they said, "it will be increasingly difficult to intervene unilaterally" because many Americans—"ranging from extreme liberals to old-fashioned isolationists"—will oppose such action.

To be sure, they wrote, the United States will still "wish to come into certain situations unilaterally, because of lack of belief that any appropriate international body will intervene in a way which will be sufficiently timely, effective, or close to our interests."

But "it will probably always be our desire that conflicts between India and Pakistan, Israel and its Arab neighbors, or Greece and Turkey be solved primarily by the use of international forces, they said.

[From the Providence (R.I.) Evening Bulletin, Feb. 27, 1970]

THE SCIENTIST AND THE MILITARY: A DELICATE DECISION—V

(By Douglas C. Wilson)

The light was fading in the biologist's cluttered office. The day was overcast, threatening New England with snow. On the office shelves, stuck among the scientific journals, were souvenirs from Asia—modest, small mementos picked up during studies and travel.

Dr. Ellis was somber.

"I think it is wrong," he said, "all wrong, to present people with this kind of dilemma."

His dilemma concerned the U.S. Army and his own scientific research in a foreign country. He had a delicate decision to make, so he asked not to be identified.

Dr. Ellis is not his real name. As for the country he was talking about—it could have been India.

The rest of the story is true. As Dr. Ellis would say, "it has a one-to-one correspondence with reality."

For many years, this quiet, highly respected biologist, who belongs to a medical school faculty in New England, had investigated a certain disease in India. His overseas research, like that of many colleagues, was supported, from time to time, by the U.S. Defense Department.

He was grateful, and until two years ago, he never questioned it.

The Pentagon has been generous to American biologists and other scientists who conduct studies abroad, supporting their work with nearly 25 million dollars a year.

Dr. Ellis said if anyone asked why the military was interested in medical problems, the answer was always simple: "Soldiers are exposed to diseases, like everyone else," he explained.

"Oh, I sometimes think the military connection is a little far-fetched," he added frankly. "But the Defense Department accepts it."

For a while, his work in India was supported by research grants from non-military agencies. Dr. Ellis has found research money increasingly hard to come by, however, and two years ago he turned back to a source well-known for its generous support of medical science: the U.S. Army.

The Army gave him the necessary funds, and soon he was back in Asia—where he immediately discovered that "a grant from the U.S. Defense Department today puts you in a very awkward situation.

"I had a very strong impression that there were lifted eyebrows when I showed up," he said. "I definitely got a poorer reception than I had in previous years, and I can't attribute it to anything else."

He said his work is nearing a breakthrough, and he needs to return to India this summer.

He would like to return without the stigma that goes along with an Army contract:

"I'd much rather go out there with money from the National Institutes of Health, or the Rockefeller Foundation, or something of that sort," Dr. Ellis said. But he finds that research stipends from these other sources are in short supply, and the Pentagon may be the only answer.

"In the end, I may be forced either to pay it out of my own pocket, or get it from the Pentagon. And if I get it from them, I'm automatically suspected of being an intelligence agent," he said. "I'll just have to decide."

The case of Dr. Ellis is revealing because his work is so innocuous, from the standpoint of U.S. military interests abroad. His project, like most medical research, is hu-

manitarian, promising benefits to people in all countries.

Pentagon officials defend such activities before Congress, citing valuable results. They once reminded the Foreign Relations Committee that the Asian flu virus "was first cultured in the Army medical laboratory in Japan and was identified at Walter Reed Army Institute for Research as a new virus.

This permitted the development of an effective vaccine at Walter Reed in time to blunt the impact of the disease in the United States in 1957–58," they noted.

Yet Dr. Ellis discloses another part of the story: He said he has a colleague in Japan who works at a similar Army laboratory, and this civilian scientist has told him that Japanese scientists will not meet with him openly—either at the Army base or in their own offices—because the American military establishment in Japan is so controversial.

"If they want to meet, they meet in a cocktail lounge of a hotel," Dr. Ellis said. "That's an extreme case, perhaps, but it points up what I'm telling you about."

The Pentagon has supported many other kinds of research abroad, some of it less innocuous.

Its interest in one kind of study, social science, has been especially vulnerable to foreign suspicion.

The foreigner who accepts a biologist's work at face value still may question the motives of a social scientist who wants to study the internal political affairs of his country—especially when the investigation is sponsored by the Pentagon.

No more than 10 per cent of Defense-sponsored research abroad has ever been in the social sciences, however, and most of this is concentrated in two countries—Vietnam and Thailand.

While concern about foreign sensitivities has been focused upon projects of that kind, Dr. Ellis' account shows that the Pentagon's motives are suspect even when the U.S. military supports the "hard" sciences.

Sen. J. William Fulbright, chairman of the Foreign Relations Committee, has long criticized military support for all of these overseas activities, saying that it "brings us into disrepute among the countries of the world and does great damage to our foreign relations." In a Senate speech last July, he remarked: "Our foreign relations are already bad enough without the Defense Department adding to it."

If overseas research is important, it should be sponsored "by some agency other than the military," he said. "Military intrusion is much different from intrusion by cultural or other institutions, because people are suspicious of the military, as going to their own security."

Many researchers agree. In 1968, an anthropologist, Gerald D. Berreman, created a stir when he quit an expedition known as the "Himalayan Border Countries Project," directed by the University of California at Berkeley. He had worked for seven years on the project, when it was supported by the Ford Foundation.

Besides looking into anthropology, the Berkeley group was studying relations among Tibet, Indian and China, and the political system of Nepal.

Professor Berreman quit because the Pentagon took over support of the search effort in 1967, paying $282,840 to carry it through to July, 1970.

"If they came from innocuous sources," Professor Berreman wrote to his director, "I would, of course, welcome the funds which you have indicated would be available to me in the project. I have research interests I would like to pursue in the Himalayas, and sources of funds are becoming increasingly scarce, especially as budgets tighten to support the war—a pinch anthropologists are feeling acutely."

But he said he could not accept Pentagon money. He cited a warning issued in 1967 by the executive board of the American Anthropological Association:

"Anthropologists engaged in research in foreign areas," it said, "should be especially concerned with the possible effects of their sponsorship and sources of financial support. Although the Department of Defense and other mission-oriented branches of the government support some basic research in the social sciences, their sponsorship may nevertheless create an extra hazard in the conduct of fieldwork and jeopardize future access to research opportunities in the areas studied."

The "possible effects" on the Himalayan project were realized very soon after Professor Berreman left the program. When his story reached India, right and left-wing members of the Parliament protested the project, some of them suggesting that it was a cover for American espionage.

A moderate, pro-government newspaper in India said the project should not have been approved by anyone "alive to the nation's self-respect and security." Finally, the Advanced Research Projects Agency of the Pentagon had to break off its support, ending the project prematurely.

Nearly three years earlier, the Johnson Administration was considerably embarrassed by a research project in Latin America known as "Project Camelot." This was a 1.5-million-dollar study by social scientists at American University, who planned to go into Chile and other countries to study "Methods for Predicting and Influencing Social Change and Internal War Potential."

Neither the Chilean government nor the U.S. ambassador knew anything about the project in advance. When the plan became known, there were loud protests in Chile and in this country.

Ever since, defense-sponsored social science research has been a prime target of critics in Congress, and they have forced the Pentagon to reduce such activities.

Pentagon research officials realize that their support for foreign studies is still a major source of difficulties with the legislative branch. Yielding to this pressure, the Defense Department is trying to transfer many of its projects to the State Department. So far, the effort has failed, because the State Department does not share the Pentagon's great interest in supporting research.

The vast difference between the research activities of the Pentagon and the State Department was recently underscored by Senator Fulbright:

"In the next fiscal year, the Department of Defense proposes to spend $7,547,000 on research about foreign areas. Yet only $125,000 is budgeted for external research by the agency responsible for our nation's foreign affairs," he noted.

State Department officials are not eager to take over responsibility for the costly studies now supported by the Pentagon. They would have to create a whole new bureaucracy simply to administer this activity. And they would have to ask Congress for a budget increase of several million dollars to continue supporting such programs in the years ahead.

State Department officials have indicated there are other things they would rather seek money for.

The long-established military-scientific alliance in the country has suddenly found itself beset by pressures in Washington, academe, and the world at large.

The problems now encountered by scientists who receive military support underscore this fact: That the going for science is perilous as well as prosperous when its fortune is bound to the fortunes of a policy agency like the U.S. Defense Department.

The bond will survive, because defense will always need the help of scientists, and the interests of scientists, like those of everybody else, will need to be defended from time to time.

But the same forces of policy and opinion that encouraged the growth of a "military-scientific complex" in America now are cutting it back.

For many years, the nation felt that the greatest threat to its well-being was the external threat of communism. The defense budget prospered accordingly, and scientists—who require expensive equipment—became wedded to the military as a generous source of funds.

Cold War policies also led to U.S. intervention in foreign countries however, climaxed by the hot war in Vietnam. And as this war intensified, dragged on, and became unpopular, the military—nurtured until it had become a vast establishment—came under increasing attack, along with interventionism itself.

More and more, the U.S. military has met suspicion abroad, criticism in Congress, and opposition on campus.

Scientists associated with the military have been caught in the fallout.

Military support has stigmatized and even killed research projects that scientists have undertaken in foreign countries. It has drawn other scientists into a crossfire here at home—the crossfire between students and the establishment, and between Congress and the Pentagon.

Students and other academic reformers are trying—with marked success at some institutions—to reduce the universities' collaboration with the military.

In Washington, Congress has imposed new legal and budgetary restrictions on military support for science, cutting the defense budget in this area and passing the Mansfield Amendment, which limits the Pentagon's science spending to projects directly related to military needs.

Most scientists resent both of these pressures. Far from being an odious patron, the civilian research arm of the Pentagon has been benevolent in its dealings with science. Pentagon officials have given scientists maximum funds with minimum conditions attached.

At the same time, many scientists show uneasiness about their Pentagon alliance, demonstrating that there is, in fact, some incongruity between their own scholarly interests and the political concerns of the military.

As noted, they also are finding that the alliance can work to their peril, as well as their profit.

Thus, many scientists feel instinctively that while efforts to trim their dependence upon the military may hurt their immediate interests, such efforts, in the long run, may make their lot happier and more stable.

Especially at universities, almost all of those who now receive Defense Department funds say they would rather get their money from civilian agencies.

For the time being, a few of them may suffer and do without. The Pentagon is not going to reduce its activities in any precipitous fashion. It will implement the Mansfield Amendment as little as possible. But many of those scientists whose support is terminated under the new law probably will not find new sources of support immediately.

Universities and graduate students will feel the pinch, as the universities are forced to make up the difference in the scientist's salary and students find themselves without research assistantships.

The other short-range effect generated by these pressures is that of hypocrisy: The hypocrisy of men who claim military relevance in their work, to guarantee continued support, when they had seen no relevance before; and the hypocrisy of university offi-

cials who must talk one way to students, who oppose military research, and another way to the government, which insists that defense-supported research must be military.

Due to other political forces, the long-term picture may be brighter, however.

Just as military technologies and science of interest to the military flourished in the climate of international crisis, new civilian technologies and the science they require may begin to flourish in the new climate of the domestic environmental crisis.

The dominant national concerns are turning from the problems of war abroad to the problems of peace—and survival—at home. Already with this change, there are signs that part of the science of swords in this country may be converted to a science of plough-shares.

There is even some desire among defense-supported scientists outside the academic community, at independent military research centers like the Research Analysis Corp. of McLean, Va., to engage in more nonmilitary activities.

And there is a strong desire at universities like the Massachusetts Institute of Technology to cut back on "weaponeering" and turn the energies of science more toward domestic problems.

Government has reflected the negative—the new critical attitude toward the military—by placing new curbs on defense spending, including Pentagon spending in the field of science.

Scientists will watch Washington closely to see whether it also reflects the positive—the new sentiment favoring domestic priorities—by increasing the money for "civilian" science.

WHY STICK THE U.S. TAXPAYER?

(By Douglas C. Wilson)

A man of extraordinary candor, Dr. Harold I. Schiff of York University in Toronto declared in a recent interview that he could think of only one "qualm" he might feel about getting research money from the U.S. Pentagon:

"I'm not quite sure why the U.S. taxpayer is being stuck with this rather than the Canadian taxpayer," he said.

Dr. Schiff, a chemist, has received more than $33,000 from the U.S. Army during the last three years to study the "kinetics of atmospheric constituents".

Over a period of 12 years, ending last August, a scientist at another Canadian university, Dr. Richard Stevenson, has received a total of about $160,000 from the U.S. Navy to support his study of magnets.

In a letter to the student newspaper at McGill University in Montreal, Dr. Stevenson, director of McGill's magnet laboratory, said he first wrote to the U.S. Office of Naval Research in 1955, asking for $20,000.

"And to my surprise, when I think about it," he said, "they gave it to me."

He added: "I have often asked myself why this very generous support for my work was given . . . The only reason that makes sense to me is that I was the happy recipient of American altruism."

What Dr. Schiff and Dr. Stevenson have received is only a tiny part of the "American altruism" that the Defense Department has spread among foreign scientists for many years.

This Pentagon activity still goes on, although it has tapered off since fiscal 1965, when the Defense Department provided $15.3 million to foreign scientists.

Dr. John S. Foster, Jr., the Pentagon's director of defense research and engineering, has said the cutbacks were made because of "concern with the U.S. balance-of-payments problem."

Another problem, growing all the time, is the criticism from Congress. Here as always, the leading critic is Senator Fulbright, who continues to press for further reductions in the Pentagon's overseas research activity.

In a speech to the Senate last year, he said, "There is trouble aplenty over military research being carried out in our own educational institutions and there is no need to ask for the same kind of trouble in 44 other countries. . . . A compelling need in our foreign affairs today is to make the American presence abroad less visible. We do not accomplish that by linking foreign universities to our Military Establishment."

In the current fiscal year, however, Pentagon officials are still planning to spend between five and six million dollars for foreign research in more than 40 countries.

The largest amounts are spent in Canada, the United Kingdom, Israel, and Norway—in that order.

Dr. Foster believes that "if we were forced to discontinue the foreign research program, as a matter of policy, the United States would not have the benefit of important research contributors throughout the world. The United States does not have a monopoly on originality in science and technology," he said, "nor is it possible to do all necessary defense research and development within the United States."

Most of this foreign research is in the biomedical, engineering, physical and environmental sciences.

The titles of many—perhaps most—of the studies sound directly applicable to military technology. For instance, the Navy plans to spend $10,000 in France this year for a study of "supercavitating propeller design." But other projects sound more bizarre: "Nature and pharmacological action in toxin from deadly jellyfish" is a Navy-supported study at the University of Queensland in Australia. "Studies of the bionomics and taxonomy of the birds of India, and taxonomy of the birds of Bhutan," is a recent Army study in Bombay. And the Army also supports an "investigation of leadership qualities of kibbutz-raised young men" in Israel, and a study of the "weathering of rocks under humid tropical conditions" in Malaysia.

One shouldn't always judge a project by its title. The Army has a military title for Dr. Schiff's project, calling it a "study of upper atmosphere reactions involving energy transfer between species of importance in missile reentry."

Dr. Schiff has said the link between his work and missilry is "extremely far-fetched" and " a misrepresentation."

He said he has never felt that his work had any military value. It is a study of "naturally-occurring chemical reactions" in the atmosphere, like the aurora and night airglow.

But even if his project did have military value, he would have a ready answer to potential critics among his fellow Canadians—student radicals or others who might charge him with "selling out for the war effort of another country," he said.

Dr. Schiff said all of his work is unclassified, appearing "in the open literature."

"So if it's of any use to the military, then it's equally available to the Viet Cong," he said.

As it is, he discusses his work freely with "colleagues in Russia," he observed.

If there is any fallacy in Dr. Foster's past argument for supporting foreign scientists, it lies in his statement that the United States would not otherwise "have the benefit" of their scientific talents.

As Dr. Schiff indicates, almost all of their work is unclassified and available in published form to scientists in all countries, no matter who supports it.

This is clear in the scientific journals. A graphic example appears in a 1969 issue of "Astronautica Acta," a journal of the International Academy of Astronautics.

It carries an article on "Gaseous Detonation." Dr. John H. Lee of McGill is one of the authors. In this 19-page report, Dr. Lee presents some results of research he has done with support from the U.S. Air Force.

A Russian scientist, Dr. R. I. Solokhin of the University of Novosibirsk, and an American, Dr. A. K. Oppenheim of the University of California, contributed other information to the same article, as co-authors with Dr. Lee.

This sharing, of course, has always been true of the international scientific community. The point is that Pentagon support is enhancing the work of scientists generally, and not the U.S. defense posture relative to that of the Russians or anyone else.

Dr. Schiff opened a large, bound volume of scientific papers delivered at a recent "international conference on the physics of electronic and atomic collission," which was held in the Soviet Union.

The edition was printed in English, and many of the papers were reports by American scientists and others who noted that their work had been supported by U.S. military agencies.

Occasionally it is argued that the Defense Department supports many unclassified, basic research projects in physical science, gathers the results from many separate sources, and pieces them together like a jigsaw puzzle to fill specific needs in defense technology.

A jigsaw theory of sorts was propounded, in a recent interview, by a high-ranking Pentagon official who did not want to be quoted.

Dr. Schiff noted that this is also one of the more sophisticated arguments put forward by student radicals who insist that the Pentagon would not support research unless it had a direct military value.

"But I can't believe that these people in the Pentagon are that smart, to really be fitting it all together," he said.

THE WORK OF THE SENATE—TOWARD A BETTER BALANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a speech I made at the annual convention of the American paper industry in New York City last Tuesday, March 17, 1970, be printed in the RECORD.

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

TOWARD A BETTER BALANCE

(Remarks of Senator MIKE MANSFIELD Democrat of Montana, at the annual convention luncheon of the American paper industry, New York City, March 17, 1970)

I am very grateful for the opportunity to get away from Washington, even for a day. These are busy times in the Senate. The pace is as though the session were ending rather than just beginning. More votes, for example, have been taken in the first few weeks of 1970 than in all of last year through the month of September. The Senate has been meeting almost every day, some times on Saturdays, and the sessions have been long and arduous.

To be sure, this intensity of activity is not necessarily a measure of constructive achievement. I am frank to admit that a high decibel of sound emerging from the Capitol dome is not always indicative of the value of what is transpiring under it. Certainly, there are times when silence is better than talk and when inaction is to be preferred to action.

I do not believe, however, that what is happening in the Senate, today, is sound and fury signifying nothing. The uncharitable may ascribe the Senate's mood merely to pre-campaign jitters among Democrats. It

is true that Democrats face a difficult election in November. The President charms the TV audiences; the Vice President bombs the TV commentators. All the while, Democrats are confronted with the sheriff holding, I am told, nine million dollars in mortgages from the last election. As if that were not enough, the Republican National Commitee has made clear that it will zero in on the Senate as the citadel of the remaining Democratic influence in the government.

Nevertheless, the Senate's present disquiet goes deeper than politics. In the first place, the sentiment is to be found not only in members of my party but among Republicans as well. It afflicts those who are slated to be candidates in November and those who are not. Its origins, I believe, lie not in partisanship but in acute sensitivity to what is a growing disquiet in the nation.

The current Senate, in fact, is one of the least partisan I have known. For the past year, most of its members have been inclined to act on the view which President Nixon expressed in his inaugural address. You will recall that the President suggested it was a time for lowered voices.

While restraint in speech was an excellent suggestion, it is not of itself a response to the nation's difficulties. It will not defuse the economic and social time bombs in our midst. Our problems will not grow less dangerous by virtue of being soft-pedaled. Nor will neglect, benign or otherwise, solve them. To manage these problems at all, it seems to me, requires a combination of thought, discussion and action, quiet and restrained, if you will, but nonetheless, purposesful. To achieve that combination throughout the nation, there is a need for the consistent application of Presidential leadership supplemented by the Congress. The past few weeks of intense activity offer evidence that the Senate is willing to supply the supplement.

What it is that produces the uneasiness and, in turn, the predisposition to action in the Senate is not difficult to find. There is a clue to a principal source in the closeness with which the *Wall Street Journal* is read these days in the Senate Lobby. I venture to say that this interest has more to do with stock-taking than stock-holding. The financial news is followed because there is uncertainty regarding the trends in the nation's economy.

I shall not pre-empt these matters when others here are far more expertly qualified to discuss them. I would only point out that Senators are acutely aware that prices have been rising at an annual rate of six per cent for the past two years. They know, too, that price levels have reached an all time high and that interest rates are at a 100-year pinnacle.

Nor is there any point in mincing words about the housing industry and, perhaps, other major elements in the economy. The word there is not recession, it is depression. The national unemployment rate is above four per cent for the first time in many years, and the factory work week is shrinking in a number of the nation's key industries.

Economists grasp the significance of these and other indicators in one way. Bankers in another. Business managers in still another. Senators read the mail from home. We are well-informed, for example, on the consequences of unemployment or shrinking incomes in terms of personal hardships. We are well aware of what high prices mean to old people living on Social Security annuities or pensions of $100 a month or less.

The Senate may acknowledge as inevitable some of the actions which the Administration has taken to combat inflation. By the same token, however, the human impact of these actions are not ignored. In short, Senators do not exclude from their judgment of the nation's economic situation, the human plight of Americans who are caught in the statistics, who are squeezed in the vise of declining or fixed incomes as against still unchecked price-rises.

It is only too apparent that what began a year ago as a laudable effort by the Administration to restrain a serious inflation has not yet succeeded in achieving that goal. At the same time, a large segment of American enterprise and many Americans have been hurt in consequence of those measures. That is the reality and I see no point in whispering or ignoring it.

There is no panic reaction in the nation to this situation. There should not be. There need not be. I do not believe, however, that the way out of the difficulties lies in whistling in the dark. The fact is that there is no assurance of what lies just around the next corner.

The economy as a factor of concern has registered this session on the sensitive litmus of the Senate for the first time in many years. It joins the catalogue of carryover national ills which have long been a source of anxiety. These other difficulties were there during previous administrations and are pressing in the current administration. Included, of course, is the still-seething issue of race-relations. In the Senate, this problem is now seen more and more not as peculiar to the South but one that is woven into the social fabric of the entire nation.

The problem of crime in all of its ramifications, including the condition of the courts and criminal proceedings, also continues to stalk the Senate Chamber. There is great concern at the loss of the sense of sheer physical safety especially among the nation's urban dwellers. So, too, is there deep distress over the proliferating use of dangerous drugs, particularly among the young, and the apparent inability to get at the origins of this phenomenon or to grapple effectively with its consequences.

Finally, as you know only too well, the nation has suddenly awakened to the extent of the pollution of the environment. May I say that the Senate has been aware of this gathering cloud for several years. Pioneer legislative work had already been done in past sessions and effective follow-through in the Executive Branch is now awaited. In this instance, the Congress was able to supply a pre-paid supplement to support the emergence of Presidential leadership on pollution a few months ago.

What these difficulties add up to is a long neglect of the nation's inner structure. Disintegration of the physical environment, especially in the urban areas, is far advanced. Furthermore, the social cement of civility, community responsibility and personal restraint appears to have given way in many places. Resort to violence grows. The whole range of public services—state, local and federal—seems sometimes indifferent to the situation. More often it is inadequate and ineffective. Whatever the case, the pillars of the nation's habitability are tending to weaken—and some at least faster than they can be reinforced.

Solutions to complex problems in a complex society costs a great deal of money. We have spent much and we will, undoubtedly, have to spend more. Whatever is spent, however, will not be enough if we do not also direct to these difficulties a concentration of intelligence and skills and a diligent and determined industry. That kind of effort requires leadership in all parts of the nation, inside and outside of government.

Do we have these resources? Can we afford the effort? We have no choice, it seems to me, but find them and to afford them. The key to the solution, I believe, is to be found in the use of existing resources more effectively and purposefully. In my judgment, a prohibitive taxation is not the sole alternative to decaying cities or insecure streets. Nor is a run-away inflation the inevitable consequence of providing for the needs of the old and the indigent, for adequate health facilities and services and for a decent education of the young.

There is another basic alternative as I see it. It is, as I have indicated, a better use of the resources which are available and, largely, already available to the federal government. To that end, of course, a continuing improvement in the productivity of government is necessary and I am delighted that the President has made a start in that connection. However, while we reach for savings of the millions of dollars which are spent for outdated tea-tasters and the like, it is to be hoped that we will not overlook the billions which are poured out annually in pursuit of outdated foreign policies and military practices.

It is not only a matter of waste and inefficiency in operations. By far, the greater drain lies in the irrelevance and excesses which exist in these main categories of federal expenditures. Some would call for a "reexamination of priorities" in the National Budget of $200 billion. I think it is more accurate to speak of moving towards a better balance between expenditures for security against threats from abroad and expenditures for security against erosion by neglect at home.

For many years, this balance has been heavily weighted on the side of defending against foreign dangers—real or presumed, imediate or projected. That is why the cost of the Defense Department towers above all other federal expenditures. At $72.6 billion it is far and away the greatest single item in the current budget. In my judgment, the balance is lopsided, primarily because, as a nation, we have acted for too long on the basis of lopsided fears. We have concentrated on alien dangers and overlooked or disbelieved the dangers accumulating at home. In the circumstances, the civilian authorities—and that includes the Senate—have not exercised fully their responsbilities to inquire in depth into expenditures for national defense. For years, the checkbook has been open for military expenditures.

Let me cite an example. Cost over-runs on new weapons systems obviously do not contribute to the nation's defense; they contribute to the nation's indebtedness. Yet, on 38 major weapons procurement systems, over $20 billion above the original cost estimates was permitted to accumulate without serious challenge from anywhere in the government until very recently. This total included such items as a $3 billion over-run on the Minute Man Missile; $1.4 billion on the C–5A cargo plane and $3.0 billion on the M–48 torpedo.

The ABM debate which took place in the Senate last year sounded a bell on this laxity. In my judgment, it was a clear, if belated, notice that loose-thinking and loose-spending of this kind in the Executive Branch will no longer find acceptance in the Senate merely because they are packaged as national defense.

What applies to weapons systems applies also to the nation's numerous overseas commitments. The underlying policies and practices which sustain these commitments account for a major part of the defense budget. Over the past two decades, we have accumulated, under various treaties and programs, allies by the dozens and military bases abroad by the hundreds. Whatever the initial merit, many of these arrangements are now outdated or downright dangerous.

An example of costly obsolescence is to be found in the size of the U.S. military force which, for two decades under NATO, has been maintained in Western Europe. Even today, the U.S. contingent there still numbers about one half million American military personnel and dependents. The fact is that a quarter of a century after World War II, we have not made significant changes in the magnitude of the U.S. forces stationed in Europe under NATO. We have not done so, notwithstanding the inflation and the weakened international financial

position of the dollar, to both of which this costly commitment has contributed. We have not done so, notwithstanding the changed relationships within Europe—in particular, the increasing commercial and other amicable contact between East and West. We have not done so, notwithstanding the consistent disinclination of the Europeans to meet their NATO commitments at anywhere near the agreed on levels.

It is not surprising that a majority of Senators are now urging a contraction in the U.S. troop deployment in Western Europe. What is surprising is that the Executive Branch has resisted, through several administrations, any significant reduction in the commitment.

The cost of this enterprise has been estimated by Senator Percy of Illinois at $14 billion. It is a severe drain on tax resources, a source of inflation and, of course, a major item of outflow in the balance of payments. I look to the Senate to press for a confrontation on this excess in what is otherwise a desirable and still necessary commitment to NATO. Together with the President, it seems to me, that we will have to require this confrontation if we are to begin to redress the balance in the use of the nation's resources. Unless there is a readiness to face up to issues of this kind, the prospects of shifting resources to desperate domestic needs are dim indeed.

What is transpiring in Southeast Asia is even more disturbing than the inertia of our policies regarding NATO. To date, the involvement has already exacted an immense cost—easily over $100 billion for Viet Nam alone and that war continues to command U.S. resources at the rate of about $1.5 to $2 billion a month. More tragic, Viet Nam has claimed almost 50,000 U.S. lives and caused over 250,000 other casualties. The toll of human life continues heavy from week to week. There is no definite sign, as yet, that there is an end in sight via "Vietnamization" or any other route.

On top of the continuing drain of Viet Nam, there has now unfolded the possibility of a deepening involvement in Laos. I speak now not of the U.S. bombing of the Ho Chi Minh Trails which, just inside Laos, lead from North to South Viet Nam. These military operations actually have little to do with the situation inside Laos but are related directly to the conflict in Viet Nam. At this late date, it is probably not to be expected that they will end until there is an end to the war in Viet Nam. In themselves, however, they do not necessarily involve an enlargement of the war in Southeast Asia.

There is another war within Laos—the so-called "hidden war"—which carries the risk of a new U.S. entrapment. It takes a great stretch of the imagination to relate vital U.S. interests to this remote conflict in a primitive land inhabited by scarcely three million people. Nevertheless, we have somehow already managed, by the way of foreign aid or otherwise, to sink billions of dollars in Laos. To that aid has been added U.S. advisors and those who go beyond advice. U.S. transport and helicopter support has been committed. Even a B–52 bombing raid has been undertaken among the ancient burial urns of the so-called Plain of Jars. It is a familiar pattern, akin to that which drove us, beginning in 1952, ever deeper into Viet Nam.

The warning flags are flying in the Senate on Laos. They have been raised by Members of both parties. They have been raised, in my judgment, because the Senate senses that it is vital to the future of this nation—and I use the word advisedly—that what transpired in Viet Nam not be repeated in Laos—or anywhere else. Unless this bleeding of men and resources can be halted now, where on the Asian mainland does it end? What lies beyond Laos? Thailand? Cambodia? China? As the drain goes on in Southeast Asia, where will we find the resources, and the young initiatives and strength and ideals which are essential elements for meeting the difficulties within the nation? In the face of this war's divisiveness, on what will we rebuild a firm national unity without which the stability of the Republic is jeopardized?

It seems to me that we must not only avoid a new enmeshment in Laos but that we must redouble the effort to get our heads above water again in Viet Nam. We must do so, moreover, without prolonged delay. I am persuaded that that is the direction in which President Nixon wants to move and is seeking to move. In that respect he has had and he will continue to have my full support. I have upheld the Nixon Doctrine which would reduce our military involvement throughout Southeast Asia. I have supported, too, the President's request to the Soviet Union and the United Kingdom, as co-chairmen, that they reconvene a meeting of the participants in the Geneva Conference of 1962.

Negotiations still offer, in my judgment, the best prospects for preventing an expansion of the conflict in Laos and for ending the war in Viet Nam. The way is still open in Paris; it can be reopened in Geneva. To that end, it might be helpful, I believe, if the President would designate to the present peace talks in Paris a representative of stature and authority with his full confidence. I would hope, further, that there would be a clarion call for a revival of the Geneva Conference of 1961–1962 on Laos, coupled with the proposal that the Conference be broadened in membership and objective in order to consider the situation of all of Indochina and the Southeast Asian mainland. Moreover, it may well be desirable that the call which goes out should go out for a foreign ministers meeting in order to register its urgency.

From the point of view of the interests of this nation, it is time to seek, I believe, the neutralization not only of Laos, but of all of Indochina and the entire Southeast Asian mainland. It is time to join with other outside powers in bona fide multilateral guarantees of the neutrality of the region.

I do not underestimate the difficulties. But what is the alternative? This nation has everything to gain by trying to revitalize without delay the diplomatic machinery which may bring about a termination of this tragic situation on the Southeastern Asian mainland.

POW AND MIA TRIBUTE DAY

Mr. DOLE. Mr. President, on May 1 in Constitution Hall, a special tribute will be paid to Americans who are missing in action or prisoners of war in Southeast Asia.

I attended a Constitution Hall rally in support of prisoners of war on February 21. Although those who attended were highly concernced, only about 300 were present in the hall, which seats 3,811. It was distressing that so few came in support of men whose sacrifice and hardships are so great. I resolved then that Constitution Hall would be filled within 90 days in a resounding demonstration of support for these brave Americans.

I soon realized that a project of these proportions is a complex undertaking. To better organize and express this tribute, I enlisted the aid of six of my colleagues. The distinguished majority leader (Mr. MANSFIELD), the junior Senator from Arizona (Mr. GOLDWATER), the junior Senator from Colorado (Mr. DOMINICK), the junior Senator from Mississippi (Mr. STENNIS), the senior Senator from California (Mr. MURPHY), and the junior Senator from Maine (Mr. MUSKIE) have responded with their enthusiastic support. Six members of the House of Representatives have also joined us. They are Mr. ROUDEBUSH of the Fifth District of Indiana, Mr. TEAGUE of the Sixth District of Texas, Mrs. MAY of the Fourth District of Washington, Mr. DANIEL of the Fifth District of Virginia, Mr. MCKNEALLY of the 27th District of New York, and Mr. SIKES of the First District of Florida.

The tribute will be nonpartisan and nonideological. Those assisting represent both parties, with differing ideologies, but we agree American prisoners have not been treated in accordance with the 1949 Geneva Conventions. We believe they deserve America's unwavering support, regardless of differences concerning conduct of the war.

Plans for the May 1 tribute will be coordinated with Mrs. James B. Stockdale, California, national coordinator of the National League of Families of American Prisoners in Southeast Asia; Mrs. James A. Mulligan, Virginia, area coordinator of the organization; and H. Ross Perot, a Dallas, Tex., industrialist who has been instrumental in promoting international efforts for the release of Americans.

The assistance of major veterans and civic groups in the Washington area has been enlisted. Initial interest has been encouraging, and their support will be invaluable.

It is especially appropriate to pay tribute on May 1. That date designated "Law Day USA" by joint resolution of Congress is particularly significant. The resolution makes specific reference to the ideals of justice under law between nations.

We chose to declare our support for these missing Americans and POW's within the context of Law Day to emphasize our belief in the rule of law, especially the law of nations, which is embodied in the 1949 Geneva Conventions on prisoners of war. These conventions are the definitive statements in international law concerning treatment of prisoners of war, and both North Vietnam and the NLF have persistently and callously violated them, notwithstanding ratification by North Vietnam on June 28, 1957. Despite ratification and the clear language of the conventions, Hanoi, and the Vietcong have committed the following calculated violations:

Refusal to provide proper nourishment and humane treatment for all American prisoners of war, information on their detention camps and access by neutral observers;

Refusal to identify all American prisoners of war;

Denial to American prisoners of war the right to communicate regularly by mail with their families; and

Continued detention of the seriously ill and wounded.

Mr. President, I urge the participation of all Senators and all Americans. Our prisoners and their families must not feel forgotten by their fellow citizens. Neither can the North Vietnamese and the Vietcong believe their conduct is condoned by the American public.

Mr. President, I therefore renew my hope that all Members of the Senate and of the House of Representatives and all Americans will on Sunday, May 1, 1970, pay special tribute to those Americans missing in action and those Americans who are presently prisoners of war.

THE SOIL CONSERVATION SERVICE DESERVES ADEQUATE FUNDING

Mr. CHURCH. Mr. President, on March 17 I presented testimony to the Agricultural Appropriations Subcommittee calling for proper funding of Soil Conservation Service programs. In that testimony I set forth in some detail the need for the programs provided by the SCS. Because they are of vital importance to our country and to my State of Idaho, I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

TESTIMONY BY MR. CHURCH

Mr. Chairman, once again the appropriations of the Soil Conservation Service are under consideration by this committee and once again, I appear before you to plead the cause of this vital conservation program.

Long before ecology, preservation and conservation became the popular terms they are today—heralded by the press and the public and held up as the most vital political issue facing our nation in this decade—the Soil Conservation Service was laying a foundation upon which a viable conservation program could be built. Their studies of the soil made it possible for farmers and ranchers to plan their operation with an eye toward future as well as present production. SCS programs have paid for themselves time and time again in preservation of vital natural resources, in good farm and ranch conservation practices, and in developing new and better methods to protect our environment.

Today the Soil Conservation Service is being asked to do much more. The benefits of its conservation knowledge and experience are being brought to bear on the solution of a rapidly increasing variety of problems. Expanding suburbs, housing developments, industrial growth, airports, highways, parks, school facilities—indeed the entire urbanization of this country—involves land that only a few years ago was agricultural. And as this process takes place, the knowledge of the SCS is needed by those who must make basic decisions.

The knowledge gathered and constantly being added to by the SCS is used in flood control in new areas, in water pollution abatement, watershed protection and erosion control. These are practices that not only pay dividends on the farm and ranch—they are also vital in the proper planning of our urban environment. As one example—the proper application of knowledge gathered by the Soil Conservation Service could undoubtedly have prevented the terrible property loss occasioned by recent mud slides in suburban areas of California.

The Soil Conservation Service is dedicated to helping our people, both urban and rural, make wise use of the land through proven conservation practices. Their programs help to keep the soil in place, control the flow of water resources, and prevent the carrying of silt into our rivers, lakes and streams. It is a team effort with the land owners themselves making the decisions and doing the work on the land, and the SCS furnishing technical information to help the land owners and operators evaluate their problems and arrive at practical, economical solutions. The mission of the Soil Conservation Service is as important now so as we begin a nationwide campaign to clean up our environment. We must strengthen the programs of the Soil Conservation Service to better aid in the carrying out of this great national mission.

Secretary of Agriculture Clifford Hardin has recognized the need for the wise use of conservation practices in our rural areas. On February 12 of this year, Secretary Hardin, in an address to the National Farm Institute in Des Moines, Iowa, pointed out:

"Nearly three-fifths of the Nation's land area is used to produce crops and livestock. More than one-fifth is ungrazed forest land. Thus the watersheds that sustain urban America are largely in farms and forests. And the Nation must look to the managers of these lands for most of its land treatment as well as management of its water supplies."

These facts alone point up the tremendous need for a strong, viable Soil Conservation Service Program.

Idahoans familiar with the program are concerned over the Conservation Operations item in the SCS proposed budget. I share that concern, Mr. Chairman. The level of proposed funding for next year is approximately $200,000 over this year's budget. Most of that increase is for "operations of Plant Materials Centers," for which there is a critical need in Idaho. I urge the Committee to approve this small increase in the Plant Materials item.

The balance of this item is the basic source of aid provided by the SCS to farmers and ranchers in planning wise conservation practices. The budget estimate is $106,045,000 as compared with a 1970 appropriation of $106,103,000. This appears to be a slight cut, but, given increased demands placed upon the service and rising cost of operation, the cut becomes very significant.

Earlier this year, I met with Mr. George W. (Bill) Clark, the legislative chairman of the Idaho Association of Soil Conservation Districts and other representatives of the Department of Agriculture and SCS. At that meeting, in which other members of Idaho's Congressional Delegation participated, deep concern was expressed for recent personnel losses sustained by SCS. I have heard this same concern expressed by Idaho farmers and recently received resolutions from several major Idaho Farm organizations protesting cuts in the Soil Conservation Service program.

In Idaho, the latest estimates indicate we need at least 1½ more technicians per soil conservation district for an increase, statewide, of 75. This compares with a nationwide need of about ¾ of a technician per district. I am told by the Idaho Association that, nationwide, over a period of the next five years, an increase of approximately $20 million in this program of assistance to farmers and ranchers is needed. I support the position of the Idaho Association and request an increase of from 7 to 10 percent in the Conservation Operations item to cover increased operational expenses, in order to reverse the regrettable dismissal of technicians in the SCS, and to provide for modest additions of severely needed personnel.

The budget provides for a slight increase in River Basin Surveys and Investigations. Currently, Idaho's Soil Conservation Service is involved in the Columbia-North Pacific Framework Study and the Great Basin Study. Funds are needed for the completion of this work. It is our hope that a more detailed study of the Upper Snake will take place in 1972. I am pleased to support the budget request in this area.

Watershed Planning under the budget request stands to suffer a 20% cutback. The Watershed needs of Idaho are increasing—not decreasing. The legislatures of my state has more than doubled the state's contribution to Watershed Planning. State input has increased from 0 to $45,000 to the most recent level of $110,000 per biennium for this vital program. A federal decrease in the magnitude of 20% would not only drastically curtail the planning rate, but would discourage any further enlargement of State Legislature and the State's participation in this important work. Both the Idaho and the National Association of Soil Conservation Districts have repeatedly called for a twofold increase in the Watershed Program. I have supported the request in the past. Accordingly, I am opposed to the proposed reduction and would prefer to see a reasonable increase in this item, with enough new planning starts authorized to use the full appropriation.

The budget estimate shows a deep cut in resource conservation and development planning with no money asked for new planning starts.

Idaho feels fortunate to have received one of the first ten Resource Conservation and Development Projects. The project is demonstrating that this approach is sound. The emphasis on sound, strong, local leadership is proving its worth.

A four-county, four-soil conservation district group in Idaho recently organized what they call the Wood River Resource Area. These local officials, along with the majors of the surrounding towns and other local organizations, have been engaged for two years in developing a comprehensive resource plan for the area. Recently, they filed an application for a Resource Conservation and Development Project. That application is now in Washington awaiting the approval of the Secretary of Agriculture for planning.

This fine program deserves better treatment than that contemplated in the budget. I respectfully urge that the Committee treat it affirmatively.

In conclusion, Mr. Chairman, I would like to take this opportunity to thank you for the opportunity to appear before your committee today in support of the programs of the Soil Conservation Districts of my State. The service which they provide in the battle to sustain and improve our environment is vital. Their programs are deserting of the highest regard and the highest practicable level of funding. SCS has proved its worth many times over and, with the proper support from the Congress and the Executive, it will continue to be one of the strongest weapons in our battle to preserve a habitable environment in this nation for all of our people.

INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL MEETING

Mr. CHURCH. Mr. President, Robert H. Dockery of the staff of the Foreign Relations Committee attended the Inter-American Economic and Social Council meeting in Caracas in February. His report to the committee is an excellent summary of the meeting, and a cogent statement of the economic issues, particularly as they affect trade matters, between Latin America and the United States at this time.

Inasmuch as the Congress will undoubtedly have to consider many of these issues in the months ahead, I ask unanimous consent that Mr. Dockery's report be printed in the RECORD.

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

THE EIGHTH SPECIAL MEETING OF THE INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL (IA-ECOSOC)

THE LATIN AMERICAN POSITION

In May of 1969 the foreign ministers of twenty-one Latin American countries met in

Vina del Mar, Chile and produced a 6,000 word document, setting forth for the United States, Latin America's position on trade and aid issues. Two weeks later Foreign Minister Gabriel Valdes of Chile hand-delivered the document to President Nixon, and after a forty-minute meeting with the President, the *New York Times* quoted Valdes as saying, "All that can be said has been said; the time has come for action."

For the Latin American nations, the Consensus of Vina del Mar is a guide to action, and it represents nothing less than a six-year effort on the part of Latin America to formulate a unified development policy vis-a-vis the United States. The Consensus emphasizes basic economic issues and in this area makes a solid attempt to define the terms and conditions for future relations with the United States. In this respect, the following points are particularly noteworthy:

Trade. The Latin American countries have reached the conclusion that increased trade is their only real avenue to economic development on terms which they find politically acceptable. With this objective in mind, they deem it vital that the United States agree to:

(1) A "standstill" on tariff and non-tariff barriers affecting Latin American exports to the United States, including an agreement not to take any action which would adversely affect Latin American exports to third countries;

(2) A review of existing trade barriers with a commitment to their gradual elimination;

(3) A system of compensatory financing whereby their export earnings would not be affected if the U.S. did adopt additional trade restrictions; and

(4) A policy of promoting among the developed countries a generalized tariff-preference arrangement for exports from the developing countries. Barring acceptance of such an ararngement by the other industrialized nations, the United States should adopt a regional tariff-preference system.

The leaders of Latin America firmly believe that trade designed along these lines would provide their countries with the foreign exchange necessary to permit them to be in control of their own economic development programs. And from a political standpoint, these leaders adamantly maintain that such a degree of economic independence is mandatory if they are to contend effectively with rising nationalist sentiment and the anti-Americanism that serves as its foundation.

Aid, finance, and investment

While the Latins have not adopted an either-or approach on the trade-vs.-aid issue, they emphasize that aid must not be conditional—and least of all conditional in terms of adversely affecting their actual or potential trade patterns and/or tying aid to non-competitive suppliers. To the extent possible, aid should be multilateralized with the aid recipients provided a more meaningful say as to how assistance funds are to be spent. In this regard, in the Latin American view, the program loan (balance of payments support) should be emphasized and these loans should be made through the Inter-American Development Bank.

The Latins also argue that the United States should do all that it can to expand long-term financing arrangements, including easier accessibility to U.S. capital markets in order to reduce Latin America's dependence on foreign private investment. In this connection, Latin American leaders make the point that their countries can pay off long-term credits while foreign investments represent a continuous drain on much-needed foreign exchange. Accordingly, and something which is particularly distasteful to Latin leaders is the notion (insisted on by the U.S.) that foreign investment is a form of economic cooperation and assistance. The Latins say that in 1967, for example, U.S. investors repatriated $1 billion in profits from Latin America while sending to it in the form of fresh capital only $191 million. These figures do not of course take into account the wages and taxes paid or the profits reinvested by U.S. business; rather they are used solely to make the point that U.S. investors are taking more money out of Latin America than they are sending in. Latin Americans believe in general that, if the U.S. wants its investors to prosper in the region, then it *is* incumbent on the U.S. to make sure that investors are "development-oriented."

Science and technology

The United States must make a concerted effort to help bring about the transfer of science and technology to Latin America with a view to helping the latter mount a major research and development effort of its own. Aside from the traditional technical assistance arrangements, Latin America wants the U.S. to support a massive infusion of industrial know-how, including access to patents, trademarks and licenses. This should be accomplished through the establishment of regional information centers and data banks. From these efforts, Latin America hopes to be able to adopt existing technology to its own particular conditions while, at the same time, to begin to generate technological advances on its own. (Latin America's interest in and concern for developing applied scientific and technological skills has grown perceptibly since the appearance of Servan-Schreiber's *The American Challenge.*)

THE U.S. RESPONSE

These were the basic issues and attitudes which the United States confronted during the Eighth Special Meeting of the Inter-American Economic and Social Council and the two technical meetings that preceded it. For the most part, they were not new—many of the same issues having been raised at the Bogota Conference of 1948. There was, however, a new cast of characters, and unlike in 1948, the Latin countries were firmly united on the issues and on their determination to force the United States to respond to them.

In response the United States offered to undertake the following:

(1) To support the creation of a Special Committee for Consultation and Negotiation. According to the IA-ECOSOC resolution as finally approved: "This Committee shall be composed of representatives of all the member countries of the Organization (of American States), and its duration shall be indefinite. Its functions shall be to serve as an instrument for consultation and negotiation between the Latin American countries and the United States of America within the framework of a new policy which will strengthen hemispheric cooperation for development in the spirit of the Consensus of Vina del Mar and of the proposals of the United States."

(2) To submit U.S. economic policies to the country-review procedure conducted annually by the Inter-American Committee on the Alliance for Progress (CIAP). (This was announced by the President in his October 31 statement before the Inter-American Press Association.)

(3) To drop the AID additionality requirement, which forced aid recipients to increase their non-traditional imports from the United States. (This was done in Trinidad in June, 1969.)

(4) To remove the tying of AID loans to U.S. export by permitting procurement from Latin American suppliers, providing that 50% of the value of the product is produced in Latin America.

(5) To remove all restrictions on the dollars provided to cover local currency costs involved in AID project loans and similar loans made through the Fund for Special Operations of the Inter-American Development Bank.

(6) To review the "nuisance" duties on those products not produced in "substantial quantities" in the United States but of interest to Latin America for export to the U.S. The Latin American countries are to submit their product lists no later than March 31, 1970. (At the closing plenary session of the IA-ECOSOC meeting, Mexico announced that it had its list in hand and that it was formally submitting it to the United States.)

(7) To urge the industrialized countries to adopt an across-the-board tariff preference scheme for exports from the developing nations. Should these efforts prove of no avail within a "reasonable period of time", the United States agreed to support the adoption of a regional preference system on behalf of Latin America.

(8) To increase financial support for the Inter-American Development Bank, plus advancing to 1970 the U.S.' 1971 subscription of $206 million to the Bank's callable capital.

(9) To maintain our bilateral aid program to Latin America as the U.S.' largest regional economic assistance effort (about $430 million for FY 1971), and in addition, to fund the following specific programs and/or projects, primarily under the auspices of the OAS.

(a) $30 million to assist the development of capital and securities markets plus the identification of viable industrial projects. This is to be a joint project between CIAP and the Inter-American Development Bank.

(b) $20 million to promote tourism in Latin America.

(c) $20 million to promote science and technology.

(d) $15 million for trade expansion and promotion.

If the Latin Americans were unhappy with the U. S. response, they were not so unhappy as to have pushed the confrontation to a walk-out—as many had thought would occur. But, by the same token, the best the United States was able to do was buy time.

The Latins were particularly pleased with the U. S. agreeing to drop what they consider to be some of the most irritating restrictions on AID loans and with its apparent willingness to get down to concrete cases on the trade issue. Regarding the latter, Latin America's economic and finance ministers left the IA-ECOSOC meeting believing that they had gotten their foot in the door, and that during future meetings of the Special Committee for Consultation and Negotiation they would be able to kick it wide open.

It appears very doubleful, however, that the Administration views its "partnership" policy in these terms. The U. S. Delegation became increasingly frustrated because of its belief that the Latins were only out to make unreasonable demands on the U. S. and therefore really not willing to discuss the issues in the spirit of "true partnership." But "true partnership" implies equality among the partners. This, of course, is not the case because, for the Latins, partnership can only mean their *attaining* equal status—economically as well as politically.

In reply to the Latin's interpretation of "partnership," the point which Assistant Secretary Meyer and other officials made repeatedly, particularly with respect to the trade issue, was that the Executive Branch is sympathetic to their demands but is unable to meet them without Congressional approval. And "given the prevailing mood in Congress," the Latins should understand that the Executive Branch is faced with a long, up-hill fight.

In my conversations with the Latin delegates, I agreed that there was a good deal of truth in what Meyer and the others were saying but, at the same time, I pointed out that the Nixon Administration had not submitted any legislative program for re-directing U.S. policy toward Latin America. I made these same points to the members of

the U.S. Delegation but received no indication that the Administration plans to ask Congress to support a new program in the trade and aid field vis-a-vis Latin America. For what it may have been worth, I also made the point that Governor Rockefeller's recommendations in these areas had been generally well received by the Committee.

It seems to me that, in trying to convince the Latins of the Congress' intractability, the Administration has done little more than convince itself; moreover, there seems little doubt but that the Administration firmly believes it achieved at least a minor victory at the IA–ECOSOC conference. But if it were a "victory", it came not as the result of any new policy initiative but rather, the result of the U.S. agreeing to bury the old one. What will take its place remains to be seen—for although the Administration has decided to emphasize straight economic issues as the basis for "partnership" with Latin America, it has not decided what this means in terms of implementation:

(1) Does it mean more trade and less bilateral aid? Does it mean more trade and increased multilateral aid? Or does it mean relying more on U.S. investment directed through the Overseas Private Investment Corporation?

(2) Can the United States respond meaningfully to Latin America's demand for increased trade with the United States, in view of the fact that the products of most interest to Latin America are the very products which the United States has traditionally sought to protect, namely those with a labor-intensive input? In other words, is trade a politically viable alternative to aid with respect to U.S.-Latin American policy?

(3) To what extent would an emphasis on trade effectively serve to counter charges of U.S. economic intervention in Latin America?

(4) Are the political advantages that might be gained through emphasizing trade outweighed by the reduction in the kind of control which we have been able to exercise through the bilateral aid program? Or is the loss of this "control" itself an advantage?

(5) How can U.S. investment be promoted in Latin America in a manner which is politically acceptable to the region? Should the U.S. Government officially adopt a policy of promoting only joint venture arrangements in which Latin Americans own a majority (or close to it) of the stock?

(6) How long should we give the other industrialized nations to decide whether they will join us in promoting a system of generalized tariff preference for the developing countries? How long will Latin America give us before urging that we adopt a regional preference scheme? Could the U.S. exert significant pressure for the generalized scheme by accepting Latin America's more immediate demands on the trade issue?

(7) To what extent is the United States prepared to help Latin America refinance its external debt, which during this decade will increase appreciably as the grace period ends for all the Alliance loans made during the Sixties? Is there any other way for Latin America to pay off this indebtedness except by increased exports?

In retrospect

Writing in 1961, Dr. William Manger, former Assistant Secretary General of the Organization of American States warned:

"There could be nothing more dangerous for the inter-American regional organization than for a situation to develop whereby one country would find itself on one side of an issue and all the others on the other side. And yet, that is exactly what is happening in the economic field, in which the United States invariably finds itself opposed by every other American republic on every economic issue that presents itself."

The incipient danger of which Dr. Manger spoke in 1961 became a glaring reality during the Eighth Special Meeting of the Inter-American Economic and Social Council. The principal results of the four days of deliberations was the agreement to establish a Special Committee for Consultation and Negotiations.

The significance of the Special Committee is that it formally institutionalizes the historical economic confrontation between the United States and Latin America. Whether this new ministerial-level forum replaces, for all intents and purposes, the Inter-American Economic and Social Council is itself a moot point. The fact of the matter is the Latin American countries have formulated a single, consolidated position on trade and economic development issues, and, as a single negotiating unit, they have presented to the United States a list of their economic grievances which they believe the United States is duty-bound to remedy. Thus from the Latin American standpoint, the general purpose of the Special Committee is two-fold; 1) To achieve a "redress of their economic grievances" and 2) To ensure that new grievances are not added to the existing list. It is within this framework that the Latins view the Administration's policy of hemispheric "partnership", and the success or failure of the partnership will depend on Washington's willingness (or lack of it) to give the Latin American countries a voice in U.S. trade and economic policy as it affects their economies both individually and collectively.

As a follow-up thought: Jose Marti (independence leader and national hero of Cuba) once cautioned his countrymen that "a people economically enslaved but politically free will end by losing all freedom; but a people economically free can go on to win its political freedom." If Marti's warning has been lost on Cuba, it has not been lost on the rest of Latin America. Rightly or wrongly, Latin America believes that it is fighting U.S. economic enslavement and what it is seeking from the United States is agreement in principle on non-intervention in an economic sense—with Latin America being the judge as to what constitutes "economic" intervention.

If the U.S. reluctance to accept the principle of political non-intervention is any guide, the Latin American countries are sure to be in for some very serious disappointments. But in at least one respect, Latin America's policy-makers are in a better position than their U.S. counterparts: the Latin Americans know what they want. The Consensus of Vina del Mar leaves no doubt on this score.

THE ABM

Mr. CASE. Mr. President, the subject of our strategic defense, including the controversy over the antiballistic missile, is a truly vital subject, vital because it concerns the preservation of our national security. We must not leave undone anything essential to our security. We must not squander money when it is not necessary for our security. This is a matter above individual whim, above the interest of any particular group, above partisanship of any kind.

I agree with those who hold that building an ABM area defense system against China is unsupportable in foreign policy terms and in light of the facts about the Safeguard system. Quite contrary to the proposition that its deployment would be helpful in context of the Strategic Arms Limitation Talks with the Soviet Union, I suggest that it would be escalatory and likely harmful to these talks. These matters I shall devote more time to very soon.

Furthermore, it would in truth damage the credibility of our Asian deterrent, not enhance that deterrent, as has been claimed.

The Secretary of Defense has told us that the Chinese might have nuclear-tipped strategic missiles in 1975. But as he also conceded, our civilian population would not be protected against the Chinese from the Safeguard ABM until the entire 12-site system were deployed. This would be many years after 1975.

So the Safeguard defense of our civilian population, which we are told is necessary for a credible Asian policy, will not exist during a lengthy period when the Chinese have strategic missiles. This would, by the administration's definition, render our Asian policy "uncredible." The fact is that with China, as with any other nuclear power, what makes our foreign policy credible is our large strategic missile deterrent. This is fortunate because expert testimony has shown that the workability of the Safeguard ABM is open to the gravest doubts.

So far as protection against the Soviet Union goes, it is now clear that those who opposed Safeguard last year were right. Secretary Laird conceded this when he said that continued SS–9 deployment could present our country with a threat "much too large to be handled by the level of defense envisioned in the Safeguard system without substantial improvement and modification."

I am reassured that the Secretary has come to agree what we told him last spring: That Safeguard would not protect our deterrent and that if we are to protect our strategic missile force, we must seek new hardware and new techniques of using it.

But even here there is a contradiction in the administration's position. For although the administration this year speaks primarily of Safeguard's importance in protecting our strategic missiles, four out of the five additional sites on which "long leadtime advanced preparation work" would be undertaken in phase II of Safeguard can only be understood in terms of area defense. Like a cat chasing its tail, we are back at area defense against the Chinese.

Safeguard is being justified to the American people not by sound reasoning but by sleight of hand. There is a Safeguard rationale to fit every occasion, it seems, but not increased security for the United States.

THE POSTAL STRIKE

Mr. DOLE. Mr. President, the ramifications of the postal strike in New York City is of concern to all Senators. This walkout has caused a paralysis in the movement of mail in a tristate metropolitan area, and is spreading to other cities throughout the United States.

While the Congress should not be pressured into taking legislative action, the postal strike dramatically indicates the necessity of the Senate moving rapidly to consider the Nixon administration's plan for postal reform.

It can be hoped those seeking to stall the nomination of Judge Harrold Carswell will permit us to act on the nomina-

tion very soon. If the postal strike spreads, they will have a difficult time explaining why the Senate could not move expeditiously in a time of national need.

LAOS—A PRODUCT OF PAST U.S. POLICY

Mr. DOLE. Mr. President, I have listened with interest to the expressions of concern over the American presence in Laos. We have heard warnings about the dangers of our presence there. And, we have even heard allegations of a credibility gap because of the President's statement on the extent of our involvement in Laos.

PRESIDENT KENNEDY'S COMMITMENT

To put our Laos policy in perspective, let us examine the historical context of our policy.

First, let me read from the state of the Union message of President John F. Kennedy of January 30, 1961, a little over 9 years ago:

> In Asia, the relentless pressures of the Chinese Communists menace the security of the entire area—from the borders of India and South Vietnam to the jungles of Laos, struggling to protect its newly-won independence. We seek in Laos what we seek in all Asia, and indeed, in all the world—freedom for the people and independence for the government. And this Nation shall persevere in our pursuit of these objectives.

Mr. President, those two sentences clearly are the reasons why John F. Kennedy took us into South Vietnam and Laos. Let me repeat them:

> We seek in Laos what we seek in all the world—freedom for the people and independence for the government. And this Nation shall persevere in our pursuit of these objectives.

Who will deny those are noble aims? Who, except the leaders of the new left and the neoisolationists.

The commitment in Laos was brought to the attention of the American people on January 30, 1961.

LAOS DURING KENNEDY ADMINISTRATION

During the next 2½ years, much happened. And much was said by President Kennedy, some of which is worth reviewing.

On March 23, 1961, in a statement issued from the White House, the President noted that all was not well in Laos. There was fighting there between Communist and non-Communist forces and he said:

> Soviet planes, I regret to say, have been conspicuous in a large scale airlift into the battle area.

The President said there had been over 1,000 Russian sorties in about a 4-month period. Then he warned:

> If there is to be a peaceful solution, there must be a cessation of the present armed attacks by externally-supported Communists. If these attacks do not stop, those who support a genuinely neutral Laos will have to consider their response.

That, Mr. President, is what is known as a thinly veiled threat. The President backed up that warning with the words that "all members of SEATO have undertaken special treaty responsibilities toward an aggression against Laos."

Senators may recall a rather famous line from his statement:

> Laos is far away from America, but the world is small.

Since 1961, the world has not grown any larger, Mr. President.

Another statement came on March 26, 1961, after a meeting between President Kennedy and Prime Minister Macmillan of Great Britain at Key West. A joint communique said:

> They agree that the situation in Laos cannot be allowed to deteriorate.

DISPATCH OF TROOPS TO THAILAND

In the interests of brevity, let me go on now to Tuesday, May 15, 1962, where I wish to stop and digress a moment to a somewhat related issue. On that day, the President issued a statement which read:

> Following joint consideration by the Governments of the United States and Thailand of the situation in Southeast Asia, the Royal Thai Government has invited and I have today ordered, additional elements of the United States military forces, both ground and air, to proceed to Thailand and to remain there until further orders. These forces are to help insure the territorial integrity of this peaceful country.
>
> The dispatch of United States forces to Thailand was considered desirable because of recent attacks in Laos by Communist forces and the subsequent movement of Communist military units toward the border of Thailand. A threat to Thailand is of grave concern to the United States.

Mr. President, where then were the protests from those who protest in these Chambers today?

Mr. President, on July 23, 1962, the Geneva Accords were signed and hailed by the President as "a significant milestone in our efforts to maintain and further world peace."

The President finished his statement by promising Laos "moral and material support, as that country enters this new phase in its history."

AMBASSADOR W. AVERELL HARRIMAN

Those accords were brought about by the elder statesman and internationally known negotiator, Ambassador W. Averell Harriman. As a conciliatory gesture during his negotiations, we accepted the Communist choice of a ruler for neutral Laos, one, Souvanna Phouma, the same royal gentleman who today seeks our military help.

Mr. Harriman is an interesting study in what is wrong with American diplomacy. He has difficulty in standing up to the enemy.

He is willing to walk the extra mile even as the opposition negotiator refuses to take the first step.

The only place he ever stood and fought was over the size and shape of the table.

His effectiveness can be measured by the situation in Laos today, 8 years after he agreed to the Geneva accords. The whole theory behind the Geneva accords was, if we give the Communists everything they ask for, maybe they will go away; but, as it turned out, only America went away. The Communists have stayed around in sufficient strength to keep Laos in a complete state of turmoil and assure that there is no effective ground opposition to their use of the Ho Chi Minh Trail. It was a clever ploy on the part of the Communists, obviously too clever for Mr. Harriman.

It has cost the United States dearly in South Vietnam, and yet there are those today who would suspend even our air attack along that trail regardless of what that would mean in the way of new casualties and a longer war.

Next, Mr. President, we come to September 30, 1962, where in a joint statement President Kennedy and the Foreign Secretary of Great Britain agreed:

> On the strong necessity for the signatories of the Geneva Accord of Laos to see to it that all foreign forces are withdrawn from that country by October 7.

Mr. President, as we know, something went awry. October 7 came and went. And the North Vietnamese kept coming and staying.

My next date is February 25, 1963, when in a toast at the White House to His Majesty, Sri Svang Vatthana, King of Laos, the President said that "we are wholeheartedly behind your effort to maintain the freedom of your people." That was then, of course.

Finally, Mr. President, I come to April 19, 1963. On that date the President addressed the American Society of Newspaper Editors. He was asked, "Does the deteriorating situation in Laos raise the possibility of U.S. intervention?"

The President skirted that question. He called the matter "most serious" and "of the greatest concern." But he never answered the question.

Yet, the fact is, Mr. President, American personnel were already in Laos and we had agreed to increase our shipments of supplies and weapons. We were there then for the same reason we are there now, the Communists had violated the Geneva accords. Not only had they never lived up to them, but they also were steadily increasing their numbers.

If they had not been there, we would not have been there. The same is true today.

There are only a few minor differences between then and now. In the past, Presidents Kennedy and Johnson would not discuss Laos involvement. Today President Nixon has discussed it fully.

Then there was silence from the chairman of the Senate Foreign Relations Committee. A member of his party was President.

Today there is no silence. Today a Republican is President.

Mr. President, I have presented the facts. Members of this body may draw their own conclusions.

THE POSTAL STRIKE

Mr. CURTIS. Mr. President, I rise to express the hope that the Government will take very stern and decisive action in reference to the postal strike. It should be done soon and without delay. The delivery of the U.S. mail is Government business. No one has a right to strike, or delay, or interfere with that important Government business of transporting the mails.

Mr. President, our entire system of commerce and business, as well as all the personal and private communications,

are dependent upon the flow of the mails. No group, regardless of a grievance they claim, has a right to interfere, let alone deliberately halt delivery of the mail.

It is my hope that not only can action be taken to stop the strike, but also that whatever is necessary, whether it be military troops or otherwise, be brought in to deliver the mail now, and that Congress take such steps as are necessary to see that what is taking place in the country now does not spread and that it does not happen again.

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

Mr. CURTIS. I yield.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the Senator's statement, and to call attention to a resolution introduced by the distinguished Senator from Delaware (Mr. WILLIAMS), Senate Resolution 373, which is on the calendar. At some point, if the words of the Senator from Nebraska are not heeded, it may be that the Senate will have to turn its attention to consideration of such a measure. The resolution very appropriately recites that under section 7311 of title 5, United States Code:

> 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.

That is a very important provision, in addition, of course, to criminal penalties that are provided by the law for engaging in a strike against the Government of the United States.

Mr. CURTIS. I thank the distinguished Senator. I am wholeheartedly in accord with the objectives of that resolution.

I yield to the author of the resolution.

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

Mr. CURTIS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

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

Mr. WILLIAMS of Delaware. Mr. President, I support the remarks of the Senator from Nebraska. I think it would be a catastrophe if this country were to allow the mail service to continue in its present disrupted form. We cannot allow this situation to expand.

I introduced a resolution yesterday in order that members of the postal service would be alerted to the fact that there is a very strict law on the books now regarding the right of any individual to strike against the Government.

The purpose of this resolution was to call upon the Department of Justice and the Postmaster General to enforce these laws.

As the Senator from Michigan has pointed out, the law clearly states 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.

It also provides rather serious penalties for such actions in addition to losing their jobs as Government employees.

The resolution which I introduced would call upon the Postmaster General and the Attorney General to enforce this law. I think it is time that notice be given to those encouraging or participating in these strikes.

I talked with the leadership of the Senate and said that while I would not make an effort to push this resolution to a vote today, since some Members may not have a chance to study it, I did not feel that if the strike were in effect over the weekend, when we come in Monday Congress would have no choice but to give immediate consideration to this resolution or to take some action, because we cannot sit idly by in the Congress and see the mail service dropped.

Mr. CURTIS. I commend the distinguished Senator. This Nation is threatened by a rail strike, threatened by a truck strike, and threatened by a mail stoppage. Not only are the people of the country being unfairly treated and punished; it is a test of whether this Government has the will and determination to govern.

Mr. WILLIAMS of Delaware. I thank the Senator. As I said earlier, if the strike is not settled over the weekend Congress must face up to that situation.

A strike against the Federal Government is a violation of the law, and it cannot be condoned.

A nationwide disruption of our mail service can have catastrophic results to our economic system, and we just cannot allow that to happen.

In this instance the Government has sufficient legal authority to cope with this illegal strike, and these laws must be enforced.

The union and its members should be on notice that Congress will not act on a pay increase under the blackmail threat of an illegal strike.

JUDGMENT ON MYLAI

Mr. TYDINGS. Mr. President, yesterday, unfortunately I was called off the Senate floor when the distinguished Senator from Mississippi (Mr. STENNIS), chairman of the Committee on Armed Services, made some remarks which are shown in the CONGRESSIONAL RECORD which contains the proceedings of March 19, 1970, under the heading "Judgment on Mylai" on page 8051, at which point he put in the RECORD two editorials, one appearing in the New York Times of March 19, 1970, and one appearing in the Washington Post of March 19, 1970.

I would like to associate myself with the remarks of the distinguished Senator from Mississippi, the chairman of the Armed Services Committee. I would like to say, as he did, without passing judgment on the report of the Peers committee, that the very fact that the Peers committee did a comprehensive report on the tragedy of Mylai, without limiting itself merely to officers or men in the lower grades, but covering the entire tragedy, is a great tribute to the Army of the United States, to the Secretary of the Army, Mr. Resor, to General Westmoreland, to General Peers, and to the men of his committee.

What the court-martial will say, one does not know. Certainly, until that time, the men involved are entitled to the presumption of innocence. However, I have been greatly interested in this incident since it came to light. When last in California, I met Mr. Ridenhour, a young man, a student, a former soldier in Vietnam, who wrote to a number of Members of Congress about the incident. I had the opportunity to introduce Mr. Ridenhour to the Senator from Mississippi (Mr. STENNIS), who spent a great deal of time, at my request, listening to Mr. Ridenhour. Later Mr. Ridenhour had the opportunity to disclose what information and facts he had to the Peers committee.

I might say that the results to date indicate the highest integrity and honor of the Army of the United States. They certainly indicate that the system is working at its finest. To have the courage to do what the Peers inquiry did is, I think, almost without equal in the Western World.

I wish to associate myself with the remarks made yesterday by the distinguished Senator from Mississippi, and I ask unanimous consent that his remarks appear in the RECORD at the conclusion of my remarks on this subject.

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

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:

[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 sup-

pressing 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 aganst 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 Nuremberg 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.

ENVIRONMENTAL QUALITY: THE WETLANDS OF THE CHESAPEAKE BAY MUST BE PROTECTED

Mr. TYDINGS. Mr. President, Maryland is a State rich in natural resources. One of the most valuable is her wetlands, those tidal marsh areas so essential to marine life and wildlife. Yet, like many of her resources, Maryland's wetlands are at present under attack. Careless dredge and fill operations, combined with the absence of a State shoreline plan, constitute a clear and present threat to the wetlands of the Chesapeake Bay.

The damage already done is substantial. In the past 17 years Maryland has lost 7 percent of her marsh acreage. The State now possesses approximately 320,000 acres of wetlands. Yet in the next 5 years estimates are that she may lose half of them, some 147,000 acres, and that an additional 93,000 acres are in danger of disappearing in the following 5 years.

It is thus evident that strong affirmative action must be taken now to protect the wetlands. A comprehensive shoreline plan is urgently required, along with State review of all proposals to drain wetlands.

I fully support measures designed to achieve these requirements.

The Evening Star of February 23, 1970, ran a lead editorial about the wetlands of the Chesapeake Bay. Its conclusion, with which I heartily agree, is that "the wetlands must be saved." I ask unanimous consent that the editorial be printed in the RECORD, as well as a letter I wrote Secretary Hickel concerning Maryland's wetlands.

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

BATTLE OF THE WETLANDS

The wetlands of the Chesapeake Bay region, it is daily more apparent, are to become a political battleground.

As one would expect, the opposing forces in the coming battle will be a coalition of watermen and farmers, who view as theirs exclusively the riparian rights that from time immemorial have traveled hand in hand with property rights, and conservationists who believe the use of wetlands—the littoral and land between the tides—should be controlled in the interest of all the people.

Prior to reapportionment the farmer-waterman coalition had the political muscle to stave off attempts to impose controls over the uses wetlands were put to. Now it doesn't. But it is still capable of formidable resistance to change.

The "country boys" see the wetlands as a livelihood—not only in terms of harvests of crops and seafood, but also in terms of profits and revenues that might flow from waterfront development. The "city boys" see them in terms of recreation, as a mainspring of the Bay region's ecology, as a distinctive natural heritage worth preserving.

The latter have noted with concern developments such as last summer's controversy over the sale of wetlands in the Ocean City area for intensive development and the refusal of a grand jury to bring charges in connection therewith.

Conservationists also have noted with concern such things as the projected draining of Gilbert Swamp near Hughesville, in Charles County, Md., with money supplied by the federal Soil Conservation Service (nearby farmlands are subjected to occasional flooding) without public notice ever being given, and use of wetlands near Gloucester Courthouse, Va., as a garbage dump.

As a result of such concern the Virginia General Assembly is studying a Virginia Institute of Marine Science report which poses this question: "Can such a significant portion of the economic and sociological base of Tidewater continue to hang so tenuously on the mounting and uncontrolled pressures to capriciously dredge, fill, dike and bulkhead wetlands to convert them into housing developments, industrial sites and, alas, garbage dumps?"

And in Maryland Senate President William S. James, D-Harford, has introduced a bill, approved in advance by a special legislative committee, that would empower the state to control the use of privately owned wetlands along most waterways.

The lists are drawn. The Star stands firmly with Senator James and the Virginia Institute of Marine Science. The wetlands must be saved.

JANUARY 14, 1970.

Hon. WALTER J. HICKEL,
Department of the Interior,
Washington, D.C.

DEAR SECRETARY HICKEL: Conservationists everywhere recognize the great value of wetlands. These marsh areas are essential to the preservation of marine life and invaluable as habitats for a wide variety of wildlife such as the Canvasback duck, the Diamondback terrapin, and the Canadian wild goose. These wetlands, however, are ecologically fragile and thus can easily be destroyed by drainage and development.

The National Commission on Marine Science, Engineering, and Resources has recognized the value of our wetlands and has pointed out, alarmingly, that since 1949 over seven percent of our wetlands, more than half a million acres, have been destroyed by dredging and filling. In California, alone, seventy percent of the state's wetlands have been lost. By 1965 twenty-nine percent of the wetlands that existed along Long Island in 1954 had been filled in and eighty-eight percent of those remaining were threatened by development.

The threat to wetlands is equally severe in Maryland. In the past seventeen years my state has lost seven percent of her marsh acreage. Maryland now has 320,000 acres of wetlands. Yet in the next five years, she may lose half of them, some 147,000 acres, and an additional 93,000 acres are in danger of disappearing in the following five years.

It is the responsibility of public officials at all levels of government to ensure that sufficient wetlands are protected and set aside for public benefit.

Certain recent developments in Maryland may provide a unique opportunity for the Department of Interior, in conjunction with the State of Maryland, to purchase valuable wetlands along the Atlantic coast. Two shoreline development corporations have filed bankruptcy petitions in Worcester County, Maryland. Their wetland properties have been placed in the hands of trustees with instructions to sell up to 122 acres, a portion of which has been filled in.

The Land and Water Conservation Fund is intended to provide the means to secure and protect these scarce wetlands. The National Commission in its 1969 Report recognized this use of the fund when it explicitly recommended that the Fund "be more fully utilized for acquisition of wetlands."

I therefore request that the Department look into the Maryland situation I have cited to evaluate the desirability of using a portion of the $3 million contingency allowance of the Fund for Fiscal Year 1970, to assist Maryland in obtaining title to these wetlands and help stem the tide of wetlands destruction.

I have taken the liberty of providing the Secretary of the Maryland State Department of Natural Resources with a copy of this letter.

Best wishes.

Sincerely,

JOSEPH D. TYDINGS.

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

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may speak for 3 minutes more.

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

Mr. TYDINGS. Mr. President, in 1966 as a member of the Senate Air and Water Pollution Subcommittee, I wrote and Congress enacted legislation providing for the first comprehensive analysis of the Nation's estuaries. As the juncture point of fresh water and salt water, estuaries are among the most important of our natural resources.

The Chesapeake Bay is perhaps the most valuable estuary in the Nation.

Yet we knew little about these marine resources and how to protect them. The analysis has provided us with much-needed information, however, and equally important has recommended a planning mechanism to protect our estuaries. Recently completed, the analysis is entitled "The National Estuarine Pollution Study."

On February 17 I introduced legislation, S. 3460, to provide for the planning mechanism required for our estuaries. It is entitled the Coastal Zone Management Act of 1970 and has been referred to the Special Subcommittee on Oceanography. Hearings are expected late this month and will continue in the spring and summer. Late last month in Baltimore, I discussed this legislation and some of the problems surrounding and Chesapeake Bay. I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT OF SENATOR JOSEPH D. TYDINGS ON ENVIRONMENTAL QUALITY, FEBRUARY 23, 1970

A key domestic issue confronting this nation today as we enter a new decade is the shocking decline in the quality of our environment. We need not look far to see how, both as a nation and a society, we have abused the natural resources of our great country.

The air in Baltimore and our other great metropolitan centers constitutes a menace to our health. At least part of every river system in the country is polluted—the Potomac, the Patapsco, and the Severn are no exceptions. And each of us accounts for five pounds of garbage a day which here in Baltimore means over two thousand tons of trash per day and, for the nation at large, means approximately 182 million tons of garbage per year.

It seems that if we don't die in a nuclear holocaust or push ourselves off the planet because of a rising population, we may simply disappear beneath our own trash.

The simple fact is that we have pushed our natural resources beyond the point of endurance. The disgraceful condition in which we now find our air, land and water—both here in Maryland and beyond—is the inevitable result.

There are two complex but subtle reasons which help us understand why we in America today find our resources in such terrible shape.

The first is our past history of treating our natural resources ruthlessly. We have always dealt harshly with our air, land and water. Our heritage is one of waste and insensitivity. As a young nation, we cleared forests, dug mines, removed Indians, and built railroads—all without considering the impact on our environment. We treated our resources carelessly, as if they were limitless. We forgot that the ecological balance is fragile and thus easily disturbed.

The second reason is our understanding of technology. Americans seem to have an irrational love affair with technology. But technology is only how we do something. It is a technique, a method. It is how we apply the knowledge we have. It is not knowledge itself, nor is it always progress. Yet too often we confuse the two. We equate progress with technology. We assume that what is technologically feasible is also desirable. This is not always the case.

Just because we can build a dam or an SST doesn't mean we should.

Recently the decline in the quality of our environment has received considerable public attention. In magazines and newspapers, on radio and television, even in a State of the Union address, hardly a day passes without some comment on "the pollution problem." All this attention, of course, is most welcome, for a national policy to succeed must enjoy public support. Yet by itself, public attention is not sufficient. Action is needed as well, and so far, we've had more attention than action.

In 1966, however, I introduced and Congress enacted my legislation directing the Secretary of Interior to conduct a three-year comprehensive study of the nation's estuaries. These marine resources, an integral part of what scientists now call the coastal zone, are invaluable for they supply over 65% of our commercial fish and contain all our wetlands upon which our wildlife depend. The report has recently been completed.

Based upon its analysis, Secretary of the Interior Walter J. Hickel in testimony before the House Committee on Public Works stated "that our estuaries are seriously polluted, and that the unwise use of the lands and waters of our estuarine zones not only contributes to this pollution, but is rapidly destroying valuable natural resources." Specifically:

Over eight billion gallons of municipal wastes are discharged daily into estuarine waters, yet only about one half receive secondary treatment.

Of the nearly 22 billion gallons of industrial waste discharged per day only 29% receive any kind of waste treatment.

Eight percent of the nation's shellfish grounds have been declared unsafe as a source of shellfish for human consumption.

As the Report says:

"One of the greatest threats to the estuarine ecosystem is the ever present chance for a catastrophic spill of oil or other hazardous materials." The Santa Barbara, Louisiana, and Florida experiences clearly indicate this threat is real.

The National Estuarine Pollution Study fully documents the abuse suffered by our estuarine resources. It is a basic and comprehensive analysis of a major natural resource and should serve as a point of reference for scientist and public official alike.

Estuaries are vital components of the coastal zone. This can be defined as the margin where land and water interact. It is not just the sea itself, nor the land either, but rather the broad area where they join together and directly influence each other. The coastal zone includes bays, marshland, river deltas, harbors, estuaries and even parts of the continental shelf.

It is the key geographic feature of our nation. Along this wide juncture of land and sea is 75% of our population, maritime trade valued at approximately $40 billion, over 6,000 wells that serve a billion dollar oil and gas industry, all of our wetlands, most of our fish and wildlife, and prime recreational areas. Yet the coastal zone as a resource is both shrinking and subject to degradation. Pollution, lack of public access to the seashore, wetlands draining, and the concept of single purpose use all contribute to the deterioration of the coastal zone.

"The key to more effective use of our coastline," says The National Commission on Marine Science, Engineering, and Development in its 1969 report entitled *Our Nation and the Sea*, "is the introduction of a management system permitting conscious and informed choices among development alternatives." Last week I introduced legislation providing for such a system. The bill, which enjoys bipartisan support, is designed to encourage a state coastal zone agency, as recommended by The Chesapeake Bay Case Study conducted for the Marine Science Council by Trident Engineering Associates of Annapolis. Entitled the Coastal Zone Management Act of 1970, the bill provides for up to 50% of cost grants to designated state coastal authorities upon the development of a master plan for their zone, the granting to the authorities of power sufficient to carry out the plan, the review by the designated state coastal authorities of all local projects that would affect the coastal zone.

Establishes a special "Marine Resources Fund" in the Treasury and provides for an annual $125,000,000 deposit using funds obtained from the offshore oil revenues.

Authorizes joint federal/state estuarine sanctuaries to create natural field laboratories for long-term studies.

Provides that new federal projects within a state's coastal zone be approved by either the designated state coastal authority or the Marine Science Council.

Finds that "the welfare of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment."

Declares as policy that "the states have the primary role in planning and developing the coastal zone resource."

The bill has been referred to the Commerce Committee where the newly formed Special Subcommittee on Oceanography, of which I am a member, will hold hearings on it and similar legislation in March.

I'd like now to make a few remarks about the Chesapeake Bay.

The Bay is Maryland's greatest natural resource. It's deep water channel to the Port of Baltimore makes it the lifeline of Maryland. Chesapeake oysters and crabs are known and sold throughout the nation. It's blue waters and scenic views help make Maryland the land of pleasant living.

Basically the Chesapeake Bay right now is in passable shape. Water quality standards have been set, enforcement of present laws is getting tougher, the 1968 state bond issue of $125,000,000 will help build more treatment plants, and the new Department of Natural Resources will consolidate our previously disjointed efforts to preserve the Bay.

But we must remember that the first signs of a resource's decline in quality are rather subtle and often unnoticed. The damage to an estuary can be very gradual and only when it is too late do we confront the devastating final impact.

There are at present a number of alarming signs of environmental deterioration in the Chesapeake Bay. Taken alone and at a fixed period of time, they may not appear as great trouble. Yet together and over the next two decades given the 5 million new people the Bay area expects in the next twenty years—they constitute a clear and present danger to the environmental quality of the Chesapeake Bay:

12 out of 32 public swimming beaches in Maryland were closed during some portion of the 1968 summer.

Over 25,000 acres of oyster bars were closed by pollution in 1968.

7 percent of Maryland's irreplaceable wetlands have already been destroyed and nearly half of those remaining are endangered.

All the major rivers that flowed into the Bay are polluted: the Potomac, Patapsco and Severn are among the worst.

Each year Maryland loses over $3 million in commercial fishing revenues due to pollution, according to a report of the Department of Interior.

Ten plants twice the size of the proposed Calvert Cliffs facility will be needed in the next 30 years to meet Maryland's future power needs. Yet we don't know where they're going to go, where they should go, or what their impact will be on the fragile ecology of the Chesapeake Bay.

Unless we begin now to protect our Bay, to restore those areas that have already been destroyed and to plan for the future impact of 5 million additional people in twenty years, the Chesapeake Bay will go the way of our other polluted resources.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

OUR MILITARY FORCES IN EUROPE

Mr. MANSFIELD. Mr. President, I wish to draw the attention of Senators to a statement on troop costs in Europe, made in the other body on Monday, March 16, by the gentleman from Wisconsin (Mr. REUSS), chairman of the Joint Economic Committee's Subcommittee on International Exchange and Payments. I should like to underline some facts and figures cited by Representative REUSS and some suggestions he put forward for streamlining our military force structure in Europe.

Mr. REUSS pointed out that our balance-of-payments deficit, our worldwide military expenditures, our military expenditures in Europe, and our military expenditures in Germany all reached new highs in 1969 of $7 billion, almost $5 billion, over $1.6 billion, and $949 million, respectively. He went on to suggest that we could achieve some prompt savings in Europe by cutting the number of U.S. generals and admirals in Europe by 10 percent and by consolidating, closing, and trimming some of our European military headquarters. Specifically, he urged that the Air Force and Navy combine some headquarters, a step the Army took several years ago.

I have had occasion myself to note that the number of general-grade officers and headquarters elements we station in Europe appear excessive to need. In my judgment, the suggestions put forward by Mr. REUSS are useful and timely.

I ask unanimous consent that Mr. REUSS' carefully detailed speech and analysis be printed in the RECORD.

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

THE UNITED STATES CAN AND SHOULD CUT MILITARY COSTS IN EUROPE NOW

Mr. REUSS. Mr. Speaker, on March 12 I sent a letter to Secretary of Defense Laird inquiring into the fate of a Department of Defense program known as Redcoste. The initials stand for "Reduction of costs—Europe." When some $14.8 billion of our defense budget goes toward fulfilling our NATO commitments, when more than $2.6 billion of this amount is spent directly in Europe leading to at least a $1.6 billion drain, I can think of no more laudable or timely objective for a program.

Yet last year, Secretary Laird, in his revised defense budget for fiscal year 1970, deferred action on at least two cost-savings measures recommended under Redcoste. And in this year's defense posture statement, there is no mention of Redcoste, or even of a son of Redcoste. This is surely a singular omission given the size of the U.S. balance-of-payments deficit, soaring U.S. military expenditures, and savings reportedly to be achieved under Redcoste—some $200 million in overseas expenditures and some $400 million in the budget according to a January 26, 1969, article by Mr. William Beecher of the New York Times.

If Redcoste has been dropped—which is what I fear—the program should be promptly revived and expanded. In the meantime, I have a few modest suggestions of my own to make on where we can cut some costs in Europe—and now—with savings for both our defense budget and balance of payments.

OUR PAYMENTS DEFICIT WORSENS

Mr. Speaker, the U.S. balance-of-payments deficit last year climbed to a record high of $7 billion. U.S. defense expenditures abroad also reached a new high—almost $5 billion. And this is counting only the direct costs of our military presence abroad. If we add in the indirect costs, the total is certainly higher by a billion or more. In Western Europe, our dollar outflow for military activities continued its upward course—$1.468 billion in 1965, $1.535 billion in 1966, $1.616 billion in 1967, $1.533 billion in 1968, a whopping $1.624 billion as a preliminary figure for 1969. In West Germany alone, our dollar outflow is now running at an annual rate of close to $1 billion.

In view of these record-setting figures for 1969, I find the attitude of our defense, foreign affairs, and monetary officials remarkably ostrichlike. To be sure, adjustments in value in the currencies of several Western European nations and the creation of "paper gold" have brought some calm to the international monetary scene. To be sure, for the moment foreigners like our dollars because they earn high interest. But without a more determined effort to reduce our payments deficit and to curb inflation, and especially to cut the military expenditures at home and abroad which contribute so largely to both, we are asking for future trouble.

To be sure, we may realize some balance of payments savings as we reduce our forces in Vietnam—but oh, so slowly. To be sure, Western European countries still purchase military goods and services from us—some $1.006 billion in 1969—but in amounts that are declining and insufficient to cover our rising expenditures on that continent. Worldwide, our receipts from military sales were an estimated $1.893 billion in 1969 as against dollar outflows for military purposes of over $4.8 billion. And then we have been promised some savings as we assume a somewhat "lower profile" abroad. But these are for tomorrow. What we need is some concrete action today.

INADEQUATE ACTION SO FAR

Mr. Speaker, I propose some action in Europe. Almost one-fifth of our defense is oriented toward Western European security. By far the greatest proportion of our even more costly land forces are committed to the defense of Europe. Yet, at the same time, we find the sternest critics of our persistent payments deficits, the firmest devotees to gold, among our European friends. In West Germany, where we station some 210,000 U.S. military along with their 150,000 dependents and employ some 70,000 German nationals, our dollar drain last year amounted to $949 million, up from $877 million in 1968. Yet we limp from year to year with even more unsatisfactory offset arrangements with West Germany, recent ones being comprised largely of West German band purchases which increase the U.S. foreign debt and require us to send even more dollars to Germany in interest payments.

I note also that the few steps we have taken to cut costs in Europe—and these have been largely in reaction to congressional pressure or initiatives by other governments—have failed to produce any long-term savings. In 1966 and 1967, as a result of being asked to depart from France, we carried out some long overdue streamlining of our military establishment in Europe and brought a few personnel home. Recently, we have taken some very small similar steps in Spain and Turkey. In 1968, we also carried out a limited redeployment of some 28,000 military personnel from Germany. But any budgetary and balance-of-payments savings we may have realized from these actions have been more than wiped out by rising prices and wages in Europe, pay increases for our military, and the revaluation of the German mark.

WHAT CAN BE DONE NOW

For several years I have urged that Western European countries, and particularly West Germany, be asked to shoulder a portion of the enormous budgetary costs of the U.S. commitment to NATO. Recently, my colleague on the Joint Economic Committee the senior Senator from Illinois, Mr. PERCY, has pinpointed a number of areas where assumption of these costs by Europeans would be both logical and fair. For example, he suggests that Europeans pay the wages of local nationals employed by U.S. forces, construction costs for permanent installations built for U.S. forces, and transportation and fuel costs. These proposals should be pressed by U.S. officials. To be realistic, however, they will require lengthy and difficult negotiations.

Recently also, the majority leader of the other body, Mr. MANSFIELD, joined by 49 colleagues, reintroduced his resolution calling for a substantial reduction of U.S. forces in Europe. Certainly, gradual reductions should be possible over the next several years. But, again, the negotiating process within our own bureaucracies and with allies promises to be lengthy.

Mr. Speaker, fortunately opportunities are at hand for achieving some savings in the budgetary and balance-of-payments without delay. Essentially these opportunities lie in carrying forward the streamlining begun with our move from France—in consolidating headquarters, perhaps in eliminating one or two whose missions appear less than essential, in trimming the brass at some headquarters and the support personnel and foreign employees at others.

I cannot pretend that the streamlining I propose will be painless. But at least it can be accomplished without dickering with allies, without debates over cutting into combat capabilities, and with greater efficiency and leanness for our forces as dividends. A March 1970 article in Dun's Review, entitled "Deadwood in the Executive Suite," pointed out that the giant company, North American Rockwell, like other companies now seeking more efficiency and economy in their operations, recently eliminated an entire level of management. It said:

"As a result of a management study on the company's Aerospace and Systems Group, DUN's has learned, top management decided to cut out one complete reporting level for the seven divisions in the group. So the group president's office was eliminated, and the divisions now report directly to corporate headquarters. In the process, says a company spokesman, there was a major cutback 'including a number of executives.'"

I have no doubt that the American Military Establishment in Europe can benefit from similar if less draconian measures.

During a recent conference I attended in West Germany, I was appalled to learn that winthin a single German electoral district there resided 37 American generals. Since that time, I have requested and received figures from the Pentagon listing the number of U.S. general-grade officers, enlisted men and civilians attached to important U.S. military headquarters in Europe. The totals are impressively large, classified of course, and tell only part of the story. For every headquarters has its support personnel—motor pool drivers, teachers, hospital personnel, maintenance personnel, translators, file clerks, and whatall who are not officially counted as part of the headquarters staff.

I cite one example, Ramstein Air Base in West Germany, headquarters for the U.S. 17th Air Force, has 18,000 military men—I repeat, 18,000 military—plus 31,000 wives and children, plus 1,200 civilian employees, 598 buildings—cost $52 million—and 1,600 vehicles, not counting private cars. The figures come from Arthur Veysey, an enterprising reporter for the Chicago Tribune, who wrote an illuminating series of articles on the U.S. Military Establishment in Europe in January 1970.

Ramstein, of course, may be unique in size and numbers. According to Veysey, it is also a tactical airbase for U.S. Phantom jet fighters, host to a NATO subcommand and 50 various support operations. But then again, unfortunately, it may not be unique. Several other U.S. commands back up, parallel, or overlap the numerous NATO commands, which also have their very ample share of U.S. personnel. Moreover, several U.S. commands are co-located with tactical air squadrons, which also appear to have a rather generous number of support personnel for the number of planes they fly.

ARE SO MANY SEPARATE HEADQUARTERS NEEDED?

There are at least 14 important headquarters for U.S. forces in Europe. Some of them undoubtedly approach the overload of military personnel who are stationed at Ramstein. They should be trimmed.

Mr. Speaker, to be specific, I suggest that streamlining in Europe can include at a minimum the following measures:

First. Cut the number of U.S. generals and admirals stationed in Europe by 10 percent. I cannot reveal the number stationed there now because the Pentagon has enjoined me from doing so, but it is enormous. Spending by U.S. personnel and their families is the largest single category of military expenditures abroad—making up 33 percent of the total. The more you earn, the more you have to spend—and generals earn a lot. Furthermore, since services for high-level officers tie up a certain number of enlisted personnel, bringing home these officers, or retiring them, should release a large number of these personnel for useful combat assignment.

THE STUTTGART COMPLEX

Second. Why not abolish the separate headquarters for U.S. Forces, Europe? The U.S. European Command, known as EUCOM, is located at Stuttgart with a vast staff, and a brand new command center that cost $13 million. Yet the commander in chief of U.S. Forces, Europe, Gen. Andrew Goodpaster, is located many miles away at Casteau, Belgium, which is the headquarters of NATO's Allied Command, Europe, and where General Goodpaster also wears the NATO hat of Supreme Allied Commander. Surely, the functions of EUCOM can be performed by a slightly augmented staff for General Goodpaster at Casteau, or by the separate Air Force, Army, and Navy commands in Europe, or by both. We could rent or sell the building at Stuttgart to the Germans, who need the space and have the cash.

Third. Combine headquarters, U.S. Air Force Europe—USAFE—now located at Wiesbaden, Germany, with headquarters U.S. 17th Air Force at Ramstein, Germany, or for that matter with headquarters U.S. 3d Air Force at Ruislip, England. What is good for the Army should be good for the Air Force. The Army accomplished an equivalent streamlining of its command structure when U.S. forces were ousted from France in 1966, and I applaud them for it. The headquarters of U.S. Army Europe, formerly located at Stuttgart, was combined with the headquarters of U.S. 7th Army, located at Heidelberg, Germany, with savings in personnel and costs and support elements. If the U.S. Army, with 190,000 men stationed in Europe can manage very well with one headquarters less, surely the U.S. Air Force with less than half that number in Europe—some 80,000—can manage even better minus a headquarters installation.

VARIOUS NAVAL HEADQUARTERS

Fourth. What is good for the Army and Air Force should also be good for the Navy and for our defense budget and balance of payments too. The headquarters of U.S. Navy, Europe—USNAVEUR—is presently located in London, in a luxury apartment house across the street from the American Embassy, according to Veysey. Why not move it to Naples, where we have ample high-level naval personnel wearing NATO hats in NATO's allied Forces Southern Europe command—AFSOUTH—who could well assume the responsibilities of USNAVEUR, or transfer these responsibilities to the admiral who commands the 6th fleet in the Mediterranean?

At present, as reported by Roy Meachum in the December 7, 1969, Washington Star, we have one four-star admiral acting as NATO's commander in chief for AFSOUTH with a navy consisting of exactly one barge under his peacetime command, "a rather fancy motor boat used by the admiral for visiting ships that come in the beautiful Bay of Naples." We also have a three-star admiral in command of the U.S. 6th Fleet with its 50 ships and 200 planes. He reports to our four-star admiral in charge of London headquarters, not to our admiral in Naples, who takes charge only if war breaks out and we assign our fleet to NATO. Presumably our admiral in London reports to General Goodpaster in his capacity as chief of EUCOM, as well as to the Chief of Naval Operations in Washington. Our admiral in Naples also reports to General Goodpaster—in his capacity as NATO's Supreme Allied Commander. Is this any way to run a Navy?

USNAVEUR has to look after even fewer men than U.S. Air Force, Europe—some 25,000 manning the ships of the 6th Fleet, and those manning the Polaris subs which come into Holy Loch and Rota, Spain for maintenance. There is of course a healthy complement of lesser U.S. admirals in Europe backing up those I have mentioned. Surely, we do not need all these chiefs and all these headquarters in Europe for this modest number of Indians.

AN ITALIAN HEADQUARTERS

Fifth, Mr. Speaker, I suspect there is another headquarters in Europe that we could phase out completely, lock, stock and barrel, without causing a ripple. I refer to an Army headquarters known as Southern European Task Force, SETAF, stationed in Italy and blessed, I am sure, with an ample number of support personnel and dependents.

The mission of this headquarters, according to the Department of Defense, is "to provide combat support to the NATO forces in Northern Italy." According to the 1966 Army Times "Guide to Army Posts":

Getting orders to Italy is often considered a "dream assignment" by Army officers, EM, civilians and dependents.

According to the same source:

SETAF plays host each year to thousands of vacationing U.S. servicemen and their families from France and Germany.

I am sure that SETAF is more than a serviceman's spa. But Italy is not on the central front in Western Europe, where a good argument can be made for providing substantial American "combat support." Italy is less exposed than Greece and Turkey, where we certainly have numerous military personnel but no equivalent headquarters. Let us put SETAF in cold storaage at the Pentagon and airlift it to Europe when tension says we might need it.

TIME TO STREAMLINE

Mr. Speaker, the opportunities for streamlining that I have listed are only the most obvious ones. There may be other ways of carrying out these measures than the ones I have suggested. One way or another, however, I urge that these opportunities be seized. As other opportunities for savings come to my attention, and when I receive the status report on Redcoste which I have requested from Secretary Laird, I will report to my colleagues. In the meantime, for the information of my colleagues, I include at the conclusion of my remarks the series of recent articles on U.S. forces in Europe by Arthur Veysey of the Chicago Tribune, an article in the December 1969 issue of the Survey of Current Business on U.S. military expenditures abroad, a January 1969 article by Mr. William Beecher of the New York Times on cost reduction in Europe, and the text of my letter to Secretary Laird.

Mr. Speaker, the streamlining I recommend in our military establishment in Europe can be carried out promptly. It can lead to substantial budgetary and balance of payments savings. If our NATO allies should protest the measures proposed, let them be invited to assume the costs of maintaining the status quo. If these economizing measures lead to the release of foreign employees—all to the good. I know for a fact that the German economy needs every worker it can find. I also know for a fact that the American Government needs every budget dollar and balance of payments dollar it can find to put to work productively at home.

[From the Chicago (Ill.) Tribune, Jan 18, 1970]

DEBATE GROWS OVER AMERICAN ROLE IN EUROPE

(By Arthur Veysey)

(NOTE.—Arthur Veysey, chief of the Tribune's London bureau, has traveled more than two months thruout Europe to study first hand the United States role in the North Atlantic Treaty organization. He has interviewed top-ranking American commanders and their staffs, and visited military bases and support facilities. In the first of eight articles on our role in NATO, Veysey discusses the views of top commanders and tells how the United States became involved in the defense of Europe.)

STUTTGART, GERMANY, January 17.—A big American military force remains in Europe 25 years after the end of World War II, and debate rages over the issue of whether many, if not all, of the servicemen should be brought home.

Almost daily, new voices join the demand that the United States reduce its military commitment and let the Europeans look to their own defenses. Sen. Mike Mansfield [D., Mont.] wants half of the troops returned home, and he may now have the backing of a majority of senators.

Today, the United States has in Europe 310,000 soldiers, airmen, and sailors, with their 240,000 wives and children. Add to this

10,000 European employes, acres of warehouses, fields of tanks, 22 air fields with 500 warplanes, a 3 billion dollar radar network, post exchanges, hospitals, schools, and deep shelters for at least 7,000 nuclear explosives.

More than two months ago, THE TRIBUNE began a study of American commitments in Europe, focusing on how troops are used and whether big cuts would be practical and wise.

Top commanders were interviewed. Military installations were visited. Meetings of the North Atlantic Treaty organization were attended. Firsthand observations have ranged from joining a patrol along the Czech border to flying faster than sound over the Rhine river. TRIBUNE correspondents in Washington, Moscow, and Bonn contributed facts and views.

NIXON PLEDGES TO KEEP STRONG FORCE

President Nixon has declared:

"The American commitment to the North Atlantic Treaty organization remains in force and will remain strong."

Melvin Laird, secretary of defense, told NATO defense ministers in Brussels this winter:

"The United States will make no reduction in combat troops in Europe as far as NATO is concerned."

At the same meeting, William Rogers, secretary of state, emphasized:

"A sound defense posture is indispensable as we move from the era of confrontation to the era of negotiation."

The carefully worded statements, rather than reassuring Europeans who fear the consequences of an American withdrawal, convinced NATO ministers that American cuts are coming, and they may be heavy.

American military commanders also are concerned. "Some people want the fruits of peace without the costs of peace," said Gen. Andrew Goodpaster, NATO's supreme commander, commander in chief of American forces in Europe and a native of Granite City, Ill.

TROOP LEVEL CALLED AT MINIMUM

Gen. James Polk, our European army commander, added:

"Our conventional forces are razor thin. Our level of troops is about the minimum. The soviet is speeding up and training hard."

The United States air force commander in Europe, Gen. Joseph Holzapple, a flyer from Peoria, Ill., said:

"The soviet proved in Hungary and Czechoslovakia it will move when doing so is in its interest. Our forces make a soviet move into a free part of Europe unattractive."

The American naval commander in Europe, Adm. Waldemar Wendt, son of a minister in Milistad, Ill., said:

"If we withdraw our 6th fleet we would say to our allies, 'Let the Mediterranean become a soviet lake.' "

The United States commander in Berlin, Maj. Gen. Robert Fergusson, a native of Chicago, added:

"With 40,000 soviet troops within an hour of the city, a cut in our troops in Europe would cause real apprehension in Berlin."

In western European capitals, politicians, diplomats, political scientists, and editors tend to agree that a heavy reduction in American forces in Europe would be an event of major historical importance, outweighing in the long run decisions about Viet Nam.

Policymakers here suspect that American decisions about Europe may come as an aftermath of the Viet Nam war and be based more on emotions than on a cool assessment of the present situation in Europe and repercussions that might result from a basic change in the military balance between East and West in Europe.

ROGERS GIVES WARNING

Rogers warned the NATO ministers:

"American public opinion will increasingly demand troops be brought home from many parts of the world."

A German newspaper, Die Rhienpfalz, commented:

"The American public has grown tired of NATO."

The current American commitment in Europe stems from the end of World War II in 1945, when victory brought a euphoria.

Under its spell, the United States dismantled the most potent military force ever created. Within one year, we brought home from Europe all but 390,000 of our 3.1 million men. Canada brought home all of its 300,000 service men. Britain cut its forces from 1.3 million to fewer than 500,000. Western European nations freed from Nazi rule were impotent.

However, the Soviets were not content to restore the European map of 1939. During the war, they had taken over the Baltic states and moved their boundary westward thru parts of Finland, Poland, Romania, and the Balkans, adding, altogether, an area bigger than Italy with 23 million persons.

COMMUNISTS INSTALLED

By 1947, they had installed communist governments in the "liberated" nations of Poland, Hungary, Romania, Bulgaria, Yugoslavia and ruled East Germany with a firm fist, thus bringing another 360,000 square miles and 95 million persons under Soviet control. Millions fled westward.

In France, Italy, and Belgium, battered by war and occupation, Communists rioted and connived. In Greece, they waged bloody civil war and held much of Athens. They were busy in distant, vital areas such as Iran with its oil, Malaya with its rubber.

Early in 1948, Jan Masaryk jumped or was thrown from his window in the foreign ministry at Prague, Czechoslovakia, which had advanced so fast in its few years of independence between the wars, fell to the Kremlin. On June 24, Josef Stalin blockaded West Berlin.

The situation was now clear. Stalin, while perhaps not seeking a new war, was certainly out to get all he could. No western European nation was strong enough to stand up to the soviets. Even together, they were a poor second. Only the United States, with its atomic bomb, could hold off the Kremlin.

"At that moment, we in the United States came to a conscious decision that our defense began right here at the iron curtain," recalls Gen. David A. Birchinal, deputy to Goodpaster.

So American troops came back to Europe. Twelve nations pledged themselves to fight all for one, one for all. Later Turkey, Greece, and West Germany joined the alliance.

ELLSWORTH TELLS VIEWS

"We must not forget," said Robert Ellsworth, the present ambassador to NATO, "that we came here for our own vital interest. We are still here for our own vital interest."

The commander of the United States 17th air force standing guard in Germany, Maj. Gen. Royal Baker, who has flown into combat more than 500 times in Germany, Korea, and Viet Nam, said:

"We are insurance for peace. But then, some people don't believe in insurance."

This insurance can be illustrated by the daily nonstop aerial marathons over western Europe.

ON CONSTANT ALERT

Three times every day of the year—at 1 a.m., 9 a.m., and 5 p.m.—a 707 jet liner packed with electronic gear roars along the 11,000-foot runway of the American air base at Mildenhall, England, 60 miles northeast of London.

Aboard is an army general, an air force general, or a navy admiral from the United States military headquarters for Europe outside Stuttgart. When high in the sky, the officer calls by radio to the plane which preceded him. He then flies in great loops over western Europe until, eight hours later, he is relieved by the next officer.

The officer has just one task: to be ready to take command instantly of all of United States military forces in Europe should a soviet missile suddenly, without warning, drop an H-bomb onto the new windowless 13 million dollar United States European command center in Stuttgart.

[From the Chicago (Ill.) Tribune, Jan. 19, 1970]

UNITED STATES IS READY FOR AN INSTANT EUROPEAN WAR

(By Arthur Veysey)

(NOTE.—What would happen if a military attack was launched against one of several western European nations? Poised to react instantly are land, sea, and air units of the North Atlantic Treaty organizations. In this second of eight articles on the United States' role in NATO, Arthur Veysey, chief of the Tribune's London bureau, tells of plans charted to react to any attack ranging from a border skirmish to all-out nuclear bombardment.)

STUTTGART, GERMANY, January 18.—The United States is ready to go to war in Europe this instant. It has been pledged to do so every minute of every day for 20 years should the soviets attack any of the North Atlantic treaty partners.

American and NATO war plans are drawn to meet any kind of strike against western Europe, Turkey, or Greece, as well as Iceland or Canada, be it an isolated border crossing by a small band, or an all-out world war.

American soldiers continuously patrol the most exposed fronts—isolated West Berlin where the Communists continue to strengthen their 50 million dollar wall with its 14,000 armed guards, and a 300 mile stretch of the iron curtain which separates the southern half of West Germany from East Germany and Czechoslovakia.

The patrols are thin—6,500 infantrymen in West Berlin, 6,000 cavalry men along the curtain. They constitute little more than a trip wire against the 40,000 soviet soldiers within an hour of Berlin and 300,000 more soviet troops elsewhere in the satellites, not to mention 600,000 men in satellite uniforms.

But the American patrols, in the words of America's and NATO's commander, Gen. Andrew Goodpaster, are backed up by rank upon rank of forces, American and NATO, drawn on according to the severity of the threat.

INSTANT WAR DEMANDS INSTANT REACTION

In the era of missiles and nuclear explosives, a nation deliberately starting a war could hope to win only thru an overpowering sneak attack.

The possibility of instant war demands instant reaction.

Thus the 13 million dollar command post here is always manned and backed up by alternates, some deep under the ground, one always airborne in a jet liner.

Thus vital officers at 22 air fields must always answer the telephone before its sixth ring. When parted from a phone line, if only for a minute's walk, they must carry a two-way radio turned to the switchboard. The bases must be ready to get the first of their 500 combat planes into the air within five minutes.

Thus the 3 billion dollar radar screen, its stations perched atop mountains and hills with its 14,000 men, always probes the eastern skies, feeding information thru a variety of channels, into computers and then on to

headquarters and mobile field command huts and the 12,000 men of the air defense command with their 80 batteries of missiles, big and small, and their new-style guns which spew 6,000 bullets per minute.

Every friendly plane, military or commercial, flying near the iron curtain emits a signal identifying itself. Whenever a strange golden blob shows up on radar screens, at least two jet fighters take off to learn its identity, while, down below, missiles are cocked.

Thus the Berlin and iron curtain patrols always carry a rifle, carbine, or machine gun, and are ordered, if shot at, to shoot back, stand fast, and call for help. Within 30 minutes 50,000 American soldiers could be moving out of their camps in southern Germany and, within another 90 minutes, a further 35,000.

Thus, in the Mediterranean, the two aircraft carriers of the United States 6th fleet cruise at least 700 miles apart and one always is ready to fight. The fleet's 1,500 marines are ready to go ashore in amphibious craft and helicopters in less time than their transports need to reach land.

SUPPORT FROM THE UNITED STATES

If all this is not enough, the plans call for immediate help from the United States. Twenty-eight thousand infantry men, though living in the United States, are ready to be on their way to Europe within a day. Their tanks, cannon, armored cars, and thousands of other vehicles await them here. The air bases are ready to receive within three days at least 500 combat planes which would fly across the Atlantic, some of them refueling five or six times on the way.

The United States also expects instant help from its NATO partners who have put under Goodpaster's command 800,000 of their 2.2 million service men, with 5,000 tanks and 2,500 warplanes on 200 air fields. Former President Charles de Gaulle withdrew France's 500,000 men, 500 warplanes, and two fleets from NATO's command. NATO officers don't count on using the French forces, but they believe any Soviet attack serious enough to involve NATO also would involve France.

Current war plans, both American and NATO, limit all American and NATO forces to the immediate use of so-called conventional weapons. However, the United States admits having on hand in Europe more than 7,000 nuclear explosives.

BOMBERS AND MISSILES

A few years ago, the first Red foot on free European earth would have brought American H-bombs onto soviet cities. Today, the United States has 500 long range bombers and 1,000 missiles capable of reaching Russia as well as 41 Polaris submarines—each with 16 missiles, but the soviets are credited with 1,100 missiles able to reach United States and 700 smaller ones and a thousand bombers able to spread havoc across western Europe.

Consequently, the United States and NATO have given up the policy called "massive retaliation" for one of "flexible response," which means that Goodpaster would use forces strong enough only to overcome the attack. Intelligence services report that the soviet's maneuvers the last two years also shunned nuclear weapons.

Consequently, tactics and equipment developed during World War II but scrapped during the era of instant nuclear war are being revived. Planes practice flying a few hundred feet off the ground and attacking such single targets, as bridges, factories, railroads, truck convoys, tank columns. Buildings painted white or cream color are being camouflaged and 342 concrete shelters are being built for combat planes at a cost of $128,000 each. Emergency repair crews with 40 men and 37 pieces of equipment are learning how to fill bomb craters in runways in a couple of hours.

COULD HANDLE ATTACK

The planners believe that American and NATO forces, as they exist today, are capable of halting any conceivable soviet attack, or at least slowing it until help could come.

But should the soviets breaks thru massively, plans call for nuclear weapons, altho only of battlefield size.

The basic tactic attempts to use the nuclear arms as a blocking weapon. NATO troops would set off a row of small atomic explosives in front of the advancing forces to create a radioactive belt thru which the invaders could pass only in sealed troop carriers. West German planners would prefer the belt to be laid across soviet territory.

MORE MONEY, MEN

Being prepared for a war without nuclear weapons means more men, more equipment, more bases—all of which means more money. Yet the move away from nuclear war planning comes at a time when NATO members are cutting forces and budgets.

Britain's defense minister, Denis Healey, warned NATO ministers that large cuts would force NATO commanders to return to the policy of meeting any kind of soviet attack by immediately throwing at Moscow every nuclear explosive they hold, and if the United States holds off in an attempt to spare American cities, that Britain and France will have to launch their own missiles and bombs which, tho puny compared with those of the United States, would make quite a mess of Moscow.

[From the Chicago (Ill.) Tribune, Jan. 20, 1970]

GENERAL FROM ILLINOIS HEADS UNITED STATES, NATO FORCES IN EUROPE

(By Arthur Veysey)

CASTEAU, BELGIUM, January 19.—A United States army engineer from Granite City, Ill., holds the power of life and death over more people than anyone else in western Europe.

He is Gen. Andrew Goodpaster, supreme commander of 1.1 million soldiers, sailors, and airmen from 14 nations, including 310,000 Americans.

HAS TWO HEADQUARTERS

He presides over two headquarters—the North Atlantic Treaty Organization command in the village of Casteau with a many-nationed staff of 3,500 in a 50 million dollar complex of buildings put up in five months three years ago, and the United States European Command, called Eucom, in a former army post outside Stuttgart, Germany. The staff there is small, about 700. Because of the distance between the two headquarters, Goodpaster's deputy, Gen. David Birchinal, runs the day to day affairs at Stuttgart.

Gen. Dwight D. Eisenhower, the first supreme commander, established NATO headquarters near Versailles, outside Paris, and the American headquarters for Europe soon moved from Frankfurt, Germany, to a one-time royal hunting forest not far from Versailles. President Charles de Gaulle ordered both of them out of France.

SERVICES HAVE OFFICES

The United States army, navy, and air force each has its own European headquarters, subordinate to Goodpaster. They are widely scattered, with army Gen. James Polk in a former German army post in Heidelberg, air force Gen. Joseph Holzapple in another prewar German army post in Wiesbaden, and navy Adm. Waldemar Wendt in a luxury apartment house in London across the street from the American embassy.

The army carries the main burden of America's participation in the joint defense of western Europe. It has 190,000 men in Europe. Another 28,000 soldiers, tho living in the United States, are pledged to fly over within a day if Goodpaster asks for them. The number of American soldiers in Europe has varied somewhat during 20 years, depending upon the fierceness of Russia's threats, but the figure has usually been in the low 200,000s.

FIVE ARMY DIVISIONS

The army's fighting force centers around five divisions, each with about 13,000 men and 3,300 vehicles. The soldiers live mostly in former German army camps, which are quite comfortable after 25 years of American use. Most married soldiers have their families here.

The soldiers go on maneuvers two or three times a year and to one of three training centers for about a month to fire their weapons. Missile crews go to the Greek Island of Crete. Combat soldiers here are expected to be ready to fight at any time, so the army gives them more training here than in the United States. The extra training costs two million dollars a year for each division.

MOST ARE VOLUNTEERS

About three-fourths of the soldiers are three-year volunteers. Soldiers like European duty and few draftees get the chance to come. Each soldier costs the army at least $5,000 a year altho Gen. Polk denies that "young American soldiers have never had life so good as they do here." Most single soldiers save money, encouraged by 10 per cent interest on their special savings bonds.

Nineteen thousand soldiers reenlisted last year, most of them to stay longer in Europe. Sixty-five thousand have volunteered for Viet Nam duty, altho most did so in the early years of the war. Gen. Polk says the possibility of being sent to Viet Nam discourages some short-term soldiers from reenlisting. Career soldiers ask to go where the action is, the biggest source of promotion and awards.

U.S. AIRMEN

Gen. Holzapple's 80,000 airmen are divided into the 17th air force with headquarters at Ramstein, Germany, and about 250 combat planes and 50 transport planes at 6 German airfields; the 3d air force with headquarters at Ruislip, outside London, and about the same number of planes on 5 British bases; and the 15th air force with headquarters at Tarragona, Spain, and five bases in Spain, Italy, Turkey, and Libya, altho it is losing Wheelus field outside Tripoli. The young Arab captains and majors who seized command of the Libya government, told ailing, elderly King Idris not to come home, and ordered the Americans to pack up. Our 3,000 airmen there and their families are already leaving.

DE GAULLE ORDERS MOVE

All American air bases in Europe used Wheelus field for year-round fair weather training. Because some German fields are weatherbound about half the time for normal flying, the flyers will miss Wheelus. Gen. Holzapple says the air force will survive, but with extra effort and at higher cost.

De Gaulle, however, was most costly. He deprived the air force of nine bases. The air force moved some planes forward into Germany or backward into Britain, neither militarily ideal, and sent the others home.

The air force is taking over a German field abandoned by Canada. Present bases, together, occupy 93,000 acres of land valued at 1.6 billion dollars supplied without rent for our NATO partners.

Most of our airfields have about 3,000 men, altho Ramstein has 18,000 military men, 31,000 wives and children, 1,200 civilian employes, 598 buildings, and 1,600 vehicles, not counting private cars. However, Ramstein, besides being a Phantom jet fighter base, provides headquarters for the 17th air force and a NATO subcommand and 50 various support operations. We'll take a closer look at airfields later in this series to see why the air force has 3,000 airmen on a field with only 60 or so planes.

NO NAVY LAND BASES

Adm. Wendt boasts that his 50 ships with their 25,000 men and 200 planes need no European land bases. The 6th fleet ships are based in the United States and come to the Mediterranean area for periods of four to six months. Tankers and cargo ships deliver fuel and supplies at sea.

Of the navy's 41 Polaris missile submarines, nine operate from a tender anchored in Holy Loch in Scotland; nine from another tender at Rota, near Cadiz, Spain, and nine from the American east coast.

Each sub has two crews of about 140 men each. The men are based in the United States, fly here, take over a submarine during its month at Holy Loch or Rota being maintained and resupplied, then go to sea for two months. They fly home after the patrol. Being away from home for three months twice a year causes considerable family problems and, altho enlisted submariners may earn up to $13,000 a year, living conditions are excellent and the duty challenging, the navy is short of Polaris men.

Two special combat forces deserve mention—the 32d air defense command and the 601 tactical control wing.

The air defense men are descendants of an anti-aircraft unit that, by shooting down 240 Japanese planes in New Guinea and the Philippines, earned Gen. Douglas MacArthur's comment: "This is superior shooting."

When planes started flying higher than guns could reach, anti-aircraft outfits were scrapped. Now missiles can go higher and faster, thus planes fly low and ack-ack fire is back.

Today's ack-ack men start shooting with the Hercules, a two-stage solid fuel missile 39 feet long and radar guided, that can reach out 175 miles and catch a plane flying three times as fast as sound. Big trailers carry the "Herk." It can carry an atomic warhead.

Next comes the Hawk, 16 feet long and radar guided, reaching out 20 miles for planes flying at altitudes of 100 to 4,500 feet.

Next comes the Chapparel, borrowed from the navy.

All of these missiles can be fired without the crew ever seeing the plane.

For close work, the army has a new small missile fired by a soldier from his shoulder and a modern version of the old Gatling machine gun with revolving barrels.

TEAMS AID SOLDIERS

The men of the air control wing are the link between the flyer and the soldier. Two-man teams, each with a Jeep, live with infantry outfits. If the soldiers need help from the air force, the teams, called forward air controllers, or FACs for short, identify the target, call for appropriate planes, guide them to the target, and report damage done. In the old days, artillery spotters on a hill, or in a balloon or plane did the same job for artillery. "FACs" proved their value in Viet Nam, often operating from small, slow planes or helicopters.

Visits to army, navy, and air force units in Europe indicate that American service men are fairly happy, reasonably comfortable, and justly paid. Specialists are highly intelligent, expertly trained, and dedicated—real professionals.

[From the Chicago (Ill.) Tribune, Jan. 21, 1970]

NOTHING TOO GOOD FOR GI'S IN EUROPE

(By Arthur Veysey)

KAISERSLAUTERN, GERMANY, January 20.—For as long as anyone knows, people moving east and west across the heart of Europe have come this way. The countryside is hilly and thickly covered with everygreen forests, but the going is easier than to the north or the south.

Soldiers sacked Kaiserslautern in the 30-years war three centuries ago. Napoleon's armies came this way. In World War II, allied bombers destroyed more than half the buildings here and killed 518 persons.

Today Kaiserslautern and the wooded hills around it hold our biggest military supply center in Europe. Commanders would prefer to have the supplies farther back, in France, for example, where they were until President de Gaulle told us to take them away. About half of the material was moved here. Some of it was sent to Burtonwood, near Liverpool, in England, where we have our biggest warehouses—equal to a building 1,000 feet long and 1,000 feet wide. Ammunition went to hideouts in Wales or to Viet Nam.

A BOOMING CITY

Kaiserslautern is a booming city of 190,000 persons and, despite a large car factory and sewing machine plant, the United States is its biggest employer—with 10,000 workers.

Warehouses hold 160,000 items, ranging from tiny rivets and transistors to bulldozers, nine hospital trains, enough bridging to provide 200 spans across the Rhine river, and enough snap-on pipe to run a fuel line 1,000 miles. The list value of the items in storage is 364 million dollars.

Six-thousand tons of material arrive monthly, mostly by truck from Bremerhaven. The warehouses, always open, dispatch 50,000 orders monthly.

A long workshop is used in rebuilding heavy equipment. Tanks, jeeps, trucks, torn sleeping bags, and worn shoes go to other workshops. The armed forces save money by getting the work done here. Wages are lower and there are no Atlantic freight bills to pay.

Kaiserslautern, though the biggest supply center, is only one of six American depots and four major maintenance areas in Europe, where our forces have, altogether, 2 million tons of supplies worth 2 billion dollars. Commanders think they have enough to wage a war for three months. To keep stocks level, a cargo ship arrives from the United States every other day.

Most of the 310,000 American service men in Europe are stationed in Europe for two or three years. Almost all married men have their families here. The bases have apartments or houses for only half of the 240,000 service wives and children. The rest live "on the economy" and many complain of high rents and low temperatures.

HOUSING CHANGES HANDS

Military housing changes hands every eight months, on the average. Cleaning and redecorating cost 40 million dollars a year. Workshops repaired 123,000 pieces of furniture last year. Base laundries washed 68 million pieces of clothing, and base dry cleaners handled 1,445,000 apparel items. Post exchanges employ 16,000 persons and made 26 million dollars on sales of 406 million dollars. Commissary sales amount to 68 millions.

About 110,000 children attend military post schools, with staffs of 5,000 at a cost to the government of 79 million dollars a year, or about 700 dollars per child [about the same as in the United States]. Children at remote, smaller bases attend boarding schools.

The high school at Lakenheath, England, is fairly typical. The buildings are American-designed, bright, light, warm, well equipped, and overcrowded, with 920 boys and girls, including 380 boarders, in space designed for 450. The 41 teachers and 25 counselors are American citizens. They came here for one or two years. Texas and California supply the largest number. The students read American books, have American curriculums, play American games. Slightly more than half go on to college.

GROW UP FASTER

Military children supposedly grew up faster than others, and become accustomed to separation from their families earlier.

Fifty thousand service men are taking college subjects, either from 50 universities offering correspondence courses or in seven operating classrooms at various bases. Forty-thousand are learning foreign languages, although the Pentagon, in an economy move, is threatening to charge them $10 each if it thinks the language is not a military necessity. The military offers to help its 15,000 men who are almost illiterate, but few of the latter take advantage of the opportunity.

The armed forces boast that their medical service is as good as that in any American community. In Germany, the army has 15 hospitals with 500 doctors, four psychiatrists, and three psychologists useful for keeping an eye on persons who know military secrets, and 11,500 other staffers; a variety of field medical services; 65 dispensaries; 108 dental clinics.

A TYPICAL DAY

On a typical day, about 750 service men and 650 wives and children are hospital patients, and 32 babies are born. The army puts its medical bill in Germany alone at 23 million dollars a year.

An air force hospital at Lakenheath cares for the 25,000 American service men in England and their 25,000 wives and children. Its new building is quite magnificent. For its daily quota of from 80 to 100 patients, it has 35 doctors, 54 nurses, 270 other medical personnel. Every Monday a plane flies around Britain collecting people requiring treatment. The hospital operation costs a million dollars annually but its commanders say the cost would be double that back home.

OWN RADIO NETWORK

The army, navy, and air force believe that by keeping a man interested and active on his base, he will stay out of trouble. Bases have a variety of clubs with good food, cheap, tax-free drinks, and bingo and slot machines to help pay the costs. They have movie theaters, bowling alleys, shops, libraries, gymnasiums, baseball and football grounds with military league games on Saturdays, and often swimming pools.

The GIs have their own radio network and, in Germany, a television station showing American programs nightly between 8 p.m. and 1 a.m. American and German TV systems are different technically, so the Germans need converters to look in.

The military daily paper, Stars and Stripes, prints lots of news, sells for a nickel, carries no advertising, has built a new million dollar plant, and has a circulation of 145,000, the largest of any English language newspaper on the continent. American Express provides banking services and military postoffices accept letters for homes at regular American postal rates.

The crime rate is lower here than in the United States. Agreements with European governments authorize local police to arrest suspects for crimes off the bases, but the police turn most offenders over to the military. Drunken driving is the most common offense. At last count 51 soldiers were in German jails. Military courts now have professional judges and lawyers. A portion of the World War II horror camp at Dachau is an American military prison.

SOURCES FOR ADVICE

For advice, soldiers can call on 188 lawyers, 200 chaplains, 350 Red Cross workers. To get away from their bases, families can obtain cheap vacations at 15 subsidized resort hotels, mostly in the Bavarian Alps. Berchtesgaden, where Hitler used to vacation, has a religious retreat.

The forces make available a much fuller life than many service men expect.

[From the Chicago (Ill.) Tribune, Jan. 22, 1970]

PLANES ARE FEW, BUT UNITED STATES MANS NATO BASES FOR WAR

(By Arthur Veysey)

ALCONBURY, England, January 21.—One day in 1938 English workmen cut a gap in a hedge separating two cow pastures. They put up a couple of huts and some tents and, lo, the royal air force had a flying field.

During the war, the American air force moved in, making some improvements. Jimmy Stewart and Clark Gable flew and manned guns in bombers.

The Americans went away after the war, but the Berlin blockade brought them back.

Today Alconbury is a base for Phantom reconnaissance planes. Not far away, another American base, Mildenhall, handles transport planes. They are fairly typical of our air force installations in Europe.

NINETY-PLANE NUCLEUS

About 60 Phantoms are based here, and there are about 30 Hercules transports at Mildenhall. Now, guess how many men the two bases have together. Two thousand? Four thousand? The answer is 6,000. Plus 6,000 wives and children. Plus 200 American civilian experts. Plus 1,500 British civilians to do the chores. And these numbers would be larger if the two bases did not depend upon another, Lakenheath, for a hospital and secondary schools.

Does the air force really need all these people to keep 90 planes flying?

Commanders quickly explain that our air bases in Europe are all designed for use in war and thus must be ready to handle many more planes than the few kept here in peace time. Basic services are about the same whether an air field is putting up 10 planes or 200. The control tower, communications systems, weather bureau, emergency services are all needed 'round the clock. Maintenance shops have equipment and supplies needed in the early days of a war.

At a peace time base, flyers are hard to find. A Phantom has a crew of only two, a Hercules transport four to seven. The Phantom flyers, usually lieutenants or captains, average 29 years in age, are college graduates,' and have been flying for four to six years. Squadron commanders sometimes have as much as 7,000 hours of flying time.

VIETNAM BACKGROUND

Nine out of 10 have been in Viet Nam, and some can tell fierce tales. Col. Ralph Findlay, deputy commander of operations, was hit over North Viet Nam but managed to guide his burning plane out to sea. His canopy jammed and his suit was burned off by the time he got out. His navigator was plucked out of the sea with both legs shattered, but he is walking again now.

The Alconbury Phantoms, faster than sound, fly over enemy territory and radio back anything specially important they see.

But their main task is to take pictures. The planes carry a variety of magical cameras. One takes a picture from horizon to horizon. Another uses infra-red film which records differences in heat.

PICTURE OF THE PAST

On a black night, the infra-red camera not only picks out planes on a runway but can tell whether the engines have been used recently.

On a hot afternoon, flyers may come back with pictures of parked planes which the men didn't see because they weren't there. They had been moved, but their earlier shadows had cooled bits of concrete.

The cameras use film by the hundreds of feet. It must be developed quickly. So each Phantom photo base has a magnificent darkroom. It fills 26 trailers, linked together in an air-conditioned steel maze, self-sufficient except for water, and for that a pond or stream will do. Within six hours the whole thing can be ready to move, either on wheels or hoisted into transport planes.

The purchase price of the spectacular, efficient darkroom? $2,600,000.

OTHERS TO INTERPRET

A photograph means different things to different people. So Alconbury has people trained to find in a photo all sorts of things of military importance, peering thru the enemy's efforts to hide and distort.

Their discoveries warn ground forces of enemy preparations and provide targets for the air force. And, after a raid, the Phantoms go back and take new pictures to assess damage. The planes are unarmed and rely on speed, maneuverability and, especially, the ability and courage of the pilot and navigator.

The Phantoms are slowed by a parachute on landing. So Alconbury must have its parachute shop. For each hour in the air, a Phantom needs 36 man-hours of maintenance. So Alconbury has 300 maintenance men who draw supplies from warehouses with 40,000 different items worth 20 million dollars. A computer keeps track of the stuff and cuts the warehouse staff by half, but, even so, 300 men are needed to fill 8,000 orders a day.

ONE NIGHT FROM UNITED STATES

If the warehouse lacks an urgent item, the computer orders it from the appropriate American warehouse and the daily trans-Atlantic cargo plane brings it overnight. The base uses 3 million gallons of fuel monthly. Most comes by pipeline from British refineries.

An air base's communications equipment costs 28 million dollars and needs 190 men. Alconbury is tied into worldwide military networks, and indeed some of the chat from the moon comes thru here.

If the operator wanted to, he could open a line from a pilot flying over Turkey to his wife making a cake in her kitchen in Oak Park.

The generals and admirals who take turns flying around western Europe in a Mildenhall 707 have an open line to President Nixon, wherever he may be. Some operators handle secret messages and thus need approval of the Federal Bureau of Investigation, but electronic coders do most of the scrambling.

A 2-MONTH STINT

Mildenhall is the military passenger and cargo center for Britain. Eighty thousand persons, including President Nixon, passed thru last year, along with 14,000 tons of high priority cargo. The terminal has a staff of 190, plus 11 army men who serve as postal clerks, and 106 sailors for naval cargo planes.

The main business is carried out by 30 Hercules propjet transport planes which come here for two-month stints from their American bases, bringing along about 350 key men. The planes operate as far east as India and make deliveries to American embassies behind the iron curtain. For the Moscow run, the crews pick up a soviet navigator and radioman in Copenhagen.

The flyers like that run. It usually means three days of parties in Moscow.

SAFETY FOR EGGS

The planes join in military maneuvers, dropping paratroops and supplies. The packers boast that eggs they have packaged can be dropped without cracking a one.

The motor pool requires 179 men. Various offices, athletics, hobbyshops, library, gym, theater, post exchange, commissary, a new steam bath, various clubs, the bowling alley, and the dental shop occupy about 350.

[From the Chicago (Ill.) Tribune, Jan. 23, 1970]

OFFICIALS CALL NATO A SUCCESS

(By Arthur Veysey)

CASTEAU, BELGIUM, January 22.— "There is no doubt in my mind that NATO has been a howling success," said the United States Army commander in chief for Europe, Gen. James Polk.

Gen. Andrew Goodpaster, supreme commander of the North Atlantic Treaty Organization, asserts that NATO has fulfilled its major objectives:

Europe has had 25 years of peace.

Western Europe has regained its confidence, recovered from war and occupation, and become more prosperous, more productive than ever.

NATIONS WORK TOGETHER

Free European nations are working together, altho shunning political union. Military cooperation makes the joint strength greater than the sum of the separate forces.

West Germany has become sovereign and an active member of the alliance.

"The real trouble with NATO is that NATO has been too successful," members of Goodpaster's 3,500 multi-nation staff say. "We've kept things quiet for so long that people no longer are scared of the soviets. People say they don't need us any more."

NO FEAR SEEN

In 15 NATO nations, by any statistical comparison, need not fear being overrun by Russia and its satellites. NATO nations have 518 million persons to the Communists' 336 millions. They have 120 million men of military age against 64 million. They are much richer, with an estimated income of 1,400 billion dollars, against the Communists' 536 billion. NATO controls two-thirds of the world's wealth and does two-thirds of the world's trade in three-fourths of the world's ships.

NATO members, believing a good offense is the best defense, have doubled and redoubled their military budgets. In recent years, spending has shrunk but NATO military budgets this year exceed 100 billion dollars, more than double the soviet and satellite total. However, about 25 billions should be charged to Viet Nam.

NATO efforts to pool manufacture of arms continually clash with national business interests but occasionally do succeed. National projects can give added value to the alliance if they fit into an over-all plan. The best example is about 200 air fields, each nationally run but suitable for joint operation. Radar, communications, and pipe lines are interlinked. A NATO flotilla of four or five destroyers and frigates carries little punch but works out procedures which could be applied in war.

FAIR SHARE DOUBTED

Many Americans complain that Europeans aren't doing their fair share, devoting an average 5 percent of their national incomes to the military compared with America's 9 percent. But their budgets total 23 billion dollars where the soviet satellites contribute only 7 billion dollars to Warsaw pact costs, perhaps reflecting a soviet lack of trust.

NATO nations have 5.4 million soldiers, sailors, and airmen, a million more than the combined Communists. Because the United States has only 10 percent of its men in Europe, the Communists are slightly thicker on the ground, 1.3 million to the American's 1.1 million.

London's institute of strategic studies estimates that the communist forces have 17,000 tanks to NATO's 7,000 in Europe and 1,500 combat planes to NATO's 3,000. However, that comparison omits America's forces in the United States and America's mighty industry. The United States has given away

26,639 tanks, 8,502 warplanes, 8,598 cargo planes and helicopters, 354,992 trucks and jeeps, 58,136 cannons, 29,357 missiles, and 3.3 million rifles, carbines, and machine guns. Much of this came to Europe as part of a 17 billion dollar military aid program. The United States also gave its partners 16 billion dollars in cash and civilian goods and services.

WEAKNESSES NOTED

NATO has two weaknesses. First, the members are widely scattered and form, in effect, a series of islands.

Geographically, France is the hub of NATO but former President Charles de Gaulle created a hole there, closing nine American air fields and 24 depots, and forcing headquarters to move to Belgium, Holland, and Germany.

High French military men and many influential citizens want France back in the NATO military command, knowing France lacks the equipment and men necessary to fight on its own.

POLITICAL WEAKNESS TOLD

The second NATO weakness is political.

Factions, as so often in the past, are rending the democratic nations internally and pulling them one from another. Greece is of increasing importance to NATO as the Russian fleet moves into the Mediterranean, but NATO members are threatening to oust Greece from the alliance because of its military regime.

In 1945, the United States, and western European nations which were to become its partners in NATO, controlled much of the world. The navies ruled the seas, unchallenged. The United States ended the war with 500 foreign bases. Today, America has fewer than 100. The British, French, Dutch, and Belgian empires are gone and much of the former colonial territory is closed to NATO.

Instead of a wide choice of east-west routes across southern Europe, Africa, and the middle east, we today have just one—thru Turkey and Iran.

OPINION SHIFT COSTLY

Perhaps most costly to NATO has been the shift in public opinion in western Europe concerning the Soviet Union and the United States.

Advocates of the soviets are getting a better hearing for their contention that Russia does not intend to move into western Europe and never did.

They claim that the United States, by trying to ring the Soviet Union alliances, forced it to maintain its defenses. They point out that Russia has not fought any war since 1945 while the United States had one war in Korean and now is fighting in Viet Nam.

HELP SEEN AS UNLIKELY

Quite a few Europeans, both friends and foes of the United States, believe that ever since the Soviet Union developed its hydrogen bombs and long range missiles, the United States would be unlikely to rush to Europe's defense.

Britain's Harold Macmillan, a firm friend of the United States, believed this strongly enough to begin construction of five Polaris submarines—with American help—to replace British made bombers carrying British-made atom bombs.

Similarly, de Gaulle built 35 Mirage bombers and atom bombs at an estimated cost of 9 billion dollars. Pompidou is spending another 5 billion to give France 18 land missiles and three Polaris submarines.

ARMS RIGHTS LIMITED

NATO's front line runs thru West Germany but West Germany's military rights are limited sharply by post-war treaties.

By imposing an 18 month draft, Germany has 460,000 men in uniform but 11,900 young Germans refused to be drafted last year as conscientious objectors. The army lacks 2,500 officers and 31,000 noncommissioned officers.

The prospect of American military cuts in Europe pushes Germans toward rearmament, a word that has scared generations of Europeans.

[From the Chicago (Ill.) Tribune, Jan. 24, 1970]

NATO BURDEN ON UNITED STATES A COST ANALYSTS' MAZE

(By Arthur Veysey)

STUTTGART, GERMANY, January 23.—The joint defense of Europe, now in its 21st year, is the most costly enterprise ever undertaken by any group of nations.

In the first 20 years, the members of the North Atlantic alliance, first 12, then 15, now 14, spent 1 trillion 165 billion dollars on their military forces. Not all, of course, can be charged to operations in Europe. The United States, for instance, with military budgets totaling 847 billion, has in the meantime fought wars in Korea and Viet Nam.

A FASCINATING PUZZLE

Military spending produces two kinds of costs. Every dollar spent must come from American taxpayers, and certain foreign spending drains gold or foreign currency from the American treasury, adding to our balance of payments problem.

Trying to assess each kind of spending is a fascinating financial puzzle. Figures for the cost to American taxpayers of keeping 310,000 men in Europe vary from less than 2 billion dollars a year to more than 25 billion, depending upon who provides the figures and what he is trying to prove.

WAGES ARE LOWER

The lowest figure comes from American military finance officers in Europe, who want to emphasize economy. These officers cite the current budget for forces in Germany, totaling 1,262 million dollars and made up of 702 million for military pay, 62 million for pay to American civilians, and 216 million for pay to German civilians, 31 million for transportation and similar costs, 79 million for supplies bought in Germany, and 172 million for electricity, water, and other German services.

The United States has more than two-thirds of its European forces in Germany. If one assumes a similar level of costs for forces outside Germany, the total European figure would be under 2 billion dollars a year.

These finance officers add that, by keeping 310,000 troops in Europe, the military saves the taxpayers money because wages of civilian employes are lower here than at home, because the European government provides real estate worth at least 3 billion dollars with a rental value of more than 150 million dollars a year, and because the German government pays 95 per cent of all military bills in Berlin.

Looking on the drain on gold, the officers say that about 375 million of the 1,262 million finds its way back home in savings, remittances to families or purchases of American goods and services. Also, the German government has agreed to offset 1,520 million dollars of American spending this year and next.

EXCHANGE RATE HURTS

Consequently, the officers conclude, the forces are costing the American treasury only 127 million dollars a year in gold and marks, a pittance.

On the dark side, Defense Secretary Melvin Laird says the higher value of German marks will add 100 million dollars to American costs this year. And finance officers say rising German wages and prices will add another 50 million.

Another military accounting puts the European figure for the army alone of 1.8 billion dollars and lists, among major items, 1.1 billion dollars for military pay, 63 million for education, and 23 million for medical services.

ZERO DRAIN CLAIMED

A department of defense accounting for 1967 gave the total for all forces in Europe as 2.6 billion and said that of this 1.5 billion was spent in Europe. The department claimed that all of the 1.5 billion was recovered by the treasury, 1 billion thru German arms purchases in the United States and 500 million thru German investment in treasury certificates. Thus, the department said, the forces cost nothing in foreign money or gold.

German offset deserves a closer look. Under the latest agreement to offset 1 billion 520 million dollars over the next two years, the German government proposes buying American military equipment costing 800 million dollars and American civilian goods and services costing 125 million dollars. But Germany presumably would buy these goods and services in any case. The purchases do not reduce the cost of keeping our forces in Germany.

For the rest of the offset, Germany proposes using 150 million dollars to help Germans invest in American enterprises and property. The German treasury will send the American treasury 250 million dollars worth of marks for 10 years, will extend the term of existing German loans to the United States amounting to 113 million, will delay collecting 33 million dollars interest earned on German loans to the United States, and will make early repayment of 44 million dollars in American loans to Germany.

GERMANS DRAW THE LINE

These measures have aspects of financial sleight of hand, distorting the real cost in foreign currencies and gold. In using them, the United States is behaving like an overstretched householder who borrows in order to pay current debts. He delays the day of reckoning but, by adding interest charges, increases the sum he pledges himself eventually to pay.

The United States treasury is currently trying to revise the offset agreement to include the 100 million in added costs brought about by Germany's upward revaluation of its mark. But negotiators are running up against solid German opposition. German financial officers say that, altho Germany has had trade surpluses in recent years, the higher mark is hurting sales abroad and Germany cannot afford to alter the arrangement.

BIG MISSING ITEM

Some Americans believe the time has come for Germany to assume more of the cost of maintaining the joint defense of western Europe. They propose that Germany take over such tasks as operating the radar screen and anti-aircraft weapons, the workshops, warehouses and docks used by the American forces. American military commanders say Germans are fully capable of doing these jobs well, altho the commanders, like all military men, would regret seeing any vital service pass from their direct control.

None of this accounting so far takes into consideration the very high cost of supplies and services provided from the United States. For this, no military estimate is available.

Price tags are high: one Phantom, 2.5 million dollars; training one pilot, $170,000; a muffler for testing engines, $30,000; equipment for one army division, 236 million dollars; one Polaris submarine, 100 million dollars; 598 buildings at Ramstein air base, 52 million dollars; equipment for one bridging platoon of 23 men, 7 million dollars; shelter for one plane, $128,000; Falcons to drive birds from a Spanish air field, $22,000 a year.

TEN PERCENT OF BUDGET

The 310,000 men in Europe constitute about one-tenth of the United States' military forces and thus could be said to account for one-tenth of the normal military budget. Allowing about 25 million dollars for Viet

Nam, our normal military budget is about 50 billion. One-tenth of 50 billion is 5 billion. This figure would be light, because forces here depend heavily on many services conducted entirely in the United States.

American forces here are part of the NATO command. Some accounts would include not only American spending on our own forces, but also the sums the United States spends on allied forces. The United States has given NATO partners 17 billion dollars in military aid and 16 billion in economic aid and has contributed about 2 billion dollars to joint NATO projects.

BALANCE OF THREATS

Because of the inability to trace cost items, one accounting procedure attempts to calculate the cost of keeping troops in Europe by considering reasons for military spending.

If one accepts the widely used generality that the Soviet Union was the biggest military threat to the United States until Viet-Nam came along—if the Russian threat, that is, were equal to all other threats put together—then half the normal military budget could be assigned to meeting that threat. Our normal budget, deducting Viet Nam costs, is 50 billion dollars. Half is 25 billion, and that, these accountants say, is the real cost of keeping troops in Europe.

A look at past American military budgets supports this figure.

REMAINS ON PLATEAU

Before NATO, the United States 1949 military budget was 13 billion dollars. American forces came back to Europe and by 1952 the budget had shot up to 49 billion. In those years the United States fought the Korean war, but even after that war ended the budget never dropped below 42 billion.

For more than a decade, until the Viet Nam buildup in 1965, American military effort was designed to contain the Soviet Union and its satellites. In half of the non-Korean, non-Viet Nam, United States budgets were charged to the defense of Europe, the 20-year total would be about 400 billion. In the 20 years, European military budgets approach $300 billion. The joint total is about $700 billion.

For $700 billion, three-fourths of all European NATO families could have a new $20,000 home. But NATO supporters say that without the military spending many of the families would not need a new home. They would be dead.

[From the Chicago (Ill.) Tribune, Jan. 25, 1970]

COMMANDERS OPPOSE PULLOUT BY NATO

(By Arthus Veysey)

LONDON, January 20.—Should the United States bring home many of its 310,000 men in Europe?

"No," our top military commanders here all answer. They, and other NATO supporters, give five reasons:

1. The remaining American forces would be unbalanced and unable to fight effectively, even to defend themselves. "A token force is an expendable force and that is not good enough nor fair to the troops." Gen. David Birchinal, deputy commander-in-chief for Europe, told The Tribune. The navy commander, Adm. Wardemar Wendt, said: "Without the American 6th fleet, the ability of European navies to fight would be sharply degraded."

CLAIMS UNITED STATES OUT-PLANED

Our air force commander, Gen. Joseph Holzapple, said the United States is already out-planed by the Soviets in Europe. The army commander, Gen. James Polk, said the army has already been deprived of new model tanks and helicopters. "Our soldiers deserve the best," he says.

2. American withdrawals would leave a military gap in Europe that Europeans are unlikely to fill. "If America drops the torch, there will be no one to grab it," comments a London periodical, Time and Tide. Former ambassador to NATO, Harland Cleveland, predicted to Congress on his retirement that American withdrawal would "trigger similar reductions by our allies." NATO meetings for two years have been concerned primarily with reductions.

The Russian invasion of Czechoslovakia in 1968 frightened some Europeans into demanding stronger NATO forces but the fear has worn off and, despite the continued stationing of 70,000 soviet troops in Czechoslovakia, NATO forces are withering.

SEES PRESSURE INCREASE

3. American cuts would probably increase European pressures for seeking agreements with the soviets, regardless of the cost. The last NATO council meeting, recognizing the widespread and growing public demand for easier relations with the soviets, agreed to seek negotiations aimed at a balanced reduction of forces on both sides of the iron curtain as the best hope of keeping the military balance even in Europe.

4. For 20 years the presence of American forces here and the American pledge to fight for any of its allies if attacked have restrained European nations from seeking to dominate the continent. American withdrawal would put western Europe up for grabs. The nation in the best position to reach for continental power is West Germany, already foremost economically, financially, and industrially, West Germany has, so far renounced seeking military and political power outside its borders and accepted a role secondary to that of the United States. But West Germany, alone of NATO allies, lost territory in the World War. It alone has a basic desire to change present borders by putting together the two halves and trying to recover territory lost to Poland in recompense for Polish territory seized by the soviets.

"West Germany is a considerable nation," says Gen. Holzapple. "Were Germany to change sides, that would make quite a difference in world affairs. Twice in my lifetime Germany has gone off the rails. The Germans have political savvy and, having been twice burned, are wary. But I don't say it's impossible for them to go off the rails again. There is much apprehension about Germany, especially in Britain and in the lowlands. I believe were we to make a big cut, the immediate shock wave would make Germans also quite panicky. I don't know where reactions would lead."

DECRY GERMAN CONTROL

Gen. Polk, former American commandant in Berlin, said: "People have long said they don't want a German finger on the nuclear trigger. To keep our vote on what happens in Europe, we must continue to keep our forces here."

5. American cuts would give the soviets a freer hand at a time when the Kremlin masters have dropped former Premier Nikita Khrushchev's talk about "peaceful coexistence."

"Never again will the soviet allow anyone to speak to it from a position of strength," said President Nikolai Podgorny on the 52nd anniversary of the Bolshevik revolution.

Gen. R. G. Simonyan, writing in the Soviet Military Review, reported: "The Soviet Union's growing defense potential and its indomitable nuclear missile might have basically changed the balance of strategic forces between the United States and the Soviet Union."

CITES SOVIET MOVES

In the past year and a half, the soviets have moved their navy into the Mediterranean and "introduced" troops in Czechoslovakia, thus strengthening the communist forces east of the iron curtain.

Soviet Secretary Leonid Brezhnev bluntly pronounced the new soviet hard line in Europe. The troops will stay in Czechoslovakia, he declared, "because so long as imperialism exists, it will continue its attempts to interfere in the affairs of socialist countries."

The commander of the soviet's long-range missiles, Marshall Nikolai Krylov, wrote in Pravda that "world capitalism, headed by the United States, is preparing to plunge mankind into a rocket-nuclear war whose social, biological, psychological, and moral consequences will be far more disastrous than those of any previous war."

The soviets, besides reportedly now making more big missiles than the United States and developing warheads which will split and scatter over several targets, showed in its Czech invasion how massively it has developed its "conventional" forces in the last three years.

DOUBTS REDUCTION

Reporters of soviet policies believe the Soviet Union is unlikely to agree to any reduction in its reequipped troops because the soldiers, with their tanks, can be used also to control the growing restlessness and dissatisfaction within eastern Europe. All soviet cities have large garrisons. The satellite leaders, Walter Ulbricht, Wladyslaw Gromulka, and Janos Kadar, are old men. Their death or replacement could set off unrest. Their successors could need soviet troops.

The soviets, in presenting a pleasing face to the world, propose disbanding both the Warsaw and NATO alliances and holding a European conference to produce a "European security system."

WOULD LOSE LITTLE

At first, the soviets said the United States would not be included, it not being a European nation. Subsequently, it said the United States could be admitted as an observer. The goal is obvious: To make the soviets supreme in Europe by speeding up American withdrawal and by keeping Germany divided.

The soviets would lose little in scrapping the Warsaw pact, signed in 1955 by East Germany, Poland, Hungary, Romania, Bulgaria, Albania, and Czechoslovakia. For several years the pact had no meeting at all, taking all orders from Moscow. Satellite officers were included on its staff but when one, a Czech general named Vaclav Prchlik, complained publicly that satellite officers were given no responsibility, the soviets abolished his post and sent him back to Prague, where the Communist party expelled him. NATO Secretary General Manlio Brosio points out that the soviets have concluded a series of pacts with individual satellites which make the Warsaw pact superfluous.

The soviets continue to portray NATO as an aggressive military bloc dominated by the United States and "revenge-seeking circles in West Germany." It claims these two "coerce smaller nations into accepting NATO burdens against their own interests." It claims Norway and Turkey are "eager to escape from the NATO yoke" and calls Denmark "an unwilling junior partner."

"We see no indication that the soviet is going to jump us," says Gen. Polk, "but it keeps a firm hand behind the iron curtain. One can wonder why. The soviet could try blackmail, seizing something and challenging us to restore the old line."

Former British Prime Minister Sir Alec Douglas Home says: "Without American troops here and without America's nuclear weaponry, few nations would be free today."

UNITED STATES WEIGHING PLAN TO REDUCE NONCOMBAT TROOPS IN EUROPE

(By William Beecher)

WASHINGTON, January 25.—A little-known plan of the Johnson Administration to withdraw about 30,000 troops from Europe is expected to be reviewed by the Nixon Administration as part of a special study just ordered by the National Security Council.

The plan, involving mostly administrative and support troops rather than combat forces, was prepared in the final weeks of the Johnson Administration and was incorporated into the budget presented to Congress this month.

President Johnson's budget message offered only this glancing reference to the cutback: "Actions contemplated in this budget will support our share of the efforts to improve the combat effectiveness of the NATO forces and, by streamlining overhead, will reduce the costs of maintaining U.S. forces in Europe."

Reliable sources say the program is designed to save almost $100-million a year in overseas expenditures and nearly twice that amount in budget costs.

About a third of the program involves consolidations of bases and other actions that do not affect American commitments to the North Atlantic Treaty Organization and thus could proceed without consultation with the allies, officials say.

The rest requires consultations, which, for the most part, have not yet started: These items are expected to be scrutinized carefully in the Security Council's two-month study of Alliance force levels and strategy.

Origins of the troop reduction plan go back almost a year, when the Department of Defense, worried about the increasingly adverse balance-of-payments problem, were seeking ways to substantially reduce costs of overseas garrisons.

SHUTTLE PLAN APPROVAL

The Atlantic allies had recently approved a formula under which two-thirds of an American division would be withdrawn to the United States, but would leave its equipment in Germany and would return once a year for training exercises. Two brigades of the 24th Infantry Division flew back to West Germany this month for the first such exercise.

Pentagon officials considered applying this formula to a second American division, but quickly rejected the idea for fear it would bring a snowballing of troop reductions by other NATO Countries.

Instead, they hit upon the idea of studying the entire system of post exchanges, schools, headquarters establishments, supply depots and combat support facilities to see where consolidations and closing of bases could save money.

They produced a plan that would have reduced forces by 35,000 to 40,000 men and offered the prospect of annual savings of about $200-million in overseas expenditures and $400-million in the budget.

Such action, its proponents felt, would also show Congress the Administration was actively trying to pare down expenses in Europe and perhaps forestall Congressional demands for more drastic troop cuts.

There was considerable discussion within the Government, with the Joint Chiefs of Staff and some State Department officials insisting the program be scaled down so as not to include any basic combat elements.

Proponents described the program as "cutting the tail without hurting the dog."

Some changes were made, however, and the program was moving toward acceptance and implementation when the Soviet block invaded Czechoslovakia in August.

RELUCTANT AFTER INVASION

In the aftermath of that event, the Administration did not want to approach its Atlantic allies on the administrative reductions, primarily because they might have undercut the primary effort at the time to convince the allies they must bolster their forces in response to the Soviet Union's more threatening posture in Europe.

In the fall, when the United States was preparing to announce actions that would cost $77-million—including the advance of the 24th Division exercise by several months and an accelerated aircraft shelter building program—some officials also wanted to announce details of the proposed "streamlining" of noncombat forces and facilities.

But again, because of the fear that it might psychologically be the wrong time for such disclosure, details were withheld.

Knowledgeable officials say the consolidations that do not require consultation with allies are likely to proceed without delay.

An example would be to move American naval personnel in London to a large Navy complex in Naples. This would make room for Air Force personnel in England to take up the vacated offices and quarters, thus allowing the closing of commissaries, schools, quarters, medical facilities, and clubs for officers and noncommissioned officers at an air base in Britain.

But other parts of the plan are expected to be reviewed closely. One of these would offer to turn a number of air defense installations over to West Germany, allowing the United States to pull out the troops and supporting elements now assigned such duties.

[From Survey of Current Business, December 1969]

U.S. DEFENSE EXPENDITURES ABROAD

(By Cora E. Shepler and Leonard G. Campbell)

U.S. Government defense expenditures abroad for goods and services reached an annual rate of over $4.8 billion in the first half of 1969, the largest amount ever recorded for these transactions in our international balance of payments. For the past several years they have comprised a tenth of all U.S. purchases of goods and services from foreign countries, and have been exceeded only by private merchandise imports as a source of foreign dollar earnings. In recent years the large increases in defense expenditures abroad have been associated with the conflict in Southeast Asia.

Defense expenditures abroad averaged about $3 billion a year from 1960 through 1965, but increased sharply following the involvement in combat in Vietnam. Tables 1 and 2 show that outlays in 1966 were $800 million higher than in the prior years, and in 1967 rose by another $600 million to $4.4 billion. In 1968 expenditures rose by only $150 million to $4.5 billion. Expenditures in each of the first three quarters of 1969 have amounted to about $1.2 billion and are now expected to total between $4.8 billion and $4.9 billion for the whole year. The flattening out in the recent past is primarily due to completion of certain major construction projects in Southeast Asia.

In 1961 the U.S. Government undertook to increase Government and commercial sales of military equipment to friendly nations economically able to bear a larger portion of the defense effort. The objectives of this program include increasing the strength of our allies, standardizing military equipment, and establishing cooperative logistics arrangements. These sales also help to offset the adverse effect of the balance of payments resulting from U.S. military deployment abroad. Since 1961 U.S. Government cash receipts associated with military sales contracts, and commercial sales of military equipment taking place under government to government agreements, have average well over $1.2 billion annually. As can be seen in take 3, the total for the four-year period 1965–1968 was $5.4 billion when barter sales of agricultural products arranged to reduce military net foreign exchange costs are included.

BALANCE OF PAYMENTS IMPACT

Defense expenditures abroad represent only the foreign costs of U.S. defense programs. Total Department of Defense outlays are, of course, very much larger. For instance, outlays for Vietnam in fiscal year 1969 are estimated at about $28.8 billion, of which about $27.0 billion was spent in the United States. Many of the items used abroad by the military were produced domestically and thus were not balance of payments entries. The remainder of the $28.8 billion, about $1.8 billion or 6 percent of the total, was spent in various countries for foreign goods and services for the war effort, and represents the direct Department of Defense balance of payments costs of the hostilities in Vietnam.

Defense expenditures in the United States have adverse indirect effects on the balance of payments, which are not included in the figures mentioned in this article. The indirect effects arise from increased requirements for imported materials used in the domestic production of military equipment. They also arise from the combination of an increase in military and civilian demand on the productive capacity of U.S. industry, which contributes to the increase in domestic costs and prices, and diverts a rising share of the domestic demand to imported goods and services.

On the other hand, both direct and indirect expenditures abroad have contributed to increased dollar earnings by foreign countries and thus have enabled them to step up their purchases of U.S. products either directly or through third countries. Because most of these shipments take place through commercial channels and are not related to Government activities, they are not reflected in the data discussed in this article, and it would be difficult to estimate them. It is not likely, however, that the rise in foreign expenditures in the United States has fully compensated for the increase in U.S. expenditures abroad that resulted from the large expansion of military activities in recent years.

The defense expenditures shown in the tables accompanying this article (equivalent to line 16, table 1, in the quarterly U.S. balance of payments presentations) include outlays for foreign goods and services by the military agencies and similar defense transactions of the Atomic Energy Commission and the Coast Guard which meet the NATO definition of defense expenditures. In addition to the direct expenditures of these agencies for goods and services, the data include the foreign expenditures of U.S. contractors employed to construct and operate U.S. foreign installations and to furnish other services abroad. Also included are the personal expenditures of U.S. military and civilian personnel and their dependents abroad, together with the foreign purchases of the military exchanges and similar agencies which sell to personnel. Other disbursements include expenditures for NATO infrastructure, the offshore procurement of military equipment to be transferred as aid to foreign countries, contributions to international military headquarters expenses, and other outlays for administration of military assistance programs.

Outlays for material, supplies, and equipment for our own use have included uranium, petroleum, and other items imported by the Government into the United States, as well as goods bought abroad and used abroad for the support of our forces. The data shown here do not include foreign products purchased in the United States, or the foreign components of U.S. products purchased here.

Defense expenditures abroad include all purchases of goods and services from foreign governments, foreign contractors, or foreign subsidiaries or branches of U.S. firms unless contractual arrangements stipulate that a certain portion of amounts paid out to the contractors is to be expended for U.S. products and services to be used in fulfilling the

contracts. In the latter case, the resulting U.S. exports are netted against military expenditures and excluded from commercial exports in the balance of payments accounts.

FOREIGN CURRENCIES AND BARTER

Expenditures by the defense agencies do not always provide new dollar earnings to foreign areas since some purchases are paid for in foreign currencies previously acquired by the U.S. Government as repayments on loans and other credits, as counterpart funds received under grant programs, and as proceeds from sales of goods and services. Of course, such use of foreign currencies does not imply equivalent balance of payments savings for the United States. During the years 1965–1968 use of these currencies by the Department of Defense has averaged about $170 million a year. All expenditures in foreign currencies acquired without concurrent payment abroad in dollars are included as part of the data shown in tables 1 and 2. Acquisitions of these currencies are included as receipts in table 3 when they are proceeds of military sales programs.

During the 1965–1968 period the defense agencies acquired an average of approximately $175 million a year of foreign goods and services under barter agreements whereby U.S. agricultural products were exchanged for foreign products. The dollar value of such foreign procurement is included as part of the data shown in various categories of expenditures in tables 1 and 2, and the barter sales of agricultural products are included in table 3.

PERSONNEL SPENDING INCREASES

Not surprisingly, higher expenditures abroad by personnel and their dependents account for a significant part of the rise in defense expenditures abroad in recent years. In addition to an overall increase in military strength abroad, recurring pay raises have made many more dollars available for foreign spending. At mid-1969, the U.S. military establishment abroad was comprised of about 1.2 million men stationed abroad or on board ships at sea, and approximately 400 thousand of their dependents were living in foreign countries.

After averaging about $810 million a year from 1960 through 1963, personnel outlays rose to over $950 million in 1964 and continued to expand rapidly to reach an annual rate of almost $1.6 billion in the first half of 1969, nearly twice the rate of the 1960–63 period. About two-fifths of the most recent totals shown for this category were purchases of foreign goods for resale and other expenditures of the military exchanges, officers' clubs, and similar activities operating with nonappropriated funds to serve personnel.

Personnel spending varies from country to country according to the number of troops and dependents stationed in each country and the attractiveness of the merchandise and services offered on the local market. Where combat duty is involved, there are other special factors. Personnel expenditures in Vietnam, for example, dropped off during the Tet Offensive last year because most of the combat troops were moved out of urban areas and early curfews were imposed in urban areas. Per capita outlays there are also lower because personnel are not authorized to bring their dependents into the area.

Where the local market does not adequately meet demand, military men and their families spend mostly in the commissaries, exchanges, and other facilities operating within the military economy. Some of this spending is for goods brought by the military exchanges in other foreign areas and significant earnings are thus recorded for some countries where relatively few U.S. personnel are stationed. Major earnings are also realized by various countries from sales to men visiting on leave or rest and recuperation and from outlays ashore of Navy personnel stationed aboard ship.

Programs to reduce the foreign exchange costs of personnel spending abroad necessarily have been voluntary in nature since some specific curbs on the per capita expenditures of military men could create a morale problem and could require legislative sanction. The manner of military personnel and U.S. civilians in some oversea areas has been reduced, but pay and price increases have offset any significant savings. More U.S. goods have been made available in the military exchanges and certain limitations have been placed on sales of foreign goods.

An attractive savings program, made available to servicemen overseas on September 1, 1966, offers military personnel on active duty a 10 percent interest rate, compounded quarterly. Each man may deposit an amount equal to his entire pay and allowances up to a maximum of $10,000, subject to withdrawal overseas only in case of an emergency. Gross deposits, excluding interest, from the inception of the program through June 30, 1969, totaled nearly $620 million. These deposits, however, do not represent equivalent balance of payments gains since they may have replaced other forms of saving or remittances to the United States or may have been facilitated by transfers of money from the United States to personnel stationed overseas.

Treasury savings bond sales through payroll deductions have also helped to absorb GI funds, and disbursement procedures have been modified to make it easier for servicemen to leave a portion of their pay "on the books." U.S. personnel have also been urged to make greater use of American-controlled recreation facilities overseas. Handsome arrangements have been made for travel on U.S. carriers, and thousands of servicemen in Vietnam have taken advantage of rest and recuperation flights to Hawaii instead of traveling to Hong Kong, Thailand, Japan, or other foreign areas.

MANY CONSTRUCTION PROJECTS COMPLETE

Military expenditures abroad for construction began to decline in 1958 and dropped off gradually to a low of less than $100 million in 1963. The next 2 years showed small increases followed in 1966 by a substantial increase of about $200 million, occurring principally in Southeast Asia. Outlays in the following year were more than $380 million but declined to $275 million in 1968.

The balance of payments costs of major defense construction projects in Vietnam and Thailand were held down by employing U.S. prime contractors who made their large purchases of heavy equipment and construction material in the United States. Thus only two-fifths of the payments to these contractors represented expenditures for construction materials bought in various foreign countries and for the employment of foreign labor. The major construction programs undertaken in Vietnam and Thailand over the last several years are by and large completed and the major contracts under these programs have been superseded by similar but smaller contracts for operation and maintenance by U.S. contractors.

DEFENSE PROCUREMENT ABROAD

As a result of various measures instituted in the early 1960's to minimize defense procurement abroad, expenditures for foreign materials, supplies, and equipment had declined from nearly $670 million in 1962 to less than $530 million annually in 1964 and 1965. Thereafter, as a result of activities in Vietnam, these purchases began to increase sharply and by 1968 they passed $1.0 billion and accounted for over one-fifth of total defense expenditures abroad.

Purchases of petroleum products represented more than half of oversea defense expenditures for merchandise in 1968, amounting to about $520 million as compared with a yearly average of $265 million for the 5 years just prior to the expansion of the U.S. involvement in the Vietnam conflict. This sharp increase in the foreign cost of refined petroleum reflected not only the stepped-up requirements for the Seventh Fleet and for aircraft fuel in Southeast Asia, but also price increases resulting from the closing of the Suez Canal in June 1967.

Reported expenditures abroad for subsistence to be supplied to troops or sold in commissaries were less than $90 million in 1968, including foods acquired under barter programs. Purchases from foreigners for cash have been held to a minimum in the last two years, in part, by employing improved modes of transportation to carry U.S. subsistence items overseas.

Another $200 million was spent abroad in 1968 for major equipment as compared with $75 million as recently as 1965. More than 80 percent of these expenditures were in Canada with most of the remainder in Germany and Japan. Expenditures for missiles, electronics, and aircraft engines and spare parts are included in the outlays reported for this category.

Expenditures abroad for the military assistance offshore-procurement programs accounted for only $16 million of defense expenditures abroad in 1968. This program, once a major factor in our defense spending, was originally established to develop the military productive capacity of our allies by buying military equipment abroad to be transferred as grant aid. After peaking at $640 million in 1955, such expenditures dropped off sharply through 1958, and since then have declined more gradually.

In 1961 the Department of Defense initiated a program to reduce expenditures abroad for materials and supplies by placing contracts in the United States when estimated U.S. costs, including transportation and handling, did not exceed the estimated foreign cost by more than 25 percent. This differential was raised to 50 percent in mid-1962 and remains in effect, together with other programs, to minimize the foreign exchange cost of procurement abroad.

SPENDING FOR SERVICES

Payments to foreigners, contractual services outlays, and other direct expenses for services totaled $1.6 billion in 1968 and comprised well over a third of defense expenditures abroad. Of this amount, nearly $900 million was paid out in Southeast Asia and $600 million was spent in Europe.

Although the employment of foreign citizens in Europe has declined, activities in Southeast Asia and higher wages and bonuses have increased the costs of employing foreigners in recent years. These expenses, which are incurred principally for the maintenance and operation of bases, amounted to about $400 million annually in the 6 years prior to 1966, and then increased to an annual rate of over $630 million in the first half of 1969.

Other expenditures include payments to foreign contractors and the foreign expenditures of U.S. contractors engaged in the day-to-day operation of our bases and providing communication, utilities, real property maintenance, and repair services. Although a reduction in the number and functions of oversea facilities has occurred in certain areas, expenditures have increased considerably, primarily as a result of Southeast Asia activities.

NATO INFRASTRUCTURE PAYMENTS

The infrastructure program is the major multilaterally-funded program by which NATO provides combat support facilities, including airfields, naval facilities, missile sites, pipelines, and land-based communication and radar warning systems. As a result of the relocation of the NATO headquarters and forces from France in the spring of 1967, it has also been necessary to construct new headquarters in Belgium and the Netherlands, to relocate the communications network, and to provide other new facilities.

The U.S. share of infrastructure costs under the current formula is 25.8 percent in projects in which France participates and 29.7 percent when France does not participate. U.S. contractors are now eligible to bid on construction projects on equal terms with European contractors. The foreign exchange cost of our share of outlays is reduced, in part, by procurement from U.S. sources by U.S. contractors and, in some instances, by foreign contractors as well.

From the inception of U.S. participation in the program in 1951 to the end of June 1969, our total contribution to NATO infrastructure came to nearly $1.2 billion. The net impact of this program on the U.S. balance of payments cannot be measured, since procurement from U.S. sources is recorded as commercial exports and cannot be separately identified. However, activities under the program during the last several years probably have not contributed significantly to the U.S. deficit because, in some instances, special arrangements have been established to insure that U.S. contributions are offset by orders to U.S. suppliers.

CONCENTRATION OF DEFENSE SPENDING

Even though U.S. military establishments are widely distributed throughout the world, our defense outlays are concentrated in a relatively small number of countries. In the recent past, 10 countries have accounted for about 80 percent of the total. Nearly one-fifth of the 1968 total was spent in Germany alone, where outlays reached nearly $900 million. Over one-fourth was spent in Japan and Vietnam together, where disbursements were close to $600 million in each country. Thailand, Korea, the Ryukyu Islands, the Philippines, and Taiwan, the other major support areas for the Vietnam conflict, together received almost $1.1 billion, another fourth of the total. However, data for Vietnam and Thailand are somewhat overstated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies rather than to the location of the refinery. Canada with nearly $300 million and the United Kingdom with nearly $200 million were the other two major recipients.

Although it is difficult to establish a clear-cut distinction between outlays for hostilities in Southeast Asia and expenditures for other purposes, it is estimated that in 1968 about $1.7 billion, or more than a third of our gross expenditures were attributable to the Vietnam conflict. The greatest increase in military expenditures in the last several years has, of course, been in Vietnam and the support areas. However, the conflict there has clearly increased expenditures in other areas of the world, such as in certain of the oil-producing countries.

OUTLAYS IN WESTERN EUROPE

Defense expenditures in Western Europe have averaged $1.5 billion a year since 1960 and have not deviated by much more than $100 million a year. The rather substantial reduction since 1960 in the number of U.S. troops deployed in Europe has been largely offset by price and wage increases The rapid decline in military expenditures in France, following the relocation of U.S. and other NATO forces from France in 1967, was accompanied by increased expenditures in Germany, Belgium, and elsewhere in Europe.

The Czechoslovakian crisis in August 1968, which led to an increase in troop deployment in Germany, also was partially responsible for increased expenditures in that country. In the past decade, Germany has earned more than any other country from U.S. military expenditures. In the first half of 1969, the annual rate of our military expenditures there reached almost $910 million, comprising nearly 60 percent of the Western European total.

U.S. defense expenditures in Germany probably did not contribute substantially to our balance of payments deficit from 1962 through 1967 because of our military offset agreements with that country. Under these arrangements Germany agreed to purchase military goods and services from the U.S. Government and from private U.S. suppliers at levels approximating our defense expenditures there. Final payments under these agreements was made in June 1967. Since then Germany has continued to purchase military equipment in the United States, but at greatly reduced levels. While Germany has also invested in medium-term non-convertible and non-negotiable U.S. Treasury securities, these securities will reach maturity in a few years and are a claim upon our real resources.

U.S. military expenditures in France before 1967 exceeded French purchases of military supplies and equipment from us. The peak in our defense outlays there was reached in 1955 at almost $600 million; our spending declined thereafter to somewhat over $200 million in 1966, the last full year before our military forces were removed. Expenditures in France are now running at an annual rate of less than $20 million.

Expenditures in the United Kingdom declined steadily from nearly $290 million in 1960 to less than $150 million in 1966. In the following year, the United States made an advance payment of $35 million to the United Kingdom for military equipment and the total for 1967 rose to $210 million. Expenditures have since averaged close to $200 million a year. Apart from purchases by military exchanges and direct personal expenditures by servicemen and their dependents, most outlays in the last 2 years have been for troop support and the operation and maintenance of our bases.

EXPENDITURES IN THE WESTERN HEMISPHERE

U.S. defense outlays in Canada reached a peak in 1958 of over $440 million, which included about $280 million spent by the Atomic Energy Commission for the procurement of uranium. Thereafter, uranium purchases declined and our overall expenditures trended downward until 1966. Beginning in 1966 they increased steadily to reach an annual rate of $310 million in the first half of 1969.

These outlays have been partially offset by Canadian purchases in the United States under the U.S.-Canadian defense production-sharing program. Under this program the value of contracts placed directly by the Department of Defense in Canada, as well as subcontracts placed there by U.S. contractors, is measured against the value of similar Canadian contracts place in the United States. Thus the program was designed to provide that, in the long run, military exports to Canada would balance military imports from Canada for certain military procurement, repair, overhaul, and modification of military equipment. Basic raw materials, fuels and lubricants, construction, off-the-shelf general procurement, and certain services do not come under the provisions of this program.

Outlays for goods and services in the American Republics, although widely dispersed among countries, now consist primarily of expenditures in Panama related to Canal Zone operations and purchases of petroleum products in Venezuela. During 1965 and 1966 these transactions were augmented by relatively small expenditures in the Dominican Republic. Since 1966 expenditures have been in excess of $100 million annually.

Reported expenditures in other countries of the Western Hemisphere, a little more than $80 million in 1968, have been less in the last 5-year period than in the several years preceding our entry into the Vietnamese conflict. These expenditures are principally for procurement of petroleum products from the Netherlands Antilles and Trinidad. It should be noted, however, that data for these areas are somewhat understated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies, e. g., Thailand and Vietnam, rather than to the location of the refinery.

URANIUM PURCHASES IN SOUTH AFRICA

The data shown in table 2 for Australia, New Zealand, and the Union of South Africa cover primarily expenditures of the Atomic Energy Commission in the Union of South Africa and, beginning in the fourth quarter of 1967, the personal expenditures of troops from Vietnam on rest and recuperation in Australia. Purchases of uranium from South Africa were concluded in first quarter of 1967 and the expenditures for this commodity in 1966 and 1967 were offset by barter sales of agricultural products.

SOUTHEAST ASIA AND REST OF THE WORLD

In the rest of the world, expenditures amounted to $800 to $900 million annually in the 5-year period before hostilities intensified in Vietnam. In 1965, the first year of stepped-up activity, they increased to almost 1.1 billion and in the following year rose to $1.8 billion. The increase in 1967 was less steep but still amounted to over $500 million, for a total of over $2.3 billion. Thereafter, expenditures climbed at a slower pace, and by the first half of 1969 they reached an annual rate of $2.7 billion.

U.S. military outlays in Japan have been second only to those in Germany since 1959, but in the prior decade Japan earned considerably more than Germany. Annual Japanese earnings reached a peak of about $750 million in calendar years 1952 and 1953, but then began to fall after the Korean armistice and continued to decline through 1964 when they amounted to only two-fifths of their largest annual total. Japanese earnings turned upward in 1965 with the increased U.S. activity in Vietnam and by the first half of 1969 were running at an annual rate of $640 million.

Almost half of the 1968 outlays in Japan consisted of expenditures by U.S. personnel or purchases by the military exchanges for resale to troops in Japan, Vietnam, Korea, and the other areas, Military exchange purchases amounted to $135 million in 1968, almost triple the 1965 figure. Direct personnel expenditures in Japan have also increased, primarily because of outlays by men based in Vietnam who are in Japan on furlough or on rest and recuperation. Also, most of the men in the Pacific Fleet sooner or later have an opportunity to make a port call in Japan, a favorite liberty port among camera and stereo enthusiasts, and spend heavily on these and other items.

As in many other countries in this area, expenditures in Korea varied little during the years 1960–65, but almost doubled in 1966 when procurement of goods and services for use in the war effort began to make its impact. In 1967 Korea earned nearly $240 million, almost twice the annual average earlier in the decade and about three times the highest annual amount earned during the Korean War. In 1968, following the Pueblo incident, our military position in Korea was strengthened and expenditures rose to over $300 million. By the first half of 1969 the annual rate had climbed to nearly $360 million.

The United States has built up in Thailand a network of air bases, deep-water ports, supporting highways, supply installations, and communication systems. Construction in Thailand was carried out by several U.S. civilian construction companies and Army engineers, using American equipment to a considerable extent. Many Thai laborers were employed, however, and construction materials were procured in Thailand and other support countries. Most American military supplies have been moved from seaport to airfield via Thailand's domestic transport network.

Gross expenditures, in Thailand reached a peak of almost $320 million in 1968 and then began to decline with the completion of the major construction programs. The withdrawal of 6,000 Air Force and Army support and construction personnel in this fiscal year may reduce them even further. Operating and maintenance expenses, combined with the personal outlays of U.S. troops stationed in Thailand and of troops there on rest and recreation from the combat zone, represent most current defense expenditures providing dollar earnings to that country.

U.S. military expenditures in Vietnam were comparatively minor prior to the last half of 1965. About mid-1965, however, with the progressive increase in personnel and activity, expenditures began to rise rapidly and by 1968 amounted to over a half billion dollars, as compared with about $65 million in 1964. When the United States entered combat activities, it was hampered by a scarcity of logistical facilities. The two major ports at Da Nang and Saigon were grossly inadequate to meet new demands and the delivery of support equipment by sea necessitated the construction of deep-draft ports. Large construction projects were also begun at airfields and storage facilities.

The increased requirements for labor, both skilled and unskilled, brought about by these vast projects led to labor shortages and resulted in an agreement between the U.S. Government and the Government of Vietnam for employment by U.S. contractors of third-country nationals, with first priority going to troop-contributing countries and then to countries rendering economic assistance to Vietnam. Of the amounts paid out as wages to such third-country nationals, only the workers' piastre expenditures are included in the data shown for Vietnam. The balance is allocated principally to Korea, the Philippines, and Thailand where most of these wages are remitted.

Late in 1965 military payment certificate (MPC's) were introduced as a means of paying the U.S. forces in Vietnam. These MPC's are denominated to dollars and used instead of U.S. currency or dollar negotiable instruments as the official medium of exchange for transactions in military exchanges and other establishments of the Armed Forces Military disbursing officers and banking facilities are authorized to exchange MPC's for piastres to be spent in the local economy but will not generally exchange MPC's for U.S. dollar negotiable instruments unless personnel are leaving the country. Personnel are prohibited from using either U.S. currency or MPC's for purchases of Vietnamese goods and services are required to purchase all piastres from official sources.

While the recent withdrawal of 60,000 troops from Vietnuam will reduce personnel expenditures in Vietnam, the total oversea disbursements will not fall by a proportionate amount because some of these troops are moving to other foreign areas. Nevertheless, with the completion of major construction programs and the decline in troop levels in Southeast Asia as a whole, military expenditures in the area may decline in 1970.

U.S. ALLIES BUY AMERICAN PRODUCTS

Increased U.S. military sales in countries economically able to procure a portion of their defense requirements in the United States have helped to offset the deficit impact of U.S. military disbursements. These sales have also fostered cooperative logistics with our allies and have enabled them to obtain weapons systems from the United States for much less than it would have cost them—counting research, development and production—to manufacture comparable systems.

Many American products have been transferred under military sales contracts, including aircraft such as fighter-bombers, transport and training planes, multipurpose jets, and helicopters; destroyers and patrol boats; ammunition and missile systems; electronic and communication equipment; tanks, vehicles, and various parts and spares. As a result of these transfers U.S. Government cash receipts associated with military sales contracts and other programs have ranged from $0.9 billion to $1.1 billion a year during the last several years, as shown in table 3. In the first half of 1969 they were at an annual rate of $1.1 billion—nearly five times the amount of 1960. (Quarterly data are shown in line B.3, table 5, of the U.S. balance of payments presentations.)

Receipts from Germany accounted for nearly half of the aggregate $7.1 billion of such receipts during calendar years 1962 through 1968. Of the global total, about $6.5 billion represented cash received under foreign assistance legislation authorizing reimbursable military exports. The remainder, averaging nearly $90 million a year, represented primarily the dollars and foreign currencies acquired either through the sale of property excess to the needs of military installations abroad, or through sales of materials and services provided under various logistical support programs to the United Nations Emergency Forces and to the allied countries contributing military strength in Korea and Vietnam. Also included are sales both here and abroad of petroleum products and other goods and services furnished to foreign naval vessels and aircraft. Receipts of foreign currencies contributed to the United States by foreign countries under military assistance programs, which are used principally for the support of our military missions abroad, are also included as part of these various receipts.

Although $7.1 billion of cash was received by the Government in the last 7 years, approximately $6.4 billion of goods and services were actually transferred to foreign countries during the period. These transfers under the military sales program included exports from the United States, transfers from stocks overseas, sales over-the-counter abroad, and training and other services provided either here or abroad. Transfers of goods and services to Germany represented 35 percent of the total, to the United Kingdom 13 percent, and to the other countries of Western Europe 21 percent. Exports to Canada and the American Republics were 7 percent of the total, to Australia and New Zealand 9 percent, and the remaining 15 percent went to Japan and the rest of the world. Line 4, table 1, of the quarterly U.S. balance of payments presentations provides quarterly data for these military exports.

Barter sales of agricultural products arranged to finance purchases by the military agencies and the Atomic Energy Commission began in 1963 and by the end of June 1969 the cumulative value of payments to the Department of Agriculture by these agencies for shipments to foreign countries was almost $840 million. Under this program agricultural commodities are provided to a barter contractor as an intermediary in obtaining foreign goods and services to meet a portion of the oversea requirements of both military and nonmilitary agencies. The objectives of the barter program are achieved only to the extent that the exports under it are additional to agricultural sales that otherwise would be made abroad for payment in dollars. The Department of Agriculture has a screening procedure to maximize the probability of additionality in each approved barter transaction.

Table 3 also shows the available data for commercial sales of military items to NATO and to Germany, Italy, Japan, Iran, and Saudi Arabia under government-to-government agreements. These receipts for equipment procured directly by foreign countries from private U.S. sources have averaged about $200 million a year since 1961.

In recent years special U.S. Treasury medium-term securities have, on occasion, been sold to foreign governments when our military expenditures in their countries are significantly larger than their military purchases from us. These financial measures, which do not represent a long-term solution to the military deficit, are not included in table 3.

TABLE 1.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR CATEGORY[1]

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	January-June 1969
Total[2]	3,087	2,998	3,150	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Department of Defense expenditures[3]	2,722	2,694	2,839	2,765	2,755	2,894	3,718	4,367	4,521	2,406
Expenditures by U.S. personnel and by military exchanges, clubs, etc	806	772	829	843	954	1,050	1,256	1,391	1,502	791
U.S. military and civilian personnel and dependents	418	460	484	472	561	623	738	799	871	453
Military exchanges and other nonappropriated fund agencies	388	312	345	371	393	427	518	592	631	338
Construction	166	152	110	92	106	152	353	382	275	140
Equipment	56	59	79	84	88	75	145	197	199	112
Materials and supplies	551	579	589	510	427	453	592	721	805	444
Foreign citizens (direct and contract hire)	363	388	414	429	409	422	482	558	580	317
Other services and unallocated	466	490	522	536	570	589	754	993	1,052	553
NATO infrastructure	117	50	85	56	55	41	46	49	55	19
Military assistance program offshore procurement	148	147	143	151	89	57	40	30	16	7
Military assistance program services	49	57	68	64	57	55	50	46	37	23
Atomic Energy Commission defense expenditures	365	301	262	188	118	49	36	2	----	----
Coast Guard expenditures	(4)	3	4	8	7	9	10	9	9	6

[1] For quarterly data see line 16, table 1, of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[2] This series differs from the series maintained by the Department of Defense which includes expenditures for retired pay, claims, grants of cash to foreign countries, and net changes in Department of Defense holdings of foreign currencies purchased with dollars. These transactions are included in other entries in the quarterly balance-of-payments presentation in the Survey of Current Business.

[3] Data by category differ from the series maintained by the Department of Defense in certain instances, e.g. (1) Department of Defense includes permanent change of station and per diem allowances in the category "Expenditures by U.S. personnel" beginning with the last half of 1967, whereas they are included here in the category "Other services and unallocated"; and (2) Department of Defense data do not include expenditures for equipment from operation and maintenance appropriations in the category "Equipment" beginning with 1965, whereas they are included here as "Equipment" through 1967, and "Materials and supplies" thereafter.

[4] Not shown separately.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

TABLE 2.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR COUNTRY

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total	3,087	2,998	3,105	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Western Europe	1,652	1,531	1,633	1,523	1,492	1,468	1,535	1,616	1,533	797
Belgium/Luxembourg	28	12	16	12	11	12	14	35	37	21
Denmark/Greenland	51	37	34	42	36	40	37	36	34	18
France	274	286	268	243	218	208	206	97	25	10
Germany	649	636	749	691	694	714	770	837	877	454
Greece	19	18	20	27	28	31	24	26	28	13
Iceland	14	14	12	10	11	13	17	24	18	7
Italy	116	97	114	93	102	102	106	102	103	65
Netherlands	37	28	34	31	40	41	43	49	41	19
Norway	17	14	15	14	24	24	28	38	32	7
Spain	64	54	52	49	45	45	50	48	42	21
Switzerland	9	6	5	8	10	11	10	12	10	6
Turkey	57	54	55	50	58	42	49	48	51	22
United Kingdom	287	225	197	184	173	154	146	210	172	106
Other and unallocated	30	50	62	69	38	31	35	54	63	28
Canada	387	357	326	296	258	177	205	232	285	155
Latin American Republics	59	57	76	79	86	89	91	102	105	55
Other Western Hemisphere	89	100	87	92	94	80	68	81	83	38
Bermuda	13	14	14	14	10	8	9	11	8	4
Netherlands Antilles	60	63	53	51	54	33	21	43	44	20
Trinidad and Tobago	12	20	17	21	24	32	29	19	22	10
Other and unallocated	4	3	3	6	6	7	9	8	9	4
Australia, New Zealand, and South Africa	75	98	103	105	103	57	59	29	33	21
Other countries	825	855	880	866	847	1,081	1,806	2,318	2,491	1,346
Bahrein	36	43	39	35	31	36	38	56	61	32
Japan	412	392	382	368	321	346	484	538	581	320
Korea	94	112	103	90	91	97	160	237	301	178
Morocco	26	21	18	16	7	4	5	6	5	3
Philippines	47	49	51	46	58	81	147	167	169	90
Ryukyu Islands	78	93	96	97	115	123	150	188	202	104
Saudi Arabia	42	45	44	43	37	36	51	53	91	45
Taiwan	25	23	22	20	21	21	60	70	76	42
Thailand	5	8	30	27	34	70	183	286	318	139
Vietnam	[1] 7	[1] 12	[1] 37	52	64	188	408	564	558	303
Other and unallocated	53	57	58	72	68	79	120	153	129	90

[1] Includes Cambodia and Laos.
Note: See table 1 for other notes.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

TABLE 3.—U.S. GOVERNMENT RECEIPTS UNDER MILITARY SALES PROGRAMS COMMERCIAL SALES UNDER GOVERNMENT-TO-GOVERNMENT AGREEMENTS AND BARTER SALES ARRANGED TO FINANCE PURCHASES OF THE DEPARTMENT OF DEFENSE AND THE ATOMIC ENERGY COMMISSION

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total [1]	323	549	1,392	1,243	1,216	1,326	1,280	1,421	1,383	778
U.S. Government cash receipts associated with military sales contracts [2] [3]	319	399	1,139	994	987	1,080	927	1,023	974	564
Barter sales of agricultural products arranged to finance purchases of:										
Department of Defense [4]				8	35	109	141	226	200	90
Atomic Energy Commission [4]	(5)	(5)	(5)	(5)	(5)		28	2		
Commercial sales under government-to-government agreements [4] [5] [6]	4	150	253	241	194	137	184	170	209	124

[1] Does not include certain Department of Defense and Export-Import Bank collections on credits financing commercial sales of military equipment and does not include interest collections on credits financing Department of Defense sales which are included in the series on U.S. defense receipts maintained by the Department of Defense. These transactions are included in other entries in the quarterly balance of payments presentations in the Survey of Current Business.,

[2] For quarterly data see line B.3 table 5 of the U.S. balance-of-payments presentations in the Survey of Current Business.

[3] U.S. Government cash receipts include principal repayments on credits financing military sales contracts and are net of refunds.

[4] Included as part of the data shown in line 3 table 1 of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[5] Not available.

[6] Includes available data for commercial sales of military equipment under government-to-government agreements.

Source: U.S. Department of Commerce Office of Business Economics from information made available by operating agencies.

MARCH 12, 1970.

Hon. MELVIN R. LAIRD,
Secretary, U.S. Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: I understand that the Department of Defense is now implementing a program known as REDCOSTE ("Reduction of Costs, Europe") which was first developed in the summer of 1968. According to testimony by Maj. Gen. George S. Boylan before the Department of Defense Subcommittee of the House Committee on Appropriations on April 22, 1969, Redcoste: "stems from a Department of Defense survey of forces and support elements in Europe, all three services—Army, Navy, Air—last summer. The defense team visited installations and looked at the relationship of the support overhead to the combat posture, and concluded that, in fact, savings could accrue in Europe through consolidations, eliminations, and changes." (Hearings, p. 753)

Earlier, former Defense Secretary Clark M. Clifford described the program as: "a number of measures designed to tighten up further our force structure in Europe so as to ease, to the extent feasible, our balance of payments and budgetary problems. What are involved here are consolidations and relocations of certain force elements and command and support activities within NATO; reductions in administrative personnel at major headquarters and in personnel support activities, such as communications, post exchanges, recreation facilities, etc.; and the elimination of overlapping and duplication generally." (Posture Statement, January 15, 1969, p. 71)

In your statement before the House Armed Services Committee on March 27, 1969, you announced that the Redcoste program for Fiscal Year 1970 was being cut back:

"The original fiscal year 1970 budget anticipated savings of about $160 million from this effort. We have reexamined the impact of the fiscal year 1970 Redcoste program and are convinced it is somewhat too ambitious in the time frame contemplated. The Army and Air Force in particular cannot implement the program on the schedule originally planned. Accordingly, we propose to restore $17 million of the $56 million deleted from the Army budget under Redcoste, and $19 million of the $88 million deleted from the Air Force budget." (Hearings, p. 1760)

In an article in the New York *Times* of January 26, 1969, William Beecher reported that the original Redcoste plan called for a

force reduction of 35,000 to 40,000 men, with an annual saving of $200 million in overseas expenditures and $400 million in the budget.

With inflation at the highest level since the Korean War, and with a balance of payments deficit approaching $7 billion a year, I think it is imperative that the Redcoste program be fully implemented at the earliest possible date.

The testimony of Maj. General Boylan last April, a portion of which is cited above, indicates that there is opposition, at least within the Air Force, to full implementation of Redcoste.

Accordingly, I would appreciate receiving answers to the following questions:

1. What measures were recommended by the original Redcoste study prepared by the Office of the Secretary of Defense? What was the estimated budgetary and overseas expenditure saving for each measure recommended?

2. Which of these recommendations were implemented in Fiscal Year 1969?

3. Which of the recommendations were approved in the Fiscal Year 1970 budget as prepared by Defense Secretary Clark Clifford? As modified by you?

4. Which of the original Redcoste study recommendations remain unimplemented?

5. Which of the recommendations not yet implemented do you plan to implement in the future?

I would like to receive as much of this information as possible in unclassified form. If it is necessary to classify it, please give the reasons for classification.

If possible, I would like to have the answers to these questions by March 25.

Sincerely,

HENRY S. REUSS.

EXPANDED SCHOOL LUNCH PROGRAM

Mr. SYMINGTON. Mr. President, the Senate recently supported a further expansion of the school lunch program.

Many of us believe that we should be giving more attention to the problems which appear to be increasing here at home, including efforts to improve the lives of our children.

In that connection, I ask unanimous consent that a wise editorial entitled, "School Lunch Programs Are a Way to Better Health," published in the Kansas City Times, be printed in the RECORD.

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

SCHOOL LUNCH PROGRAMS ARE A WAY TO BETTER HEALTH

If the Senate can put more federal money into the school lunch program, more power to the Senate. If the Congress can put pressure on the states to earmark tax money for the purpose, more power to the Congress. If taxing units at any level can assure all children—poor or otherwise—of at least one nutritious meal a day, much will have been acomplished in America in the promotion of good health and the reduction of disease.

Ideally, school lunches ought to be provided without cost to all students. Lunch should be available—and breakfast too—just as classrooms, teachers and library books are available without special cost to the individual.

Instead, the whole program tends to get bogged down in the semantics and bookkeeping of who pays how much for what. In the Kansas City district, for example, about 20 percent of the entire student enrollment receives either a free lunch or one at reduced price. The cost to the student who can pay is 40 cents in the elementary schools and 45 cents in the high schools. Children whose families say they can pay nothing get the lunch free. Those who can pay something—and usually it is minimal—get lunch at the reduced price. The federal government now pays 19 cents for each free lunch and 5 cents for each reduced price lunch. The difference in the total cost is made up by the families who pay and by local taxpayers.

The state of Missouri earmarks nothing for school lunches. The state money arrives—inadequate as it is—and the district uses it in general operation although most must go to teacher salaries. Commodities help. But the burden of expense and responsibility remains local.

The Kansas City district now serves about 900,000 free or reduced-price lunches a year. The 20 per cent of the student body who receives them compares to 11 per cent of only a year ago and almost none at the beginning of the decade. Obviously, the free or low-cost lunch is being accepted not as an emergency matter but as routine.

The local taxing district hardly is in a position to put more money into the program. The state of Missouri at the moment is an unlikely rescuer. Missouri can't even put through an income tax reform law without danger of being overridden through a referendum.

Thus we return, as usual, to the federal taxing power in Washington for relief. The school lunch bill as it was reported from the Senate agricultural committee was an improved measure and the amendments to it for greater federal aid, voted this week by the Senate, make it even better. There can be no question that diet is a basic element in health, and that it is particularly important for children. Nutrition lost in childhood never can be regained. Society pays for that loss later in the hospital and medical bills of sick people who might have been healthy except for youthful malnutrition.

The school lunch is of fundamental importance. The point is to get it to all chldren—those who do pay, those who won't pay and those who can't pay—without the stigma of the dole and without the youngsters having to borrow from the teachers who seldom get all their money back. At least one decent meal a day is as essential as anything the schools can offer.

CAN WE TRUST THE KREMLIN?

Mr. MILLER. Mr. President, the March issue of Reader's Digest contains an article entitled "Can We Trust the Kremlin—Soft Words Versus Hard Facts," written by the distinguished former military editor of the New York Times, Hanson Baldwin. Because of its timeliness and deep perception, 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:

CAN WE TRUST THE COMMUNISTS? SOFT WORDS VERSUS HARD FACTS

(By Hanson Baldwin)

Can we trust the Kremlin?

This question—after all the recent talk of "peaceful coexistence," "détente," "rapprochement"—has now become, with the opening of arms talks with the Russians, of key importance.

In recent months, Soviet Foreign Minister Andrei Gromyko and other Kremlin spokesmen have been making soft noises toward the United States which to many Americans translate into peace.

But are the noises genuine?

No American can forget that it was the same Andrei Gromyko who in October 1962 assured President Kennedy that the Soviet Union had not installed and would not install offensive missiles in Cuba, although the President had in his desk photographs of such missiles, aimed at the United States.

Former Vice President Humphrey contends that the issue goes beyond trust, that we "stand on common ground with Moscow" because of the threat of mutual nuclear annihilation, and that we *must* limit strategic nuclear weapons or perish. We can and must *try*—but it takes two trustworthy parties to get a trustworthy agreement. and trustworthiness can be determined only by deeds, not just words, spoken or written.

Certainly we have a common interest with the Russian people—and with all other people—in survival; certainly most Americans would like to see a safe and enforceable limitation to the arms race, enabling us to use the money for more productive purposes.

But the issue is *not* disarm or perish; it is whether, if we disarm in trust of the Kremlin, our chances of survival will be improved or reduced. In fact, unless we are careful *how* we limit our arms, unless we are sure that any agreement with the Russians is based on *enforceability* and not just on faith in their good intentions, we could end up Red or dead—or both. After all, mutual deterrence has been an effective restraint to nuclear war during the first quarter-century of the atomic age, and it is likely to remain so—regardless of formal arms-limitations agreements—as long as the United States retains strategic superiority.

The United States has already made the initial mistake of undertaking these highly important talks from a basis of actual or impending inferiority in strategic weapons. One doesn't play poker without cards, and nations cannot negotiate sucessfully, or protect their vital interests, from a position of weakness.

In *all* relations between men and nations, an element of trust is essential to agreements. This is particularly true in arms negotiations, since no foolproof system of inspection that is both politically and technically feasible is possible. Yet in 1945–46 we trusted the Kremlin, drastically reduced our arms, abandoned scores of overseas bases, demobilized 8 million of our 11 million servicemen, offered the Kremlin equality in the decisive new field of atomic power where we had a monopoly—and got what? New and powerful pressures on Greece and Turkey, stepped-up subversion in Italy and France, the Berlin blockade, seizure from within of Czechoslovakia and outright unprovoked aggression in Korea! It was these Kremlin-directed actions that forced us to rearm and to make vast new military expenditures.

Again, in 1958, we trusted the Kremlin. In a kind of unofficial "gentlemen's agreement," we instituted a voluntary moratorium on atmospheric tests of nuclear weapons. We did not even prepare for additional tests—so we were caught short in 1961, when the Kremlin inaugurated a series of highly sophisticated tests for which they had obviously been preparing a long time. They derived from these tests advantages—in knowledge of the peculiar thermal and X-ray effects of extremely powerful nuclear explosions at high altitudes—which we have never fully overcome.

Many sincere but misguided Americans have suggested that the Russian arms buildup was reaction to U.S. developments. This is a distortion of the facts. It was said that if we built an anti-ballistic-missile system, it would force the Soviets to do the same. The result? We didn't; they did.

There is, of course, an action-reaction cycle in all human affairs. This is one reason why it is desirable, if safe means can be found to do so, to dampen the arms race. It was the Soviet's installation of more and larger ICBMs then we had, and their installation of ABMs in sizable numbers—despite our abstention—that forced us to start our ABM program in self-defense. Their arms budget continues to increase, while we have started,

with budget cuts and large force reductions, a kind of unilateral disarmament.

But the real question is whether actions do not speak louder than words. The Russians *talk* about relaxation of tensions, arms limitation, the solution of political problems, but so far they have not made one single substantive change in their tough policies. If the Soviet leaders really want to live in peace and let other nations do likewise, there are things they can do that would be far more convincing than words. Consider these key areas:

ARMS LIMITATION

Moscow is pushing one of the greatest armament-expansion programs ever financed in any country. The biggest submarine fleet in the world is being steadily enlarged by 12 to 20 new submarines every year. This rate of construction is unprecedented except in wartime Nazi Germany.

Soviet land-based intercontinental ballistic missiles now exceed ours in number and far exceed ours in total force of nuclear explosives. Despite an agreement not to put nuclear weapons in orbit, the Soviet Union has developed a Fractional Orbital Bombardment System (FOBS) which could, if used, reduce our attack-warning time to perhaps five minutes. Moscow is continuing underground tests of nuclear weapons, plus tests of biological- and chemical-warfare agents.

The Soviet arms program, as now projected, cannot conceivably have any objective other than the achievement of superiority over the United States in many areas of military power—particularly in strategic weapons. There is no sign of any abandonment of this program. If "parity" in missiles will give us more security than superiority, why is the Kremlin driving so for superiority, despite the cost in goods and comforts for the Russian people.

A unilateral reduction of the Soviet arms budget—something that the United States already has done—and agreement to exchange at least a limited number of on-site armament inspections would help to indicate that Moscow is *really* interested in arms control. In the absence of such actions, dare the United States trust mere lip service?

VIETNAM

Soviet aid to Hanoi is a major factor in prolonging the Vietnam war. It could not possibly have been waged on the scale of the last three years without such aid. The United States has halted the bombing of North Vietnam, withdrawn troops, made clear its desire for an honorable peace. Yet communist-flag ships still carry petroleum, trucks, cement and food to Haiphong. Thus, to a very considerable degree, Moscow controls the intensity of the fighting; certainly she could help to reduce it. And if Moscow were truly interested in improving relations with the United States, she could also ease Hanoi's inhumane treatment of U.S. prisoners.

SPACE

Nothing illustrates more sharply the difficulty of doing business with the Soviets than the contrast between the openness of the United States' Apollo 11 lunar landing flight and the secrecy of the simultaneous Soviet unmanned moon probe. Col. Frank Borman, commander of Apollo 8, was in the Kremlin shortly before both events and was told nothing of the intention—one that obviously failed—to upstage the U.S. moon flight.

Space cooperation is a field that can provide benefits to both countries—and to the world. So far, the Russians will have none of it.

ARMS EXPORTS AND SUBVERSION

While the Kremlin leaders talk of peace, they are engaged in stirring up trouble throughout the world. Moscow's export of arms in large quantities, even to the most dangerously explosive areas, continues unabated. Russia is helping to build five more Egyptian divisions, for example (to increase the total to about 12), despite the already tense situation in the Middle East.

In the Arabian peninsula, the so-called Popular Front for the Liberation of the Occupied Arab Gulf was formed about a year ago. This front operates with the support of the large Soviet embassy in Aden, and with financial and arms aid from the U.S.S.R. Its target, ultimately, is the rich prize of Middle East oil. It hopes to topple the British-backed regimes in Muscat and Oman and other relatively moderate governments in the oil-rich sheikhdoms of the Persian Gulf. An actual small-scale guerrilla war is being fought in Oman.

This same pattern of subversion is evident in many parts of the world, making it clear that the Kremlin has never forsworn former Premier Nikita Khrushchev's public support for what he called "wars of national liberation." In Africa and Vietnam, for example, the pattern is identical and familiar: psychological, economic, political and military penetration; encouragement of unrest; establishment of terrorist cells and guerrillas; civil war and revolution—all supported from outside the country.

A renunication of such subversion would do more to reduce the fear of Russian imperialism in the West than any other one act.

PROPAGANDA

The Soviets' virulent press and radio attacks against the established order throughout the world continue. Two clandestine radios beamed at Turkey—one located in East Germany, the other in Russia—spew venom against the United States, the Turkish government, and the North Atlantic Treaty Organization, in which Turkey is allied. Millions of rubles are being spent to support radical publications and organizations around the globe. Meanwhile, Russian propaganda for domestic consumption continues to picture the United States as its chief enemy and denounces Washington in malignant terms as the enemy of all people.

Cessation of these propaganda attacks would certainly add credibility to the Soviets' expressions of desire for peaceful coexistence, and prepare the way for a free exchange of ideas between our society and theirs. In this respect, probably the most symbolic, and certainly the most dramatic gesture the Russians could make would be the destruction of the Berlin Wall.

These are only a few of the actions that would speak louder than words in determining the Kremlin's good faith. Yet, so far, there has been no real hint of any concession by Moscow in any of the world's trouble spots. Divided Berlin, divided Germany, divided Korea, war-torn Vietnam, an Eastern Europe held in uneasy thrall by Moscow and, above all, the complete intransigence of the Russians in the Middle East crisis—these are the major causes of today's tensions and conflict.

Until there is progress toward resolving these differences, Americans have no choice but to reserve decision about the Kremlin's good faith and future intentions. We must continue to try—yes; but we must also not let down our guard.

How can there be trust until there is at least one substantial Soviet deed to justify it?

WATER POLLUTION

Mr. MANSFIELD. Mr. President, yesterday the Senate passed Senate Joint Resolution 162. The senior Senator from Texas (Mr. YARBOROUGH) was then necessarily absent as he is today. However, he has a longstanding interest in water pollution control and has a statement supporting Senate Joint Resolution 162. I ask unanimous consent that Senator YARBOROUGH's statement be printed in the RECORD.

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

SENATE JOINT RESOLUTION 162—ANOTHER STEP TOWARD A BETTER ENVIRONMENT

Mr. YARBOROUGH. Mr. President, the measure which passed the Senate on March 19, 1970, marks yet another effort by this Senate to assist in curbing the destruction of our environment. This Resolution, which provides for the recognition of the Fifth International Conference on Water Pollution Research, will enable the best minds of our country to share with their counter-parts in other nations of the world what they have learned about making the earth a better place for all of us to live. The Senate has once again given evidence of its real concern about this problem.

This resolution is very similar to my S.J. Res. 156, to establish an interagency commission to make necessary plans for the United Nations Conference on the Human Environment scheduled for 1972 and for other international conferences and meetings relating to the human environment, which is now in the Foreign Relations Committee. I hope that it will be possible to pass this Resolution which is so similar in purpose to the one we have acted on.

S.J. RES. 156

Joint Resolution to establish an interagency commission to make necessary plans for the United Nations Conference on the Human Environment scheduled for 1972 and for other international conferences and meetings relating to the human environment

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a commission to be known as the Interagency Commission on the Human Environment.

(b) It shall be the purpose of the Commission to make necessary plans for United States participation in (1) the United Nations Conference on the Human Environment scheduled for 1972, and (2) other international conferences and meetings relating to the human environment.

SEC. 2. (a) The Commission shall be composed of an appropriate number of members appointed by the President from the Department of State and other appropriate Federal departments and agencies. The President shall designate one member as Chairman and one member as Cochairman.

(b) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3. The Commission shall appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this joint resolution. Such appointments shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such compensation shall be fixed 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 Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

SEC. 4. The Commission is authorized to request directly from any Federal department or agency any information it deems necessary to carry out the provisions of this joint resolution, and to utilize the services and facilities of such department or agency; and each Federal department or agency is authorized to furnish such information, services, and facilities to the Commission

upon request of the chairman to the extent permitted by law and within the limits of available funds.

SEC. 5. The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 6. There are authorized to be appropriated such amounts, not in excess of $500,000 for any fiscal year, as are necessary to carry out the provisions of this joint resolution.

POSTAL STRIKE

Mr. THURMOND. Mr. President, I wish to make a few comments about the Postal Union wildcat strikes which are spreading throughout the Nation. There is no excuse for the actions of letter carriers in participating in this crippling strike. Such actions are clearly illegal. This is dealt with in title 5, section 7311 of the United States Code. But even if there were no Federal statute dealing with such cases, it should be universally recognized that servants of the general public have no moral right to strike. In doing so they betray their public trust and cause undue hardships on those who depend heavily on their services.

In this particular case, Mr. President, tieups are reaching crisis proportions in various sections of the country; and they threaten to get worse. Americans are particularly dependent on their mail service and they should not be required to be subjected to the exteme inconvience and frustrations of a mail collapse at the whim of a few who are in position to encourage this lawless action.

Mr. President, I urge the administration to take steps immediately which will result in bringing this outrage to an end. Perhaps if certain Senators who persist in preventing the Carswell nomination from coming to a vote would step aside, we would have a chance to consider the various proposals affecting post office employees which could prevent this from happening again.

FOREST SERVICE RESEARCH PROGRAMS

Mr. MANSFIELD. Mr. President, as we all recognize, there is a general preoccupation with matters pertaining to our environment and ecological values. One of the Federal agencies which is historically very involved in maintaining the quality of our environment is the U.S. Forest Service. This agency has an outstanding record in the area of scientific research. Their facilities in Montana have had a very influential role in these programs.

Recently, my able colleague from Montana (Mr. METCALF) and I addressed a letter to the Secretary of Agriculture regarding the Forest Service's research activities. We have received a detailed reply along with an analysis of the Forest Service's current research programs and plans for the future. This is an interesting document.

I ask unanimous consent that our letter, his reply of March 13, and the attached statement be printed in the RECORD.

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

MARCH 2, 1970.

Hon. CLIFFORD M. HARDIN,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Since we have been in Congress we have been intensely interested in and have supported the U.S. Forest Service programs in forest, range and watershed research.

While we regard as most timely the national emphasis now being given to the quality of environment, we think of the Forest Service as one of the agencies interested for years in research directly related to the protection and improvement of the environment. We are familiar with some of their work on the forest and range lands of Montana and surrounding states. We do not know how much of this research makes up their program, particularly in other portions of the country, but suspect that it may be more than most people realize. Even so, it may be far below the level needed.

So that we may be in a better position to evaluate its adequacy, we will appreciate receiving—by not later than 15 March—a report from the Forest Service on how its research has related to quality of the environment and what its plans are for future research in this area.

Very truly yours,

MIKE MANSFIELD,
U.S. Senator.
LEE METCALF,
U.S. Senator.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 13, 1970.

Hon. MIKE MANSFIELD,
U.S. Senate.

DEAR SENATOR MANSFIELD: Thank you for the opportunity to report on Forest Service Research programs and plans relative to the quality of the environment. The statement which you requested is enclosed. A similar statement is being sent to Senator Metcalf.

As you know, this Department is deeply involved in many programs to alleviate today's critical environmental problems. The Forest Service, with its responsibilities for 186 million acres of Federal land, plays a vital and active role in these programs. The Forest Service also is the designated Federal agency responsible for research on forest and related resources.

To fulfill its research mission, the Forest Service has built an outstanding scientific research organization. Its depth and versatility are reflected in the more than 30 scientific disciplines represented in its ranks. Of the nearly 950 professional research people, 40 percent hold doctorate degrees. One indication of Forest Service Research involvement in environmental problems, and particularly significant in the context of your inquiry, is the fact that 86 Forest Service scientists are members of the Ecological Society of America. This is more than in any other Federal agency.

The Forest Service has repeatedly demonstrated its sensitivity to emerging problems and trends of national importance. Its willingness and ability to reorient program emphasis to meet new environmental priorities are indicated by changes in research direction already made and planned for the future.

Sincerely,

CLIFFORD M. HARDIN,
Secretary.

RESEARCH ON THE QUALITY OF THE ENVIRONMENT IN U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE [1]

Historically, a major goal of Forest Service research has been to enhance the quality and productivity of the Nation's forest and related resources, and to insure the compatibility of resource use and resource renewal. For more than 50 years emphasis has been on learning to work with nature. Management and protection research focused on understanding the intricate and sensitive interrelationships of all living organisms in forest ecosystems and the manner in which they reacted to soil, moisture, temperature, and other environmental influences.

Environmental forestry research has been productive for many years. Forest Service research provided essential ecological information for the Great Plains tree planting program of the late 1930's, which established nearly 250,000 acres of shelterbelts. In the 1940's, research had a major role in the unprecedented reforestation efforts which restored life to tens of millions of acres of burned-out, cutout, and wornout land in the South and the Lake States. Scientific study of major ecosystems started after early Forest Surveys provided the first comprehensive knowledge of forest type distribution patterns. Disastrous floods, mudflows, and gully erosion along the Wasatch front in Utah were stopped by revegetation, soil management, and land use practices developed by research. Prescriptions for successful tree planting on strip-mined areas of the Central States were developed and applied to convert thousands of acres of barren spoil banks to vigorous forest cover providing rich wildlife habitat, improved water quality, and new recreational areas.

The Forest Service recognized some of the emerging specialized resource problems related to the environment and made major program adjustments to meet them some 10 years ago.

It started wildlife habitat research in 1959 (now over a $1,200,000 research effort).

It began outdoor recreation research in 1961 and has the largest scientific effort of any Federal agency in this area.

Forest engineering research was started in 1962 to devise new methods of forest operations to protect the environment—balloon logging is now operational.

Urban forestry research has begun to work on noise reduction by forest vegetation, screening patterns, protection of city watersheds, contributions of forest recreation to inner-city problems, shade tree protection, and habitat requirements of songbirds and nongame animals.

Many recent research accomplishments promise widespread improvement of environmental problems.

Wood pulping processes are being improved to reduce water consumption and find uses for mill effluents.

A computerized system for application of engineering data to the design of scenic roads for maximum aesthetic appeal has been successfully tested.

A remote sensing system for detecting, evaluating, and monitoring smog damage to forests will be operational next year.

A whole new technology complex has been developed to reduce the incidence of catastrophic blow-up fires, including airborne infrared scanner for mapping fire perimeters, chemical fire retardants, an automated system of allocating and dispatching manpower and equipment to fires, and cloud seeding to prevent lightning-caused fires.

In spite of current and past research on environmental problems, the effort is not enough. Today's and tomorrow's environmental concerns must be met. Vigorously growing forests filter and purify air and water; they dampen noise; they provide shelter and food for animals and birds; they provide materials for housing and other necessities of life, and they highlight the landscape upon which they grow. The Forest Service recognizes need for new research efforts to make forests contribute more fully

[1] Statement on Forest Service research related to quality of the environment requested of Secretary Hardin by Senators Mike Mansfield and Lee Metcalf, March 2, 1970.

to man's living environment, as well as to produce the critically needed goods and services and to protect the forests themselves.

Following are some of the critical problem areas that are now being worked on and research needs that must soon be met. Pesticides must either be made safer or be replaced by nonchemical methods. A multifaceted approach to the forest residues problem, particularly critical in the Northwest, will work toward better utilization, improved conversion and transport systems, and alternatives to burning for disposal of material that still cannot be used. Ways will be found to make pulp and paper from urban waste without fouling the atmosphere and water. The Dutch-elm disease must be stopped, and other massive destroyers of forests, such as the gypsy moth, must be controlled. Prescriptions for using trees as sound screens adjacent to highways, airports, and other noise generating sources will be worked out. Silviculture research will seek new cultural practices to enhance forest landscaping, water quality, wildlife habitat, and recreation activities. In the broad transition zone between the inner city and rural woodlands, the planting and culture of trees for their many contributions to the amenities of living will be studied. Genetic resistance to smog and other airborne chemicals will be developed and exploited to maintain or reestablish forests damaged by air pollution. Management techniques for wilderness areas are needed to achieve optimum use patterns and to prevent impairment of the fragile wilderness environment. The Forest Service will be a major participant in extensive inter-Departmental experiments on weather modification. New applications of remote sensing will be developed to monitor environmental damage. Fundamental to these and other related activities, an expanded program of basic ecosystems research will be continued.

Concern about the environment in no way minimizes the importance of production-related problems. In many cases production- and environment-related research go hand-in-hand. An analysis just completed for the Bureau of the Budget disclosed that 66 percent of Forest Service research in F.Y. 1970 relates to environmental quality. Although the F.Y. 1971 budget proposal is oriented toward timber supply problems, at least 75 percent of the planned increases will also contribute directly to the solution or abatement of environmental problems. For example, Watershed Management Research increases will be applied to techniques for sedimentation control. Forest Engineering Research will work toward better utilization and less waste residue in the woods; Forest Products Research will do the same for the pulpmill. Forest Survey and Forest Economics Research studies of changes in land use will provide important information on environmental trends.

As you know, the long-range plan for forestry research calls for nearly doubling present scientific manpower which would require an appropriation of $92.5 million by 1975. Plans for this increased level of research indicate that about one-half is inseparably related to both environmental quality and the production of natural resources. Of the remainder, 30 percent is concerned primarily with environment, and 20 percent with resource problems.

STRICT CONSTRUCTIONISM

Mr. MILLER. Mr. President, the Wall Street Journal of March 19, 1970, contains an interesting and timely article entitled " 'Strict Constructionism'—With a Wink," written by Arlen J. Large. 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:

"STRICT CONSTRUCTIONISM"—WITH A WINK

(By Arlen J. Large)

Senator HART. What do you understand the President means when he said he is looking for and thinks he has found in you a strict constructionist?

Judge CARSWELL. I don't have for you a pat answer, because I don't think it is pat answerable.

Because it comes up these days in connection with Supreme Court appointments, there's keen interest in what is meant by the term "strict constructionist." Everyone generally understands it means somebody who construes the words of the Constitution more or less literally, and doesn't make up a lot of far-out interpretations.

But, in practice, just how does that work out?

A CYNICAL FINDING

Because the Executive and Legislative branches of Government also must act within the Constitution, an examination of their manner of construing that document might give a clue to the meaning of "strict construction." There are strong grounds for a finding that's lamentably cynical:

If you want to do something badly enough, you contrue it as Constitutional, even if you must construct an argument that is strictly far-out.

You can buy Louisiana from Napoleon, fight undeclared Asian wars, bust down a dope peddler's door and pass a national law letting teen-agers vote. The crucial question is whether such activities are desirable on their merits; if deemed so, you then assemble yourself a Constitutional rationale.

As Congress currently explores the farther reaches of its Constitutional powers to regulate voting, those powers are being construed very broadly indeed.

The Constitution itself is invitingly murky. Would-be voters for U.S. Senators and Representatives must have "the qualifications requisite for Electors of the most numerous branch of the state legislatures"—which presumably fix those qualifications.

Such words underlie the traditional view that the states—not the Federal Congress—are in charge of voting. Because of that tradition, when it was deemed desirable to forbid the states to deny the vote to Negroes, to women and to poll-tax non-payers, words had to be added to the Constitution.

But one of these Constitutional changes offered Congress a loophole that it only recently has begun to exploit. The 100-year-old Fifteenth Amendment, on Negro voting, says, "Congress shall have the power to enforce this article by appropriate legislation." In 1965, lawmakers relied on that in abolishing literacy tests and other state-decreed voting barriers in the South. The Voting Rights Act contained another provision allowing Spanish-speaking Puerto Ricans in New York to escape that state's literacy test. The Constitutional basis was the Fourteenth Amendment's requirement that states give each citizen "equal protection of the laws."

The Supreme Court ruled in 1966 that Congress indeed had such power to override a state's election law. It was one of several post-1965 court decisions opening new vistas of Federal authority over voting, and the Nixon Administration, which claims to cherish "strict construction," is cheering Congress on.

BANNING LITERACY TESTS

Both a sense of equity and the political imperatives of wooing Southerners led to the President's proposal for a statute outlawing literacy tests in the 12 non-South states that still have them, even if there's no allegation of deliberate discrimination against Negro voters. Both the House and Senate have agreed to a nationwide ban on literacy tests in the voting rights bill now in the final stages of enactment.

The Administration also cites Warren Court rulings as the basis for sweeping away state requirements that bar new residents from voting in Presidential elections. This also has been enthusiastically received in Congress. Sen. Barry Goldwater, who last year thought a full-dress Constitutional amendment would be required, swung around to a simple statutory remedy mainly because he decided the other method would take too long.

The Arizona Republican told colleagues: "Once the policy decision is made to cure the problem by means of a statute, rather than an amendment to the Constitution, I have no difficulty in finding that it is well within the authority of Congress to pass such a statute." Among other things, Sen. Goldwater cites the power of Congress "to secure the rights inherent in national citizenship."

While agreeing that Congress can pass laws banning state literacy and residence requirements, Attorney General John Mitchell's lawyers construe things more strictly when it comes to lowering the voting age. That, the Administration insists, must be done by Constitutional amendment. But such unlikely allies as the conservative Sen. Goldwater and the liberal Edward Kennedy of Massachusetts contend that if Congress can act on literacy and residence it can act on age, too. A determined majority of the Senate has agreed; the House has yet to decide.

Arguments for free-and-easy lawmaking have superficial appeal. If it's unjust to keep illiterates from voting, the state tests should be junked and a Federal law is the fastest way. Nobody seriously argues that a man who moves from Iowa to Florida becomes unqualified to judge candidates for the national office of President; there's no defense for archaic state residence laws that deny U.S. citizens a Presidential ballot, and a Congressional remedy is easily at hand. Only a handful in Congress now is arguing openly that 18-year-olds shouldn't vote. If the issue has been settled on its merits, why fool with the tedium of a Constitutional amendment?

The motives, moreover, of the self-proclaimed strict constructionists are open to question. Most of them are from the South, where for years blatant denial of the vote to blacks was shielded behind the high Constitutional doctrine of state control of voting. Southern respect for every jot and tittle of the Constitution conveniently overlooked Section 2 of the Fourteenth Amendment, which provides that states denying the vote to their citizens "shall" lose a proportional number of U.S. House seats. But the construction Congress itself put on this requirement was strictly negative; the provision was never invoked, simply because the lawmakers didn't want to, and the Constitution thus has been amended by deliberate oversight.

And that, of course, is the danger of Constitutional corner-cutting. A Congress determined to pass do-good laws on questionable Constitutional authority is likewise free to enact do-bad laws; definitions about which is which will depend on who has more votes. Presidents who are free to pick and choose among their Constitutional powers are going to wink at the right of habeas corpus (Lincoln), put citizens of a particular ancestry in detention camps (FDR), send soldiers to an undeclared war in Korea (Truman), or in Vietnam (Eisenhower, Kennedy, Johnson, Nixon).

SENATOR ERVIN'S WARNING

"When the Constitution of the United States is nullified by those in authority because of their impatience or because of their zeal to do what they consider to be advisable . . . liberty in America has no chance to survive; because then we will have a government of men and not a government of laws."

So warned Sam Ervin during the Senate's voting-law debate. The North Carolina Democrat is among the more consistent "strict constructionists." While following the tradi-

tional Dixie gospel about state control of voting, he raises the same prickly Constitutional objections to some things ardently wanted by fellow conservatives: Official school prayers, pre-trial preventive detention of accused criminals, "no-knock" authority for narcotics agents to raid suspected drug peddlers, crackdowns on GI war dissenters.

In disputes over such things as no-knock authority, it comes down to which strict constructionist you believe—the Attorney General or Sen. Ervin. At the moment it seems more Senators and Representatives believe Mr. Mitchell, and no-knock authority probably will become Federal law. Then it will be up to the Supreme Court, should a test case arise, to decide whether an official break-in by Federal narcs fits the definition of unreasonable searches and seizures forbidden by the Constitution.

If there are any would-be "strict constructionists" on the Court then, they'd best look within themselves for guidance on what that label really means. Their co-equal brethren downtown and on Capitol Hill don't seem to know, either.

DEATH OF FORMER REPRESENTATIVE FORRESTER, OF GEORGIA

Mr. TALMADGE. Mr. President, Georgians were saddened yesterday by the passing of E. L. "Tic" Forrester, of Leesburg, Ga., former Representative of the Third District of Georgia.

Tic Forrester was selected by the Third District to the 82d Congress and served with distinction from 1951 through 1964. He distinguished himself in the House as an able representative and as a champion of the Constitution. He was a staunch advocate of strong local government and a great defender of the principle that government can be administered best from State capitols, city halls, and county courthouses, rather than from the banks of the Potomac.

He was an outstanding lawyer, serving as attorney for Lee County from 1928 to 1937, and as solicitor general—district attorney—of the southwestern judicial circuit from 1937 through 1950. He was twice a delegate to the Democratic National Convention in 1948 and in 1952.

Tic Forrester will be sorely missed by his many friends and loved ones, and my wife Betty joins me in extending our deepest sympathies to Mrs. Forrester and the family.

FRED L. HALL

Mr. DOLE. Mr. President, it is with regret that I bring to the attention of Senators the death of a well-known Kansan. On Wednesday, Fred L. Hall, a former Governor of Kansas and justice of the Kansas Supreme Court, died in Shawnee, Kans., at age 53.

Fred was first elected Lieutenant Governor of Kansas at 34 in 1950. His political fortunates rose rapidly, and he soon was widely known as an articulate and dynamic political leader. He served as Governor of Kansas in 1955–56.

Although I did not always agree with Fred Hall, I respected him for his energy and devotion to the Republican Party.

I regret that Fred Hall will no longer be able to provide us with his wise counsel.

TRIBUTE TO THE LATE DR. E. RICHARD WEINERMAN

Mr. RIBICOFF. Mr. President, included among the 47 innocent victims who perished in the Swiss air disaster last month were two personal friends from Connecticut, Dr. E. Richard Weinerman and his wife, Shirley.

Dr. Weinerman's contributions to improving the medical care system in this country were singularly impressive. His most noteworthy achievements in the field of public health were recently described in detail in a eulogy delivered by Prof. I. S. Falk of the Yale University Medical School, where Dick spent many productive years. In addition, we were provided with a glimpse of the devotion the Weinermans shared for their fellow man through their efforts to assist the poor and underprivileged.

I ask unanimous consent that the text of this tribute, delivered at a special memorial service at Yale to the Weinermans, be printed in the RECORD.

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

IN MEMORIAM: E. RICHARD WEINERMAN, JULY 17, 1917–FEBRUARY 21, 1970; SHIRLEY BASCH WEINERMAN, JANUARY 22, 1918–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 help 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 postwar 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 near-poor.

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 Services 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 ever 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 nation-wide 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 extra-curricular 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 acknowledgments 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 support 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 beneficent 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 shone 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.

IOWA FARM BUREAU POLICY

Mr. MILLER. Mr. President, last night, members of the Iowa congressional delegation were guests at a dinner of which the president of the Iowa Farm Bureau Federation, Mr. J. Merrill Anderson, and 100 State and county Farm Bureau leaders from Iowa were the hosts.

President Anderson's speech at the dinner, which carefully and precisely outlined the views of the Iowa Farm Bureau Federation with respect to pending farm legislation and other major issues, merits the closest attention of Senators.

I ask unanimous consent that the speech be printed in the RECORD.

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

FARM BUREAU POLICY

Mr. Chairman, honored guests, Farm Bureau leaders. As you know, it has been a custom for many years for Farm Bureau leaders from Iowa to come to Washington each year to visit with our Congressmen here and to observe our federal government in action. Women Farm Bureau leaders come one year and men who have the responsibilities as chairmen or members of their county national policy committees come the alternate years. Obviously, this is the year for the men!

In addition, each year membership chairmen from the counties that make their membership quota before March 1st, win a trip to Washington. Every county in Iowa will be represented in that group this year. Because ALL counties made their state and national goals before March 1. This has never happened before in the history of the Iowa Farm Bureau . . . In 1947 every county made quota—but not until July 1.

I look forward to this opportunity to entertain our Congressional delegation and discuss issues with them. My duties call me to Washington several times during the year, but this is an opportunity to be here with a group who are the real farm leaders of Iowa.

Iowa farmers are interested in virtually every issue that comes before Congress. We are concerned about world peace, about the role of the United Nations' inflation control, pollution prevention, natural resources preservation, rural development, crime prevention and dozens of others. Tonight, I plan to comment on only four issues—and on two of those only briefly. They are the government price support and production control program, farm product marketing and bargaining, the freedom to market our products, and farm labor legislation.

We know you are interested in our point of view. Otherwise you would not have accepted our invitation to be here tonight. We very much appreciate your presence here, and your consideration of our considered opinions. We want you to understand the problems we face. We request your support.

We believe Farm Bureau has earned the right to designate itself as the Voice of Agriculture. We read considerable in our local papers about the so-called "farm coalition." It is often said in newspaper reports that all farm and commodity organizations except Farm Bureau belong. This is not true.

The list of national farm and commodity organizations that are NOT members of the coalition is far greater in number than those which are members. Many members of the so-called "coalition" are not national but state organizations. Some are relatively small and unimportant national ones. One organization listed is a county unit that has, we are told, only 19 members. One organization which belongs to the "farm coalition" is the Soybean Growers of America. This organization is not nearly as large nor as prominent as the American Soybean Association, which is not a member of the "coalition."

One of the four general farm organizations that belongs to the "coalition" has admitted that only 50% of its members are farmers. Another one of the four keeps its membership as well as its finances secret—even from its own members!

The American Farm Bureau Federation is the greatest coalition of farmers ever put together. Over 1,800,000 families are members. We are gaining every year, and we're proud to say so.

In Iowa we have a vibrant organization in each county, with a county office, personnel and hundreds of Farm Bureau leaders. As an example of the effectiveness of our leaders when they determine to do something, this year we organized a new health service in cooperation with Blue Cross. We enrolled 45,000 families. This makes the Farm Bureau group over three times larger than the next largest health care group in Iowa.

In addition, we challenge any organization in the state to offer proof that it is more democratic than Farm Bureau and devotes more effort to developing policies and electing officers.

We often hear the comment, "If farmers could only be together." Actually, Farm Bureau represents a larger proportion of organized farmers than the AFL–CIO does of organized labor. If the members of all of the other general farm organizations would decide to merge with our members—and if the policy development process was democratic—the policies of the organization would in all probability be just what Farm Bureau's are now, because our present members would outnumber those coming in.

I am not reviewing this to be boastful. We do not feel smug. We ought to have a higher per cent of farmers as members than we do. However, I am saying that our members are well enough organized and our size is sufficient to establish us, for the time being and for the foreseeable future, as the Voice of Agriculture. We cannot and will not permit this voice to be stifled by those who cite the opinions of minor organizations and refer sadly to the "fragmentation of agriculture." Of course there are various opinions on issues, but agriculture is not "fragmented."

We do not expect any Congressman to vote with us on every occasion. We do expect thorough consideration of our views and an understanding of the number of farmers involved in putting together our policies and our organizational strength. If these and the basic logic of our policies are considered, we have little doubt that our Congressional delegation and our organization will be supporting the same objectives and types of legislation.

Now . . . about the four specific issues. First, Price Support and Adjustment Programs . . .

Farm Bureau has been instrumental in encouraging the introduction of the Agricultural Adjustment Act of 1969 by a large number of senators and representatives, including Senator Miller. Senator, we very much appreciate your joining others in support of this legislation.

Surely, it is no longer debatable that the present legislation on the books is undesirable and not even maintainable. We are all aware of the absolute necessity for the Administration and Congress to reduce expenditures to the amount being collected in taxes. Even if we could justify the payments being made in the name of agricultural adjustment, it is doubtful if we could convince a sufficient number of urban Congressmen to support these expenditures in competition with the demands for pollution control, defense, and many other important causes.

Neither does it seem debatable that government programs can bring prosperity to producers. After more than 35 years of attempts, producers in the greatest financial difficulties today are those who have been receiving the most in payments and government aids. Two examples are wheat and cotton. The certificate plan for wheat, introduced a few years ago, was hailed as the savior of the commodity. The results have been tragic. Cotton is in little better condition. This program plus the international commodity agreements have devastated our markets and production patterns.

In some cases, payments have reached astonishing levels. Recent figures from the USDA indicate that the government payments in relation to realized net income in North Dakota for 1968 were 113.1%. This amazed us. What it means is that the North Dakota farmers would have been better off if they had not farmed at all and merely received their government payments! In Kansas, the figure was 78%, Texas 84%, Oklahoma 68%, and Nebraska 63%. The Iowa figure was 28.2, which is certainly large enough. In contrast with the high ones, Connecticut and Massachusetts run only 2%, Florida 4.1%, California 9.6%.

Our production payments on corn of 30¢ per bushel, were designed, supposedly, to free the market. The problem is that the payments free only one end. Using a support and payment does lower the ceiling price, so that more grain can be moved into domestic and foreign markets. However, it must be recognized that the incentive payment is the major reason why farmers participate in government programs. Most farmers produce the maximum base acreage to maintain their

base and collect the 30¢ per bushel compensatory payment and diversion payments.

This has resulted in the elimination of small farms, and these farms moving into larger hands. Many farmers have told me they could not farm all the land they control without the diversion program.

Ours is a five-year transitional program. It would begin cutting the direct payments and certificate payments by 20% per year until 1975. By that time, all acreage allotments, bases, marketing quotas, direct payments and one-year land diversion would be discontinued completely. In their place, we would provide for the retirement of at least ten million acres per year for the next five years, which would give a fifty million acre diversion with no harvesting or grazing. We would encourage whole farm participation. We are certain that this would result in crop reduction and less dislocation of farmers. These conclusions are verified by several studies made at the Agricultural Adjustment Center at Iowa State University.

We would continue a loan rate for wheat, feed grains, cotton and soybeans at not more than 85% of the previous three-year market average. Contrary to some statements that have been made, this formula could actually increase supports in some instances, but it would not price a commodity out of either the domestic or foreign market.

We are proud of what we have added to this program for the commercial farmers. We also recommend retraining and adjustment grants for those farmers who wish to have an opportunity in other fields and need vocational training assistance in order to acquire that opportunity.

It is our hope that the whole farms retired through this program would be available for hunting, fishing and other recreation. Everyone knows the deep hunger on the part of urban residents for outdoor recreation. This program could help provide that. It could serve two purposes. We will be glad to answer questions in more detail.

There seem to be only two possible alternatives to our program. One is to continue the present one, with some amendments, which seems neither desirable nor likely. The other is to revert to a former Act, which would mean, among other things, that there would be no restrictions on feed grain acreage and no direct payments. The Secretary of Agriculture would be required to support the price of corn through loans or purchases at such level—between 50% and 90% of parity—as he determines will not result in increasing CCC stocks of corn.

We are asking tonight that each of our Iowa Congressmen openly support our program as the most logical transition step from one that has failed and cannot be maintained, to a position where in five years we will have a maximum amount of freedom to compete for markets, but enough land diversion and support to avoid disastrous surpluses and ruinous prices.

A word about farm labor legislation. . . . As you probably know, there are two bills under consideration by the Congress. They are known as the Williams Bill S–8, and the Murphy Bill, S–2203.

The Williams Bill would merely put agricultural labor under the National Labor Relations Board with no consideration for the dramatic differences in conditions which exist between agriculture and industry. The Murphy Bill establishes, we believe, benefits for both the laborer and the farmer.

Under the Williams Bill, violations of unfair labor practices would be judged by the National Labor Relations Board and subject to court review. These procedures normally take months, and in some cases, years. Crops would be harvested or lost long before that. Under the Murphy Bill farmers would be given a right for direct access to courts for injunctive relief if the strike would result in the loss of a crop. Also, under the Murphy Bill product boycotts would be prohibited. Hiring hall contracts would not be legalized. Secret ballots of workers would be required to recognize a union. Strikes at harvest time would be prohibited.

All of these things are vital. A strike of 48 hours at a critical time for a farmer really dependent upon farm labor could cause the loss of a whole year's income in the case of a perishable crop and drastic loss in the case of livestock. Some of the farmers here have employees looking after farrowing sows while they are here in Washington. Some of them have more sows than they could possibly care for themselves. A sow doesn't wait for the end of a labor dispute. We believe it is obvious that special legislation is needed for agriculture. We recommend to you the Murphy Bill.

There has also been introduced in the Congress the Agricultural Marketing and Bargaining Act of 1969. We support this act. We believe it will strengthen the farmers' ability to join together to bargain for legitimate marketing conditions and price. Agricultural bargaining associations are defined and the processor is required to negotiate with legitimate agricultural bargaining associations. Let me make it crystal clear . . . he is required only to bargain, not to come to an agreement. It seems reasonable that a democratically selected association of producers should at least have the right to discuss terms and prices in good faith with processors. The act would not compel producers to join any association. Again, we would like your support.

Nationally, the Farm Bureau is engaged in a freedom-to-market campaign. The Iowa Farm Bureau has devoted considerable effort to supplying information to farmers and consumers concerning the grape boycott in California. You may ask why should Iowa farmers be concerned about California grape growers. The answer is that an attempt is being made in California to establish a principle and a practice that is a Gargantuan threat to the free marketing of all farm commodities. In fact, the boycott tactics have already been extended to beef. Some stores have turned away products from Iowa Beef Processors because of the labor dispute that exists in their plants. We sent one of our staff members to California to view the grape situation firsthand, and to bring us an unbiased, accurate report. He returned persuaded that the grape situation is not a dispute between the grape growers and their workers. Neither are the typical housing nor wages the legitimate problems. Mr. Chavez and his few followers are attempting to force unionization in the grape industry over the objections of the majority of workers and the employers. Our concern is not so much with their attempt as with the tactics they employ.

Again, we have no objection to the type of boycott which is merely a matter of recommending to your friends that they not purchase a certain item or not patronize a certain business. This, we believe, is anyone's right. However, in this case, with the aid of labor unions, the dissidents in the grape area have enlisted the support of the Council of Churches and many government agencies in behalf of one side of an economic dispute. We believe it is unforgiveable that either the churches or government agencies should do this. The churches have indicated they are merely advocating the right of an individual to vote with his pocketbook on the grape dispute. This is not true because the boycott is only effective where coercion has been used to prevent retailers from offering grapes for sale. In this way the grape boycott leaders not only vote for themselves and their sympathizers, but they vote for everyone else, because they make it difficult or impossible for anyone to buy grapes.

If the grape and beef boycotts are successful they will be used against other commodities. If the idea is once established, then retailers would probably capitulate as automatically as the picket line at a factory is observed by union members. This would mean that the producers of any agricultural commodity could be brought to their knees by a labor union dispute anywhere in the United States, because there would be no market for their products. We suggest that this tactic and monopoly power cannot be tolerated.

I must not take more of your time. Let me express our very deep appreciation to our Congressional representatives for your many courtesies and for your attention here tonight. We would like to ask that you discuss particularly these issues I have outlined with your constituents from this group as they meet with you later. As I said earlier, we are interested in many issues and know that you could bring valuable information to our group on crime control, drug abuse, and dozens of others. However, our special reason for coming this time is to discuss these crucial farm issues where we need your support. Consequently, we ask that you give our people an opportunity to convey to you their feelings concerning these specific and vital issues, and we respectfully request your vigorous support and cooperation.

POLITICS OVER PEOPLE

Mr. McINTYRE. Mr. President, it is fast becoming apparent to the people of New England that the President appears to have written them off in order to appease the secret government of oil. These consumers who for years have paid outrageously high prices for their heating fuel are learning that their excessive payments are going into the coffers of the oil industry and often to be channeled into the campaign funds of the Republican Party.

The Concord Monitor, a newspaper well known for its incisive reporting, has recognized that the President seems to have placed political expediency ahead of the very people he pledged to represent.

The Monitor also points out that the actions taken by the administration are directly contrary to its anti-inflationary program. Rather than protecting the consumer and strengthening the economy, President Nixon has unfortunately apparently capitulated to the oil lobby.

I ask unanimous consent that the Concord Monitor editorial entitled "Oil Imports: Politics Over People" be printed in the RECORD.

Also, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post of March 19, 1970, which points out that the President's decision to reduce Canadian oil imports is another example of the lack of genuine concern the administration has for the Nation's consumers.

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

[From the Concord (N.H.) Monitor, Mar. 6, 1970]

OIL IMPORTS: POLITICS OVER PEOPLE

From a viewpoint of coldblooded politics, President Nixon's decision a week ago to do nothing about the oil import quota system that clobbers the New England consumer financially probably was a sound one.

The President rejected a recommendation from a cabinet-level task force which would have resulted in a reduction of about two cents a gallon on home heating oil and gasoline.

For a family with a fuel bill of about $400 a year, this would have meant a saving of about $47. Nationwide, it would have meant a reduction in payments to the oil companies of about $2 billion.

But the President apparently felt he owed a larger debt to the big oil interests than to people—particularly New England residents. As a group, they pay more for oil products than anyone else in the nation, principally because of the oil import quota system.

But it is no secret that the President is heavily indebted to the oil moguls who contributed so handsomely to his 1968 election campaign in exchange for promises to protect their interests.

Thus this latest decision falls into line with the Nixon administration's torpedoing of the proposed Machiasport, Maine, oil refinery project, which also would have reduced fuel oil costs for New England consumers.

Also, the President owes few political favors in New England. He lost four of the six New England states in 1968, winning only the two least populous—New Hampshire and Vermont. Decisions such as the people who voted against him.

In addition, the decision jeopardized only one Republican U.S. Senator in New England who is up for re-election in 1970 Winston Prouty of Vermont.

All the others in the six-state area either are Democrats or are not up for re-election.

The political nature of the Nixon decision to ride along with big oil at the expense of New England consumers was apparent in December at the last meeting of the cabinet task force.

U.S. Atty. Gen. John N. Mitchell, who was not a member of that study group, attended that meeting in place of Labor Secretary George P. Shultz. Mitchell ,the President's campaign manager in 1968, was reported to have told the group to be careful not to make a recommendation that would make it difficult for the President.

The report was watered down somewhat from the recommendation of the task force staff.

As far as the President's future is concerned, the decision virtually assures the continued flow of big oil campaign money, and perhaps some votes in the oil states of California and Texas. New England, which went against him in 1968, probably will be written off anyway.

It is ironic that the Nixon decision runs directly contrary to his inflation control program. The thrust of the latter campaign is to reduce spending. Yet a means to chop consumer spending by $2.4 billion has been rejected in the interests of the oil company contributors.

Hard-nosed politics is a fact of life in the American system of government. But that government still is supposed to function on behalf of the people to whom it belongs. It is supposed to protect the people against the travesties of special interests.

The President in this decision gave precedence to politics over the best interests of the people he is supposed to represent, and he is a smaller man for it.

[From the Washington (D.C.) Post, Mar. 19, 1970]

OIL QUOTA FOR CANADA

The President's import quota on oil from Canada may be primarily designed to pressure Ottawa into signing an overall energy agreement with the United States. The White House statement about the quota described it as "temporary" and noted expectations that the negotiations for a general energy pact will continue. Whether or not the quota will have a beneficial influence on these negotiations remains to be seen, but viewed on its own merits this patching up of the quota system is a move in the wrong direction.

The Cabinet Task Force on Oil Import Control recently urged abolition of the existing quotas and the adoption of a moderate tariff in their place. It found the present system "not adequately responsive to present and future security considerations." It is strange that the administration's first move following that report should be the addition of another quota where none existed before. The President explained his action by saying that voluntary controls applicable to Canada were not working. But why should there be any concern about the amount of oil coming in from Canada?

The only excuse for the quotas in the first place is protection of the domestic industry so that an adequate supply of oil will be available in case of an emergency that would cut off imports. But the task force pointed out that "Canadian and Mexican oil is nearly as secure politically and militarily as our own, although complete realization of these security benefits will require fully understood and harmonized energy policies." For this reason the task force recommended tariff preferences for crude oil and refinery products from general Western Hemisphere sources and that "Canadian and Mexican imports be exempt from the program, if common energy accords can be arranged with those governments."

In our view, this is the direction in which the government should be moving, especially because of the enormous savings to consumers that would result from elimination of the quotas. It would be much easier to swallow the new quota for Canada as ploy in the negotiations for a broad energy agreement if the administration showed any promise of implementing the policy suggested by its experts.

GOODELL CALLS FOR RELEASE OF FUNDS TO AID SMALL COMMUNITIES IN ANTIPOLLUTION FIGHT

Mr. GOODELL. Mr. President, in this age of concern with water pollution, particularly concern by the administration, it is strange that the Department of Agriculture has refused to release $22 million which Congress has already appropriated for water and waste disposal systems in villages with populations of 5,500 or less.

I have written a letter to the President urging that these funds be released, and calling upon him to allow the Farmers Home Administration to utilize the total amount appropriated, pursuant to Public Law 89–240, by Congress for sewage disposal grants.

I urge Senators to join me in this appeal, the success of which should affect villages in every State.

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 16, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am taking the liberty of bringing to your personal attention a matter of great concern to many small villages in rural areas of our Nation.

In your State of the Union Message you stated that sewage treatment plants would be built "in every place in America where they are needed." In this regard I am writing to appeal to you to release the additional $22 million appropriated by Congress for the current fiscal year for rural water and waste disposal by small communities. These funds, along with the $24 million which you have already released to the Farmers Home Administration (FHA) will enable the FHA to assist small rural communities in developing these water or sewer systems.

Many village sewer systems are being constructed with the aid of other Federal programs, administered by the Appalachian Regional Commission and the Departments of Interior and Agriculture. Unless the additional $22 million in grant funds is released, these villages may be unable to use the systems they have constructed or have had approved for construction.

Small villages are simply unable to finance the construction of the sewage trunk lines from their homes to the main trunk lines. Without these collection lines, their entire sewage systems will lie unused. A number of small villages have received assurance (some as long as two and three years ago) from the Farmers Home Administration that their collection systems had been approved for funding; however, because of the shortage of Federal funds, actual disbursements to the villages have not been made. Therefore, a community that is prepared to begin construction now cannot do so until these additional funds have been released.

There are approximately 375 communities in New York State that have a population of 5500 or less. Nearly 300 of these communities cannot construct their sewage systems until they receive grant assistance from the Farmers Home Administration.

In addition, a recent House Appropriations Committee report indicates that as of two years ago about 1500 rural counties in the Nation will require Farmers Home Administration grant assistance to finance the preparation of comprehensive water and sewer plans. These plans must be completed prior to October 1, 1971, pursuant to Public Law 89–240, for the area to be eligible for development grant assistance. The communities need an average of eighteen months to complete a plan; therefore, if they are to meet the October 1, 1971 deadline, a substantial number of the plans must be started in the current fiscal years.

I was very pleased with the recent news that you would release the additional $586 million appropriated by the Congress for construction of sewage treatment plants to the Department of Interior, for a total of $800 million in Fiscal Year 1970. The $22 million additional which I am requesting you to release today to the Farmers Home Administration will provide our small rural areas with trunk lines—a vital link without which their systems cannot function.

Respectfully yours,

CHARLES E. GOODELL.

U.S. MIDDLE EAST POLICY—MYTHS AND MISCONCEPTIONS

Mr. TYDINGS. Mr. President, I am deeply disturbed by the reports that the Nixon administration has decided to deny Israel's request for additional Phantom and Skyhawk jets. Given the fact that Egypt already possesses roughly three times as many fighter planes as Israel, and that France has decided to sell Libya 100 Mirages which will surely come under the direct or indirect control of Cairo, the President's decision can only endanger the survival of Israel and the prospects for peace in the Middle East.

Attempting to put an end to the arms race in the Middle East is a commendable objective. But it makes little sense to try to cut off the arms flow at a point when the Arabs possess a vastly superior number of planes. It is true that Israel controls the skies over Suez today. But that is only because her pilots are better trained.

It is only a matter of time before the Egyptians learn to fly the sophisticated aircraft the Soviets have supplied. Then the question of air superiority will be determined by numbers; and Israel will once again find herself in the position of besieged underdog.

Furthermore, it is naive to believe an arms race can be halted unilaterally. There is absolutely no indication that either the Soviets or the French are willing to halt the steady shipment of arms to their Arab clients.

It looks to me as though the State Department is making another futile effort to win Cairo back from the Soviets by offering Israel's security as an inducement.

If these reports on the administration's intentions are accurate, I intend to speak out against this dangerous and unjust decision on the Senate floor. And I believe many others will join me.

This will not be the first time the State Department has advocated a course that would seriously jeopardize Israel's security and, I would argue, America's real interest in the Middle East. For years, a view of U.S. interests in the Middle East has circulated in diplomatic circles in this country which is both dangerous and unrealistic.

It is time someone examined this State Department case and revealed it for what it is: A collection of myths and mistaken assumptions. This is what I would like to explore with you today.

The State Department's case goes something like this:

"By closely identifying with Israel and supplying her with arms, the United States is losing its ability to compete with the Soviets for the allegiance of militant Arab government: governments such as those in Egypt, Syria, Iraq, and Libya. Open Soviet support for the Arabs has enabled Moscow to gain a foothold in the Middle East which threatens U.S. economic interests in the area, and which soon could pose a serious threat to the southern flank of NATO.

"Therefore, this argument concludes, to check Soviet penetration in the Middle East, the United States must demonstrate that it is not a committed ally of Israel, but rather that we are an impartial force in the area. For if we can convince the Arabs that we are sympathetic, we can woo Cairo, Damascus, and Baghdad out of the spreading shadow of Soviet influence. And perhaps win them back into the Western camp."

At best, this line of reasoning is a naive concoction of wishful thinking and obsolete 19th century diplomacy. At worst, it reveals a dangerous cynicism that too often has infected U.S. foreign policy.

This oft-heard argument rests on a series of specious assumptions.

First, there is the assumption that growing Soviet influence in Egypt is primarily the product of U.S. ties with Israel. This assumption simply ignores the fact that the Soviets bought a special relationship with Egypt back in 1955 by agreeing to provide Nasser with massive military and economic aid—a price we were not willing to pay.

Why did we refuse to compete for Nasser's favor if it was so valuable? We refused because it was argued that our economic interests lay in the oil-rich monarchies of Saudi Arabia, Kuwait, and Iraq—countries whose governments Nasser vowed to topple.

In short, it was the State Department's judgment in 1955 that our vital interests demanded the preservation of those governments; an objective that was inconsistent with the arming of Egypt.

To point to the Arab-Israel conflict as the principal cause of Soviet activity and influence in the Middle East is sheer fancy. The Soviets would be there today even is Israel had never been created.

Second, there is the assumption that Soviet influence in the Middle East raises a serious new threat to NATO's southern flank and, thus, to the United States. Again, this argument is not supported by the facts.

To begin with, the Soviets are a power in the Mediterranean for precisely the same reason we are: They have deployed a large portion of their fleet there. Furthermore, this Soviet fleet is self-sufficient; it can be completely supplied at sea without even putting into port.

To claim that recent access to certain north African ports has significantly augmented Soviet power, one must either fall back on the old 19th century dictum that "showing the flag" in foreign ports is an important form of international influence, or argue that the Soviets could use these ports as staging areas for invasions of France, Italy, or Greece.

In fact, neither of these arguments is at all compelling in a nuclear age. Western Europe is safe from a Soviet invasion because Moscow knows such an action would trigger World War III.

Third, the assumption is made that the United States has a vital interest in Middle Eastern oil that must be preserved.

Less than 3 percent of the oil consumed in the United States comes from Middle Eastern wells. This fact, combined with rich new oil fields discovered in Alaska and in the North Sea, should make it clear that an abrupt stoppage of oil shipments from the Arab countries would pose no strategic problems.

But more important, there is little reason to believe such a stoppage will materialize. The aftermath of the 6-day war in 1967 provided ample evidence that the Arabs need U.S. and European markets more than the West needs Middle Eastern oil.

Saudi Arabia and Kuwait were emphatic in their rejection of an Iraqui proposal in August of 1967 to stop all oil deliveries to Western Europe. And there is no reason to believe this state of affairs will change in the foreseeable future.

Fourth, it is argued that the United States can seduce countries like Egypt, Syria, and Iraq from the Soviets by merely moving away from Israel and offering the Arabs certain negotiating concessions.

This is naive. No real alternative has been offered.

It all goes back to the wedding of Egypt and the Soviet Union in the mid-fifties in which Moscow promised to arm and finance Nasser and his allies. Such matches are not easily broken.

We made a futile attempt in 1956 when the United States literally resurrected Nasser's government from certain death by forcing Britain, France, and Israel to evacuate the Suez Canal. But even this act of political life-saving—one which we have since regretted—failed to improve our relations with Nasser. It only made him stronger.

In other words, nothing short of offering Egypt far more aid and armaments than Moscow currently is providing could hope to expel Soviet influence from Cairo in the foreseeable future.

Fifth, and finally, this oft-heard State Department argument rests on a totally cynical view of U.S. foreign policy.

For it assumes that whatever is expedient is best. That historic and moral commitments are simply empty rhetoric suitable for United Nations declarations and inaugural addresses, but not really to be taken seriously in the conduct of international affairs.

America is morally committed to the preservation of Israel as a Jewish homeland. History has made tragically clear the necessity for a place to which Jews may turn in the face of the persecution which has continued to infect western history. The spectacle of Jews vainly seeking a haven from Hitler's death camps must never be repeated. No man of conscience can believe otherwise.

If we do not honor such commitments, if we are prepared to barter them away for a mess of pottage or a tank of oil, if we will not stand firmly behind nations that are truly threatened by external forces, then we no longer stand for anything. We no longer hold out the promise of leading the way to a more sane and humane world order.

And let us not confuse what constitutes real commitment. It is not the fabricated obligation to support a corrupt military clique in Saigon which lacks the support of its own people and jails all political opposition. Or the willingness to supply arms to a brutal military junta in Greece because we are afraid they might turn to the Soviets.

By "commitment," I mean the determination to help a free people shape their own destiny safe from the threat of foreign domination or annihilation. This is the kind of commitment we owe Israel.

Having thus dispelled, in what I hope was a convincing manner, the principal myths and mistaken assumptions that have clouded our official thinking on the Middle East, we are now in a better position to define the broad outlines of a sensible U.S. policy for the seventies.

In my view, our Middle East policy should consist of the following:

First, an unwavering commitment to the survival of Israel.

Second, the maintenance of the military balance of power in the area as the best deterrent to an outbreak of a fourth round of the Arab-Israeli conflict.

Third, continued talks with the Soviets; for it is essential to work out the necessary understandings to avoid a direct United States-Soviet military confrontation in the Middle East and to limit the continuing arms buildup in the area.

Fourth, efforts to gradually reestablish our shattered diplomatic relations with the Arabs while recognizing that nations like Egypt and Syria are likely to remain closer to the Soviets than to us in the decade ahead.

Fifth, continued support for the United Nations mission of Ambassador Jarring and his effort to implement the U.N. resolution of November 22, 1967; for that resolution represents the only guidelines for a settlement of the Arab-Israeli conflict that has been endorsed in principle by all the parties involved.

Sixth, insistence on a meaningful peace settlement—that is, a settlement which all parties have a real interest in preserving. For an imposed settlement is not a durable peace; it merely defines the borders over which the next war will be fought.

And finally, our Mideast policy for the coming decade must be postulated on the need for patience.

I wish it were realistic to predict an imminent settlement of all outstanding issues in the Middle East and the onset of a just and permanent peace. But it is not. The hates and hostilities still run too deep.

The best we can hope for in the coming decade is a policy which prevents the outbreak of yet another round in the Arab-Israel war and which buys more time.

Time to heal the bitterness and salve hurt pride. Time for dialog and communication. Time for the mutual trust and understanding to take root which are the foundations of lasting peace.

TRIBUTE TO SENATOR YOUNG OF NORTH DAKOTA ON 25TH ANNIVERSARY OF SENATE SERVICE

Mr. DOLE. Mr. President, on behalf of the Senator from Colorado (Mr. ALLOTT), I ask unanimous consent to have printed in the RECORD a statement he has prepared in tribute to the Senator from North Dakota (Mr. YOUNG).

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

STATEMENT BY SENATOR ALLOTT

I wish to join my colleagues in expressing sincere congratulations to Senator MILTON YOUNG of North Dakota, on the occasion of the 25th anniversary of his service in the Senate.

Coming from an agricultural state, Senator YOUNG has been of immense help to me over the years on the farm problems of Colorado. His service on the Agriculture Committee has made him truly one of the most knowledgeable experts in the Senate on this vital subject.

I have had the privilege of serving with Senator YOUNG on the Appropriations Committee, where his devotion to the fiscal integrity of this country has been the hallmark of his service over the years.

When I came to the Senate over 15 years ago, MILTON YOUNG had already served in this body for 10 years. He was by then well known for his leadership and highly respected for his expertise. I always remember with great fondness the kindness he showed me, and the time he spent with me in helping me to learn my way around the Senate.

Because he was reelected in 1968 to his fifth consecutive term, we are fortunate to be able to face the decade of the 1970's with Senator YOUNG's skill and leadership in full force.

Mr. President, I congratulate my good friend and wish him many more productive years in the Senate.

MISUSE OF NAMES OF MEMBERS OF CONGRESS IN CONNECTION WITH PROPOSED LEGISLATION

Mr. ALLEN. Mr. President, bills and resolutions are in the public domain, and it is only proper that they should be associated with their authors.

However, I have recently been made aware by experience that Members of Congress are vulnerable to misuse of their names along with proposed legislation they may have authored. I have learned that it is possible for private organizations to use such legislation for soliciting contributions in a manner to convey to the public an entirely false impression that the Member of Congress whose legislation is seized upon is privy to plans of the private organization.

Stated differently, it is clear that names of Members of Congress can be used without their knowledge or consent in a manner to legitimize fundraising efforts on the part of private organizations. To the extent that the public is misled into believing that there may be an endorsement of the solicitation by the Member of Congress—to that extent the public may be deceived. Such deception involves the legislative process and use of the U.S. mails. I believe the problem to be sufficiently important to justify careful scrutiny by the Senate.

A chronological account of how a bill introduced by me became involved in such a scheme may be instructive.

On March 17, 1969, I introduced Senate Joint Resolution 80, a proposed constitutional amendment to return the control of public schools to the States and to the people. The introduction was accompanied by what I considered reasonable and rational arguments—CONGRESSIONAL RECORD, volume 115, part 5, pages 6578–6580.

Some 10 months later, an organization known as the American Education Lobby, Dodge House, 20 E Street NW., Washington, D.C., seized upon the amendment as a vehicle for launching a campaign to solicit funds.

In each letter of solicitation there was a printed card addressed to me on which the language of the amendment was also printed. The letter requested contributions to the American Education Lobby. The exact date of the first mailing of letters and solicitation by the American Education Lobby is not known.

However, on January 16, 1970, after the first mailing, a representative of the American Education Lobby presented a member of my staff with copies of material purportedly used in the solicitation. This solicitation had been made without prior consultation with me or with any member of my staff and without my knowledge or consent.

The first cards from this initial mailing began arriving at my office on or about January 18, 1970, along with letters of inquiry and expressions of support.

Mr. President, correspondence I received on this subject indicates how fully the public was misled by the solicitation. Among the deceived were housewives, an 80-year-old retiree, a lawyer, a professor with a Ph. D. degree, and ministers. The problem to which my remarks are addressed can best be illustrated by reference to this correspondence. For this reason, I ask unanimous consent that illustrative correspondence and my replies thereto be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, immediately upon becoming aware that contributors were associating me with the fund drive, I made inquiries to determine the language used and the full contents of letters of solicitation. Copies of my letters to donors disclaiming any association or knowledge of the fund drive were mailed to the American Education Lobby and the organization was directed to cease and desist using my name in any manner that might associate me with their activities.

However, our office continued to receive letters. I thereupon requested my staff to advise the lobby in firm and unmistakable terms to discontinue use of my name in any way. I was advised that the director of the organization promised to discontinue such practice. Nevertheless, I continued to receive cards addressed to me which indicated that the organization had not fulfilled its assurance in this respect. That is one aspect of the problem.

Another aspect derives from the fact that there is good reason to question whether or not the American Education Lobby is in fact a lobby. So far as we know, it has no staff, only a director who signs the letters of appeal. Its activities, so far as we know, have been limited to attempts to raise funds to fight sex education in public schools, and a more recent effort to raise funds in the highly emotionally charged York case in Oklahoma City. In this connection, it is revealing that a prominent attorney was already representing the York family without fee.

Mr. President, organizations such as the American Education Lobby purchase mailing lists and flood the mails with appeals for contributions based on emotionally charged issues which may be topical at the moment.

This illustrates the type of organizations with which Members of Congress must be on guard as well as deceptive tactics that may be used to prey upon the public.

I do not doubt that many individuals were induced to contribute funds to the American Education Lobby only by reason of the fact that the organization inserted a card addressed to me in their letters of solicitation which card contained the language on my proposed amendment. Such a device implies consent and suggests participation in a plan to get the legislation enacted. In addi-

tion, the device creates an impression of a responsibility on the part of the author of the legislation for feasibility of a plan and it implies an oversight over expenditure of the funds solicited.

Mr. President, I repeat, to the extent that the public is influenced to contribute to the private organization by reason of these impressions, inferences, and implications, to that extent have they been deceived.

We can only speculate on the amount of funds raised by this organization by use of such a deceptive device. However, every Member of Congress is vulnerable to these tactics. I understand other Senators and Representatives have had similar experiences.

I believe that the problem is of sufficient importance and of a magnitude to justify a senatorial inquiry into these practices with the view of determining whether or not existing Federal statutes have been violated or whether additional legislation is needed to cope with this problem. If this organization has found a profitable method of soliciting funds by means of implying endorsement of solicitations by the authors of the legislation, then you can rest assured that this practice will proliferate.

Mr. President, I suggest that the appropriate Senate committee look into this matter with the view of determining the need for legislation to protect the public from unscrupulous practices of fly-by-night fundraising organizations who may seize upon proposed legislation of Members of Congress in an effort to legitimize their efforts.

EXHIBIT 1

HOUSTON, TEX.,
January 16, 1970.

Hon. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As Treasurer of the Harris County Republic Party. I did everything I could to help elect President Nixon with the hope that he would change the horrible conditions which exist in Washington.

I am well pleased in many ways, but I deplore the condition which exists in H.E.W., Robert Finch is one of his big mistakes.

Please find enclosed my check for $100 as requested by A.E.L. I agree that education should be a State matter, and if the Federal Government would tax less the States could care adequately for their School Systems.

Yours truly,

J. C. TROTTER.

JANUARY 20, 1970.

Hon. JOHN C. TROTTER,
Attorney at Law,
Houston, Tex.

DEAR MR. TROTTER: This will acknowledge and thank you for your nice letter of January 16, 1970, expressing your interest in the "local school control" amendment which I introduced here in the Senate. I am glad this bill has your support and I will certainly push for its early and favorable consideration.

Although you referred to an enclosed check in the amount of $100.00, it was not with your correspondence when it was delivered to my office. I am sure you are aware of this, but let me point out that I have made no solicitation personally or through any committee or group of people, including the American Education Lobby, for funds to finance the advertising of this bill, and I have no knowledge of any effort by anyone to raise any such funds. Certainly I have no part in any such effort. I am sending a copy of my reply to your letter to each of those persons with whom you shared a copy of your correspondence under date of January 16.

With kindest regards, I am

Sincerely yours,

JAMES B. ALLEN.

HOUSTON, TEX.,
January 20, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.:

We have received a letter from the American Education Lobby, Washington, D.C. asking our support of your constitutional amendment S.J. Res. 80. They have requested that we write letters to our Senators and Congressman supporting your amendment and have requested a cash contribution to the American Education Lobby to enable them to assist you in passing this amendment, as we can find no information on this organization will you please contact us as to their reliability.

C. E. FRIEL,
Meridith Manor Civic Club.

JANUARY 21, 1970.

Mr. C. E. FRIEL,
Mr. R. I. MCLEMORE,
Meridith Manor Civic Club,
Houston, Tex.

DEAR FRIENDS: In response to your wire, neither I nor any member of my staff were aware of plans by the American Education Lobby to solicit funds for support of the proposed Constitutional Amendment relating to control of local public schools until after the letters were mailed.

My only connection with this project is limited to the fact that I introduced the Amendment March 17, 1969. Naturally, I welcome support for the proposed Amendment. However, this project was initiated by the Education Lobby and not by this office and neither I nor my staff have anything at all to do with the money raised or with implementing whatever plans the Lobby may have for use of the money.

Very truly yours,

JAMES B. ALLEN.

NEWNAN, GA.,
January 18, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SIR: The enclosed came to me in the mail.

Is this being circulated with your permission? I do not see your endorsement on it anywhere.

Yours truly,

Mrs. P. E. BEARD.

JANUARY 24, 1970.

Mrs. PAUL E. BEARD:
Newnan, Ga.

DEAR MRS. BEARD: Your expression of support for the proposed Constitutional Amendment to return control of local public schools to the states and to the people is much appreciated.

I am firmly convinced that local control of public schools is essential to public support, without which our valued public school system cannot survive. Thus, local control is in the best interest of all children and a necessary condition for quality education for all children.

The materials which you enclosed advocating support of this Amendment and solicitating funds for the purpose of promoting the Amendment are being circulated without my permission. Neither I nor any member of my staff has ever solicited funds or authorized solicitation of funds for the purpose of promoting the Amendment, nor were we aware that the American Education Lobby was doing so until after the letters had been sent out.

In fact, my only connection with this effort is that I introduced the proposed Amendment on March 17, 1969. Accordingly, we have no knowledge of what plans the Lobby has for promoting support of the Amendment and cannot judge the effectiveness of its efforts.

Very truly yours,

JAMES B. ALLEN.

JANUARY 22, 1970.

Mrs. EMMA CAMPBELL,
Dallas, Tex.

DEAR MRS. CAMPBELL: Your expression of support for the proposed Constitutional Amendment to return control of local public schools to the states and to the people is much appreciated.

I am firmly convinced that local control of public schools is essential to public support, without which our valued public school system cannot survive. Thus, local control is in the best interest of all children and a necessary condition for quality education for all children.

However, neither I nor any member of my staff has ever solicited funds or authorized solicitation of funds for the purpose of promoting the Amendment, nor were we aware that the American Education Lobby was doing so until after the letters had been sent out.

In fact, my only connection with this effort is that I introduced the proposed Amendment on March 17, 1969. Accordingly, we have no knowledge of what plans the Lobby has for promoting support of the Amendment and cannot judge the effectiveness of its efforts.

Under the above circumstances, we are returning your check in the amount of $10 made payable to the American Education Lobby.

Very truly yours,

JAMES B. ALLEN.

(NOTE.—No letter received from Mrs. Campbell—only support card and check.)

HOUSTON, TEX.,
February 11, 1970.

Hon. JAMES B. ALLEN,
U.S. Senator from Alabama.

DEAR SENATOR: Reference is made to your letter under date of Jan. 27, 1970 in which you state "neither I nor any member of my staff has ever solicited funds etc". You are wrong Senator. Some member of your staff had to put that plea for funds in the envelope carrying your message. The organization I refer to is the "American Education Lobby".

Today I received another letter saying this same bunch must have gotten their mailing list. It is time you cleaned house. I am a retired Civil Service employee trying to live on my annuity and I did send money to this organization solely because the plea came in the envelope with your message. Money does not come easy for me at my age (80) and I resent being taken in.

Very truly yours,

CLAUD A. SMITH.

FEBRUARY 16, 1970.

Mr. CLAUD A. SMITH,
Houston, Tex.

DEAR MR. SMITH: In answer to your letter of February 11, 1970, I must repeat that neither I nor any member of my staff has ever solicited funds or authorized the solicitation of funds to promote the proposed Constitutional amendment which I introduced on March 17, 1969. It is not true that any member of my staff "put that plea for funds in the envelope carrying your message."

The solicitation was made by the American Education Lobby without my knowledge. I learned about it only after the letters

had been sent out. The plea for funds was signed by Mr. Lee Dodson of the American Education Lobby for use of the Lobby and not from me.

My only connection with this affair is that I introduced the proposed amendment which was printed verbatim on a card put in the letter of solicitation without my knowledge or consent.

I understand how provoked you must be. I, too, have been offended by the efforts of the American Education Lobby to tie me into their fund raising efforts. I have absolutely no knowledge of their plans or how the funds will be used to promote support for my proposed amendment.

I appreciate your taking the time to write me, and I am glad to have this opportunity to assure you most sincerely and emphatically that neither I nor any member of my staff has ever had anything to do with the solicitation by the American Education Lobby.

With sincerest best wishes, I am

Yours very truly,

JAMES B. ALLEN.

ROSSVILLE, GA.,
February 21, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I have access to a large number of cards (sample enclosed) which many people in this area want to circulate because of their concern over the trend toward Federal control over public schools.

However, before circulating these cards, I do want to verify that S.J. Resolution 80 does provide for the constitutional amendment substantially as stated on the card.

Please let me hear from you on this matter, as well as the proposed date for action on the resolution and any other comments you may have. A copy of the resolution would also be helpful to answer any questions.

Very truly yours,

Mrs. CHARLES J. STRAIN.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I strongly support your proposed Constitutional amendment, S.J. Res. 80, to return the schools to the states and people. I will be doing all I can to get my own Senators and Representatives behind it. Please push it as hard as you can in this session. It is our last hope!

S.J. RES. 80

Each state shall have the sole and exclusive jurisdiction of the organization and administration of all public schools and public school systems within the state. The courts of each state shall have exclusive jurisdiction to determine all rights, privileges, and immunities of citizens of the state with respect to public schools and public school systems within the state. No officer or court of the United States shall have the power to impair or infringe any rights herein specifically reserved to the states.

FEBRUARY 25, 1970.

Mrs. CHARLES J. STRAIN,
Rossville, Ga.

DEAR MRS. STRAIN: Your interest in my proposed Constitutional Amendment to return control of schools to the states and to the people is encouraging and much appreciated.

Recently an organization in Washington mailed out a letter soliciting funds which enclosed a card addressed to me similar to the one you enclosed. As a result many people assumed that I knew about the solicitation and that I was in some way connected with the organization and plan to get the Amendment approved for submission to the states. This was not the case. I had absolutely no connection with the organization and have no way of evaluating whatever plans they might have to help get the Amendment approved by the House and Senate.

The above is by way of explaining that while I have no objections to the use of the Amendment, I cannot approve the use of my name in connection with efforts to raise funds for any individual or organization. A mailing in quantity to be effective would cost a substantial sum of money.

On the other hand, the Amendment is in the public domain and there is no reason why it cannot be used except that I prefer that no card or other enclosure be used with my name on it which would indicate that I had even a remote connection with any effort to solicit contributions.

Again, thank you for your interest and support. Enclosed is a copy of the proposed Amendment as you requested.

Very truly yours,

JAMES B. ALLEN.

UNIVERSITY OF NORTH DAKOTA,
Grand Forks, N. Dak., February 23, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: My colleagues and I recently received a notice from your office concerning the American Education Lobby requesting funds to halt integration. Our general reaction was difficult to describe: we were shocked that such vitrolic propaganda techniques are being employed by a member of the U.S. Senate, and as students of government policy we found S.J. Res. 80 profoundly embarrassing.

I have analyzed propoganda for years and can assure you that the materials released under your name will receive support only among that segment of the American polity devoted to fanatic prejudice, bigotry, and pseudo-patriotism. I am sure you are well aware of this and only hope your audience is much less significant than you anticipate. Meanwhile, you will receive publicity in North Dakota, for I am using these materials in my classes as examples of the problems facing educators, professionals, and the American citizenry. If you release further materials of this nature, I would appreciate receiving them.

Yours truly,

CHARLES H. KAISER, PH. D.,
Assistant Professor of Sociology.

FEBRUARY 26, 1970.

CHARLES H. KAISER, Ph. D.,
Assistant Professor of Sociology, the University of North Dakota, Grand Forks, N. Dak.

DEAR DR. KAISER: Your statement that you received a notice from my office concerning the American Education Lobby requesting funds to halt integration is not true.

Neither I nor any member of my staff has ever had any connection whatsoever with the American Education Lobby and were not aware of their use of the language of S.J. Res. 80 or my name in a fund raising effort until after the initial mailing had been made. Subsequently, on my instructions Mr. Lee Dodson who signed the letter requesting funds was told not to use cards addressed to me and not to use my name as a part in any future fund raising projects.

I have no idea of what plans the Lobby may have for promoting the Amendment nor do I have the slightest idea of how the money raised will be used. On the other hand, all statutes and names of Senators are in the public domain.

As for the merits of S.J. Res. 80, my concern for returning control of local schools to the states is based on a conviction that it is necessary in order to preserve the institution of public education in the South. A continuation of present policies will alienate public support in the South no less than it has outside the South and for the same reason that schools cease to educate—white or blacks.

With respect to racial balance policy, one might read with profit the conclusions of the International Commission of Jurists arrived at after an exhaustive study of the subject in British New Guinea several years ago. No one can dismiss their findings by charges of racism or bigotry. One with an open mind on the subject might also profit by a more careful evaluation of *all* of the findings of the Coleman Report.

However, if an analysis of the material sent you by the American Education Lobby leads you to the conclusion that the material was "released under (my) name," and if such a conclusion is indicative of your analytical ability, there would seem to be reason to doubt that your analysis of objective studies of the problem will yield anything of value to you or to your students.

Very truly yours,

JAMES B. ALLEN.

CENTER BRUNSWICK METHODIST CHURCH,
Troy, N.Y., February 28, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: A letter from the American Education Lobby contains a copy of your proposed Constitutional Amendment S.J. Res. 80, together with their arguments in support of it.

For several reasons I am very much opposed to it.

First, it smacks of an effort to put schools beyond the purview of any federal government agency in order to guarantee that states, and perhaps other local municipalities, will not be compelled to upgrade their educational systems.

Secondly, it reflects an effort to guarantee to states or local municipalities the privilege of maintaining separate and unequal schools for minority groups.

I do not believe that compulsory busing is the way to achieve integration in the schools, nor am I fully convinced that racial integration of schools is desirable. But I do believe that the scope of your proposal extends dangerously far beyond either busing or integration.

Thirdly, I am opposed to such a constitutional amendment simply because it removes from national consideration and protection one of the fundamental social areas upon which the existence and progress of the nation are dependent. If such a precedent is set, what area next will be removed from national scrutiny?

Fourthly, it is widely argued that in the educational sphere local autonomy must be protected. I agree. But as yet I have seen no threat to such local autonomy by the Department of Health, Education, and Welfare, or by any other federal government agency, except where local autonomy has established programs in violation of basic human rights. These, too, need protection.

Finally, if for no other reason, I would oppose S.J. Res. 80 because of the fanatical scare tactics that are obvious in the supporting letter I received.

For these reasons, and others, I am opposed to the adoption of S.J. Res. 80 and I shall so inform my Senators and Representatives.

Yours truly,

Rev. HOWARD M. HILLS.

MARCH 6, 1970.

Rev. HOWARD M. HILLS,
Center Brunswick Methodist Church,
Troy, N. Y.

DEAR REV. HILLS: Your thoughtful letter relating to S.J. Res. 80 is much appreciated. In the beginning let me say that I concur in your judgment concerning the language used in the letter you received soliciting funds supposedly to support the Amendment.

My only connection with this solicitation is that I introduced the Amendment on March 17, 1969. Of course, the bill is in the public domain. However, a card addressed to me was inserted in the letters of solicitation with the obvious purpose of leading individuals to believe that I was in some way connected with the appeal. The fact of the matter is that I was not aware that the letter had been mailed until after the event and knew nothing of the plans.

Subsequently, on my direction the Education Lobby was firmly advised not to use cards addressed to me or otherwise undertake to associate my name with their fund raising efforts.

As for the Amendment, the only purpose is to preserve public schools in the South and throughout the nation. I doubt that the general public will continue to support education which does not educate. The record compiled in Washington and other areas of the nation indicate that many public schools are not fulfilling this basic requirement.

In my judgment, the Amendment would have the same effect in the South as it has had in the North and particularly in New York State which prompted the State Legislature to enact legislation to guarantee the integrity of neighborhood schools.

From the standpoint of human and social values, the International Commission of of Jurists and other authoritative organizations have concluded that an arbitrary racial balance in schools or in public services is neither rational nor practical. On the other hand, the method of recruitment or assignment should not be discriminatory.

It is my opinion that you misjudge the character and integrity of State Supreme Court Judges in the South. There is no evidence to indicate that these Judges will not uphold and defend civil rights and human rights of all citizens in their respective states.

In conclusion, let me assure you that it is a plesaure to receive a calm and reasoned letter such as yours on this particular issue and I appreciate your taking the time to write me. I wish it were possible to convince you and others that the responsible leadership in the South is deeply concerned with the problem of providing vastly improved educational opportunities for all of the children of Alabama.

With sincerest best wishes, I am
Very truly yours,

JAMES B. ALLEN.

HOUSTON, TEX.,
February 17, 1970.

Hon. JAMES B. ALLEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: My delay in answering your letter of the 27th Ult was due to the fact that I have been unable to come to my office because of the "FLU". From the contents of the letter I received from the American Education Lobby, 20 E Street NW., Dodge House, Washington, D.C. 20021, I thought they were collecting money to aid you, and naturally felt that probably, at least 90% of the collection would reach your office. However since you had not authorized such collections I feel that the American Education Lobby obtained the ten dollars I sent them falsely. Therefore I am sending them a copy of this letter and am requesting them to refund me the ten dollars I sent them.

I realize you are very busy, but if you can help me get the return of the ten dollars I sent them I will appreciate it very much.

With best personal wishes I am
Sincerely,

W. A. STUBBLEFIELD.

P.S. I wonder how the Post Office Department would consider their conduct?

MARCH 7, 1970

Mr. W. A. STUBBLEFIELD,
Houston, Tex.

DEAR MR. STUBBLEFIELD: I am enclosing a copy of a letter to the American Education Lobby requesting that they refund your contribution.

After having received your first letter, this organization was firmly directed to discontinue the use of enclosures addressed to me and the use of my name in their fund raising efforts.

Please advise me if your contribution is not refunded as you have requested.

With sincerest best wishes, I am
Very truly yours,

JAMES B. ALLEN.

MARCH 7, 1970.

AMERICAN EDUCATION LOBBY,
Dodge House, 20 E Street NW.,
Washington, D.C.

GENTLEMEN: The attached copy of a letter from Mr. W. A. Stubblefield, Houston, Texas is self-explanatory. The letter clearly indicates that Mr. Stubblefield was led to believe that I was associated with your organization in soliciting funds to promote S.J. Res. 80.

This is another example of a misleading impression conveyed by your letters of solicitation. As early as January 27, 1970, letters came to my office indicating that individuals associated me with your request for contributions by reason of the printed cards you used which were addressed to me. Some letters I received contained checks payable to your organization. As you know, these checks were returned by me to the donors with an explanation that neither I nor any member of my staff had ever solicited funds or authorized solicitation of funds to promote the proposed Amendment and that your solicitation was undertaken without my knowledge or consent. In fact, I was not even aware of your solicitation until after the letters were mailed.

As a result, Mr. Lee Dodson of your organization was personally contacted by a member of my staff to insist that I not be associated in your literature or otherwise with you fund raising efforts.

Nevertheless, letters have continued to come to my office indicating that many individuals believe that I have a connection with your organization and its efforts to solicit funds. Consequently, on my direction, a member of my staff conveyed to you my firm insistence that you discontinue the use of cards addressed to me in your letters of solicitation. Mr. Dodson gave his assurance that you would comply with this request. Despite this assurance such cards continue to be received indicating that you are still inserting cards addressed to me in your letters of solicitation. Thus, people continue to be misled.

Mr. Stubblefield requested that you refund his contribution of $10. I am certain that you will want to accommodate his request. I would appreciate receiving a copy of your letter of transmittal.

Mr. Stubblefield asks in a postscript to his letter how the Post Office Department would consider your conduct. Your continued use of cards addressed to me in your fund raising efforts suggests that it may be necessary to find out if their use in your fund raising efforts is a type of deception in violation of postal regulations.

Very truly yours,

JAMES B. ALLEN.

THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, BOARD OF CHRISTIAN EDUCATION, FIELD SERVICES,
March 3, 1970.

Hon. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I have received materials from the "American Education Lobby" sent out in support of your proposal for a constitutional amendment, S.J. Res. 80, concerning the governance of our public school system. This letter is to express my opposition to such a proposed constitutional amendment.

First, let me say I do not necessarily agree with all of the actions our Federal Government has taken in a serious attempt to assure that all chidren and youth have free access to the very best type of education possible.

Secondly, I do state very definitely that there are well recognized inequalities in the quality of education being provided to various groups of pupils who are divided by racial and economic lines, and that these inequalities must be remedied. The various states are not taking effective measures to remove these inequalities, and therefore, our Federal Government must take action to assure that adequate education is provided to all our young citizens.

The third, and most important statement I would make in opposition to such a constitutional amendment as S.J. Res. 80 is that education can no longer be considered a local or even state matter. Recognized inequalities and injustices in education are not being dealt with effectively by local or even state authorities. Beyond this, public education is no longer even a state matter, for our people move freely and rapidly from one part of this great nation to another, and therefore, must have that quality and type of education which will enable children and youth—who will very soon be the decision-makers of tomorrow—to be able to live in new communities, find and perform new jobs and be responsible citizens in any part of this nation. Therefore, a local school system that may prepare pupils to live in that local community or state with its limiting customs of the past is entirely unable to provide education to enable pupils to be adequately prepared to live in any part of our vastly varied and changing nation. Therefore, it is essential that some standards and supervision of education be determined, not by local customs, but by the total national life of which we are all a part.

I would, therefore, oppose the proposed constitutional amendment, S.J. Res. 80, and hope for a broadened perspective that would see our children and youth as citizens of a great nation and whose education must for their own sake and the sake of the nation be freed from local limitations and expanded to be a preparation for responsible life in this nation, which is in fact, also part of what is becoming more and more "one world".

Sincerely yours,

CHARLES D. HINDMAN.

MARCH 12, 1970.

Rev. CHARLES D. HINDMAN,
The United Presbyterian Church in the United States of America, Board of Christian Education, Springfield, Ill.

DEAR REV. HINDMAN: Your letter in regard to the proposed Constitutional Amendment to return control of schools to the States is much appreciated.

The Amendment was introduced March 17, 1969 and is, of course, in the public domain. The American Education Lobby undertook to raise funds supposedly in support of the

Amendment without my knowledge or consent. I did not learn of the project until after the letters were mailed. Subsequently, on my instruction, the Lobby was firmly advised to discontinue the use of my name and of a card addressed to me which was inserted in their letter of solicitation.

I can agree with some of your observations in your letter, but I arrive at entirely different conclusions based on the same observations. In instances where you conclude that Federal Government ought to take action, I conclude to the contrary that state and local communities ought to take action or more effective action as the case may be.

Obviously we differ on more fundamental premises which are unrelated to the subjects of public school education, economic classes, race or religion. For example, I seem to detect in your arguments and conclusions an absolutist premise whereas I begin from a premise of limited government.

Should you care to explore the other side of the question, may I recommend "Essays on Liberty" by Acton on the point of absolutist government; "A Study of Racial Discrimination" by the International Commission of Jurists, Geneva, Switzerland, undertaken in 1965 on request of the Government of British Guiana with reference to the logical inconsistency and impracticability of racial ratios and racial balance as criteria of participation in public afforded services; from the standpoint of educational considerations; one could profit by reading the "Coleman Report" with special references to harmful effects of integrating a minority of White middle class pupils into a Negro majority school; on the moral question one might contemplate the idea expressed in a recent Alsop Column in which we are asked to consider the morality of compulsory busing of adults out of their home communities to achieve a social end. If wrong for adults, is it not wrong in the case of children? From a purely practical point of view, it would seem unnecessary to cite authority for the proposition that public school education cannot survive without public support. It is my judgment that public support in the absence of state and local control, cannot long be maintained anywhere in the U.S.

Let me conclude by assuring you that I am glad to get your viewpoints on this important subject and while I concur in much of what you say, I do not agree with your judgment respecting the remedy.

With sincerest best wishes, I am

Very truly yours,

JAMES B. ALLEN.

TIME TO OVERCOME RELUCTANCE TO OPPOSE GENOCIDE

Mr. PROXMIRE. Mr. President, I invite the attention of Senators to an article published in the St. Louis Post-Dispatch of March 17. The article, entitled "Our Reluctance To Oppose Genocide," is a reprint of a statement by Jerome Alan Cohen, professor of law at Harvard University.

As I have pointed out repeatedly, many of the arguments against Senate ratification of the Genocide Convention are based on emotional rather than rational reasoning. Professor Cohen affirms:

> The ABA bears a large share of the responsibility for our failure to ratify the Convention. . . . Its legal objections seem to be the product of exaggerated fears and gross misunderstandings.

Professor Cohen deals with the concern of many in the American Bar Association that ratification of the convention would lead to charges of genocide against the United States with regards to racial discrimination. He also brings up the point that the convention itself explicitly states that each concurring party would have to formulate supplementary enacting legislation to insure effective and fair procedures for any judicial action arising from the application of the convention. Many people opposing the genocide treaty do so out of an unclear understanding of this provision of the convention.

And finally, Professor Cohen forcefully notes that the real answer to many of the arguments is that the United States must rededicate itself to solving the problems responsible for the reservations of many in the ABA as to Senate ratification. I fully agree that this is crucial in order to "remove any basis for charges of genocide against our country."

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

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

OUR RELUCTANCE TO OPPOSE GENOCIDE

The costs of those tragic twins—racial discrimination and Vietnam—multiply daily. Perhaps that is the best way to explain why the House of Delegates of the American Bar Association (ABA) recently voted against favoring American adherence to the Genocide Convention.

This multilateral treaty specifies as "genocide" a variety of "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." It confirms that these acts are international crimes deserving punishment.

In 1948, out of revulsion for the wholesale extermination of Jews and other groups that had taken place during the previous decade, the United Nations unanimously adopted the Genocide Convention. The UN acted largely under the leadership of the United States, which declared the event "of great importance in the development of international law and of co-operation among states for the purpose of eliminating practices offensive to all civilized mankind."

Yet the U.S. has never ratified this treaty, despite the fact that 75 other countries have done so, the treaty has been in effect since 1951 and we continue to profess belief in its principles. This refusal to practice what we preach has further damaged American credibility both at home and abroad.

The ABA bears a large share of the responsibility for our failure to ratify the Convention. Its opposition played an important part in the defeat of initial ratification efforts in 1949.

Now once again the ABA has refused to give its blessing. Its legal objections seem to be the product of exaggerated fears and gross misunderstandings, which in turn reflect understandable defensiveness about American conduct.

Opponents of the Convention charge that it would impair the administration of justice in this country by requiring the punishment of broadly-defined acts. They appear to be especially concerned that racial discrimination might lead to a genocide charge—by the Black Panthers, for example. But no criminal prosecution can be brought on the basis of the Convention alone. It plainly specifies that each country must enact legislation to give effect to its provisions, so that Congress will have to spell out substantive safeguards.

The Convention authorizes trial before either an international penal tribunal or "a competent tribunal of the state in the territory of which the act was committed." No international penal tribunal has been established. Nevertheless, opponents argue that if one ever is established it might take cases away from American courts and try them according to un-American procedures. But the Convention makes clear that no international tribunal can operate against any country unless that country has accepted its jurisdiction. Obviously our government will not do so until it has satisfied itself about the powers and procedures of such a tribunal.

But, it is said, by permitting Americans to be tried in the court of another nation for a crime allegedly committed in that nation's territory, the Convention subjects them to the danger of a possibly unfair conviction of genocide. Opponents do not conceal their fear that American soldiers might be tried in both North and South Vietnam for atrocities such as those at My Lai.

This overlooks the fact that Americans are already subject to such trials. The Convention merely confirms that genocide is an international crime. Either of the Vietnams could bring genocide charges without relying on the Convention. Moreover, the same acts that constitute genocide—killing, for example—frequently violate other laws of virtually all countries. And North Vietnam, following Western precedents, has already claimed the right to punish American servicemen as war criminals for acts that could also be deemed genocide.

Rather than concern themselves with these and other equally insubstantial legal problems relating to genocide, American lawyers might do better to rededicate themselves to eliminate racial discrimination at home and racial extermination abroad and thereby remove any basis for charges of genocide against our country.

THE NEWSMAN'S PRIVILEGE ACT

Mr. FULBRIGHT. Mr. President, I am pleased to join as a cosponsor of S. 3552, the "Newsmen's Privilege Act," introduced by the junior Senator from New Hampshire (Mr. MCINTYRE).

Any infringement of press freedom, any intimidation of journalists, particularly by the Government, undermines the strength of our society and the role of the press as the public watchdog. If the press is to fulfill its role, the separation between it and Government must be clear.

All of us are familiar with the recent controversy about efforts by the Justice Department to subpena reporters' notes, confidential materials and television tapes.

The bill would protect the confidential nature of a newsman's information and sources except—and this should be emphasized—in cases which are libelous, illegally obtained, or a threat to human life or national security. It would protect newsmen from forced disclosure before any Federal court, jury, agency, commission, or Congress itself, of confidential information received by them in their capacities as newsmen. They would also be protected against forced disclosure of the sources of such information.

The canons of the American Newspaper Guild require newsmen to "refuse to reveal confidences or disclose sources of confidential information in court or before other judiciary or investigatory bodies."

Although 16 States, including Arkansas, have enacted "shield" laws which generally protect newsmen's sources, it is appropriate and important that we

have a uniform national standard as would be established by this legislation.

I believe that Mr. Julian Goodman, president of the National Broadcasting Co., stated the case well when he said:

We feel it is essential to have legal protection for our news sources so there will be no question of their right to speak to reporters without fear of damaging exposure or reprisal.

Mr. Goodman added:

To put it simply, I believe that all such subpoenas are against the public interest wherever they may compromise news sources or prejudice further news access. They are bad in principle, bad in practice and bad in experience, because their effect is to dry up and drive away the diversity of information the public must have.

The dean of the Columbia Graduate School of Journalism, Elie Abel, recently said:

I don't think there's a real danger to free expression from technology so much as from the fact that too many people have become too casual about such things as Federal subpoenas for notebooks and unedited films of newsmen and other forms of intimidation against the news media.

I hope that the Senate and the House, where identical legislation has been introduced by Representative OTTINGER and other Members, will act with dispatch on this matter.

Mr. President, I ask unanimous consent that several articles pertaining to this subject be printed in the RECORD.

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

[From the Washington Post, Mar. 9, 1970]

REPORTERS SEE THREAT TO FREEDOM

A 13-member Reporters' Committee on Freedom of the Press was formed yesterday to voice concern over what is viewed as government threats to information-gathering practices.

They noted that subpoenas seeking disclosure of confidential information and sources recently were served on reporters.

In a statement issued by the committee after a meeting attended by 35 reporters, the newsmen said such subpoenas endanger "the delicate process through which news is often gathered and disseminated to the public."

They said the practical impact of such court-ordered testimony "is to destroy whatever trust newsmen have developed among sources who can provide information not otherwise available to the general public.

"This has been particularly true in stories dealing with radical political organizations—such as the Black Panther Party or Students for a Democratic Society—whose suspicion of the courts and law enforcement agencies makes their confidence particularly difficult to develop."

The committee, set up at a meeting at Georgetown University, will act as a national clearing house for information on developments in this field; will sponsor a full study of the reporter's legal rights and responsibility, and will provide legal information and help to newsmen who request it, the statement said.

The committee members are James Doyle and Barry Kalb of The Washington Star; Robert Maynard of The Washington Post; Fred Graham, John Kifner and J. Anthony Lukas of The New York Times; Jack Nelson of the Los Angeles Times; Don Johnson of Newsweek magazine; Marvin Zim of Time magazine; Murray Fromson and Bill Stout of CBS, and Charles Quinn and Lem Tucker of NBC.

[From the New York Times, Mar. 8, 1970]

PANEL CRITICIZES ATTACKS ON PRESS—WARNS THAT PUBLIC APATHY THREATENS FREE SPEECH

(By Henry Raymont)

Some American politicians are following the ancient belief that by beheading the heralds who bring bad news they will make the bad news disappear, according to Elie Abel, the new dean of the Columbia Graduate School of Journalism.

"Some politicians seem to be making a calculated effort to turn an unquestioned public unhappiness with news into a weapon against the press," Mr. Abel said. "The idea is that when unpleasant things happen they should not be reported."

That, he told a seminar of media representatives, was the sense of much of the recent criticism of the press and television by Vice President Agnew and other Administration spokesmen.

"Agnew is trying to build public pressure in favor of suppressing reality," Mr. Abel charged. "That is not really new. It has a long history from the time the medieval kings beheaded the herald who brought bad news to the campaigns of Governor [George] Wallace, who berated newsmen as 'pointheaded intellectuals'."

ABEL MODERATED PANEL

The new dean, who for more than two decades reported on national and international affairs for newspapers and television, spoke as the moderator of a panel on "The Tube versus Type: Will the Written Word Survive the 70's." The discussion was organized last week by the Publishers' Publicity Association as one of the events marking the National Book Awards.

The panelists agreed, with one partial dissent, that current attacks on free expression and public apathy to their implications, pose a greater threat to the communications media than the widely discussed inroads of mass technology.

"I don't think there's a real danger to free expression from technology so much as from the fact that too many people have become too casual about such things as Federal subpoenas for notebooks and unedited films of newsmen and other forms of intimidation against the news media," Mr. Abel asserted.

Norman E. Isaacs, executive director of The Louisville Courier Journal and president of the American Society of Newspaper Editors, shared this view. He declared: "Why should we get into an argument on technology when what we are fighting for is the right to express ourselves in the face of a clear revival of McCarthyism. I frankly am shocked by the reluctance of many to really take a stand against this erosion of our basic freedoms."

[From the Daily Texan, Mar. 11, 1970]

NBC HEAD DEFENDS MEDIA AGAINST FEDERAL PRESSURES

(By Janice Haag)

American journalism is under the greatest attack today since the Sedition Act of 1798 when newsmen were jailed for statements displeasing to the government.

This assessment was made by Julian Goodman, president of the National Broadcasting Company, in a Sigma Delta Chi Foundation Lecture Tuesday night in the Academic Center Auditorium.

Speaking before a standing-room-only crowd, the NBC executive predicted that if pressures on the news media's judgment and independence continued, they would "create a clear and growing danger to the freedom of information secured by the First Amendment."

Calling on government officials to abandon the use of subpoenas on the news media, Goodman said, "The independence of the press is essential to the public interest the government is pledged to serve."

He also defended the television networks' policy for coverage of major presidential statements and the response and rebuttal which usueally follow the President's messages.

Goodman discussed the press' obligation to provide the public the information it must have to conduct its affairs. "This obligation cannot be delegated. It cannot be pursued on any other basis than the honest presentation of the facts and the background," he said.

About recent subpoenas to news media, Goodman said, "To put it simply, I believe that all such subpoenas are against the public interest wherever they may compromise news sources or prejudice further news access. They are bad in principle, bad in practice and bad in experience, because their effect is to dry up and drive away the diversity of information the public must have."

He continued, "We also feel it is essential to have legal protection for our news sources so there will be no question of their right to speak to reporters without fear of damaging exposure or reprisal."

In discussing NBC's policy of presidential coverage, Goodman said the network has always followed the policy of airing all significant sides of political controversy.

"Because a President's speech is one link in a chain of news, we believe such a message calls for analysis to give background and perspective to what he has said. This means presenting the President's speech in a framework of journalism, rather than simply contributing air time to it," Goodman said.

He continued, "We intend to continue this practice no matter what party constitutes the opposition. But within the standards of equal time and fairness, we must also remain the sole judges of what constitutes good news practice."

Goodman proposed a three point program for common action among media groups in support of their profession:

Full exposure and publicity on any government action that threatens the press function.

Explanation to the public of the issues at stake and its rights in the matter.

Support of legal defense of the rights of newsmen.

[From the New Republic, Mar. 21, 1970]

NEWSMEN AND THEIR CONFIDENTIAL SOURCES

(By Abraham S. Goldstein)

The outrage with which the news media greeted recent efforts by federal prosecutors to subpoena reporters' notes and TV tapes, and the hasty retreat beaten by Attorney General Mitchell, has obscured from view just how unsatisfactory the ultimate resolution was. The public was left with the impression that Mitchell had violated a right of newsmen to keep their notes and tapes confidential and that indignation had brought him to heel. The fact, however, is that in the federal system and in three-fourths of the states, reporters have no more right than the rest of us to withhold information demanded by the subpoena of a court, grand jury or legislative committee. Nevertheless, Mitchell concluded that it would be impolitic to press his power to the limit in the overheated atmosphere now surrounding Black Panthers and Weathermen. He proposed instead to negotiate in the future, rather than peremptorily to subpoena newsmen's files.

In short, the Attorney General reverted to what has long been the practice. Such "negotiation" inevitably involves a bargaining process in which the weak will feel pressed to divulge information while the strong will not. In 1945, for example, a congressional committee, which had voted a contempt citation for a well-known newsman who had

refused to divulge his sources, reversed itself after it was subjected to a barrage of press criticism. And Mitchell himself is following the "prudent" course lest the major media beat him in the court of public opinion.

The uncertainty as to when and where the journalist and his records are to be protected is fed by the paucity of case law. The Supreme Court has never dealt with the issue, and there are relatively few state decisions, in part because "negotiation" keeps cases out of courts. If we lived in a time when government investigators were less demanding or seemed more sensitive to the value of confidentiality, or when the need for a strong and critical press was less clear, the currently ambiguous situation might be tolerable. But this is not such a time. The paranoid tendencies latent in a mass society are running unusually strong these days and make all the more essential a clear standard which strikes the proper balance between the demands of confidentiality and those of the public interest.

The usual rule regarding subpoenas is that they compel disclosure of all information, written or oral, relevant to the concerns of the investigative or judicial body which issued them. The person who refuses to comply may be held in contempt and remitted to custody until he testifies. The underlying principle is that a rational society, and intelligent decision-making, depend upon a free exchange of information and that society is entitled to demand of its citizens that they make their knowledge available. Though it is currently fashionable to treat such demands as invasions of privacy, they can as easily be viewed as contributions to the common welfare. For every license to withhold information obviously carries with it the risk that a crime might not be discovered or successfuly prosecuted, or that the innocence of a defendant might not be established, or that a legislative policy might not be intelligently formulated. It is after all an "establishment" press which will be withholding information from the official establishment. The sources and the information protected today may involve Black Panthers and the SDS. Tomorrow, they may involve disclosure of corruption or abuse of power among public officials or corporate executives.

The news media themselves have been the most vigorous champions of access to all sorts of records and proceedings. And when confronted by governmental agencies with claims of an executive or legislative privilege to withhold information, they have been justifiably suspicious that such claims might be made less to protect the public interest than to subvert it. In this spirit, they have sought legal endorsement for their position through "right to know" laws and the federal Freedom of Information Act. Newsmen, therefore, occupy the uneasy position of espousing a right of access to the government's files while denying governmental access to their files. In doing so, they are placing the need to protect their sources, and their newsgathering procedures and relationships, above the state's right to a full investigation or a fair trial.

Despite the inconsistency of this position, there is ample precedent for it. We find in constitutional law the principle that truth is not an end in itself. The most conspicuous illustration is the limit on official inquiry inhering in the privilege against self-incrimination. The testimonial privileges also restrict official inquiry: husband and wife may not be compelled to disclose their communications with one another; the priest may not disclose his penitent's confession; the attorney may not reveal the secrets of his client. In many states, comparable protection is given to communications between physician and patient, accountant and client, social worker and client, psychologist and patient.

The recent outcry of the news media is in effect a claim for parity of treatment with the other professional groups. They argue that there is a strong public interest in freedom of communication within the journalist-informant relationship, and that such interest transcends the particular legislative or judicial or investigative interest in learning the content of the communication. They argue, in addition, that the disclosures are usually made in reliance on a promise that they will be treated as confidential; that the failure to protect such disclosures will dry up essential sources of information; and that adherence to their professional code of ethics will expose them to charges of contempt.

These assertions are far more credible for newsmen than they are for the other professionals. Most disclosures are made to an attorney because the client wants the best possible advice and because he realizes that he will be the loser if he withholds the raw materials on which such advice should be predicated. The patient tells all to his physician because he wants to be diagnosed and treated properly. Information is given to social workers, teachers and guidance counselors because there is a problem which calls for help. The persons who make such communications probably know very little about the degree to which their confidences may be disclosed in the future; but if they did, the immediate interest in getting good advice would probably prevail, the communication would be made, and the professional relationships would remain viable.

In the case of a journalist's privilege, the informant does not risk his health or liberty or fortune or soul by withholding information. He is likely to be removed by baser motives—spite or financial reward—or, on occasion, by a laudable desire to serve the public welfare if it can be done without too much jeopardy. His communication, more than the others, is probably the result of a calculation and more likely to be affected by the risk of exposure. In this instance, compelling the disclosure of a confidential source in one highly publicized case really is likely to restrict the flow of information to the news media. And by doing so, it may well interfere with the freedom of press guaranteed by the First Amendment.

In fourteen states, legislatures have been persuaded to enact statutes which protect the newsmen's sources. In eight of the states, the protection is absolute. In the remaining six, however, the privilege may be invoked only if the material derived from these sources has been published. Of the two solutions, the latter seems preferable because it strikes a balance in favor of the newsman only if he has indeed served the public by publishing the information and adding to society's store of knowledge. But it does not entirely meet either the need or the current problem. In some cases, the sources should be protected even if nothing has yet been presented to the public. And in others, the information should be protected as well as the source if vigorous reporting is to be encouraged. A newsman cannot be expected to learn what the Black Panthers or Weathermen or heroin users are doing unless he operates in an atmosphere of reciprocal confidentiality. He must be free to explore in detail, but at his own pace and in his own way. Interference with that exploration by official demands for information may make it immeasurably more difficult for the reporter to gain access in the future. For he will appear, after he has responded to a subpoena, to have been a police spy using deceptive practices in order to obtain information which would not otherwise have been disclosed to him.

The dilemma is a real one. It is relatively easy to justify protecting a confidential source when the public has been given the benefit of information obtained from that source. It is far more difficult when the newsman asks for immunity from subpoena for sources and information he may never expose to public view at all. For these problematic situations, a judge should be authorized, each time the privilege is asserted, to decide whether or not the investigative or adjudicative interest is great enough to override the public interest in confidentiality and a free press. As in the law of "government privilege" and self-incrimination, this could in most instances be determined by appraising the context in which the problem arises and the relative importance of the competing interests, without requiring the disclosure of the privileged material to the judge. The bill recently introduced by Rep. Richard Ottinger (D, N.Y.) adopts such an approach for the federal government and, with some modifications, might serve as a model "Newsman's Privilege" statute for states as well.

Disclosures to journalists are only a special instance of a much larger problem which has not yet received the attention it deserves. Communications are regularly made to schools, employers, banks, stores and the military on the erroneous assumption either that they will remain confidential or that they will be used for a limited purpose. Inadequately protected by law, they make up a fund of information which is increasingly available to public and private investigators. As the pace of inquiry and computerization increases, so also will the temptation to use these "dossiers." The current controversy between the prosecutors and the news media serves to remind us once again that our confidences are protected far less than we realize, and that a more sensitive law of confidential communications is long overdue.

PARTICIPATORY FOREIGN POLICY

Mr. MATHIAS. Mr. President, the adoption by the Senate of Senate Resolution 85, known as the national commitments resolution, is now seen as a crucial step in the recovery by Congress of the war powers invested in it by the Constitution.

The New Leader magazine of March 2, 1970, presents an interesting and provocative analysis of this important legislation, the reasons for its passage, and its historic implications. Written by Henry F. Graff, a professor of diplomatic history at Columbia, it affords a valuable perspective on the current dialectic between events in Laos and elsewhere and debate on the Senate floor. I recommend Dr. Graff's article to Senators and ask unanimous consent that it be printed in the RECORD.

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

THINKING ALOUD: PARTICIPATORY FOREIGN POLICY

(By Henry F. Graff)

At a press briefing several days before he delivered his February 18 state-of-the-world report to Congress, "United States Foreign Policy for the 1970's: A New Strategy for Peace," President Nixon declared that it "reflects my best view at this time of where we are and where we ought to go." But the recurrent theme of the 40,000-word message—"a more responsible participation by our friends in their own defense and progress"—may also reflect the fact that he is less free to make fresh "national commitments" than any of his predecessors in the White House.

Although Senate Resolution 85—chiefly the work of Foreign Relations Committee Chair-

man J. W. Fulbright—has received relatively little attention since its adoption by an overwhelming majority last June 25, many foreign policy watchers think it may have trimmed, if not clipped, the Chief Executive's wings. Known informally as the National Commitments Resolution, it states simply: ". . . it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the Executive and Legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment." (A commitment is defined as an undertaking to use the Armed Forces on foreign soil or a promise to send military or financial assistance to a foreign power "either immediately or upon the happening of certain events.") In a word, the Senate has said, "No more Vietnams without the approval of Capitol Hill."

What lies behind this remarkable assertion that Congress must be recognized as an equal partner of the President in the shaping of foreign policy? Coming as it does a generation after Franklin Roosevelt issued his "shoot on sight" order without consulting Congress, 11 years after Eisenhower sent Marines into Lebanon without consulting Congress, and almost five years after Johnson decided to "go North" without consulting Congress, an obvious answer is that the Executive Branch is being punished for the failure in Vietnam. The inability to "nail the coonskin to the wall" has exacted a cost from the Presidency, of which this resolution may only be an installment. In the bargain, Congress, feeling collectively embarrassed over its guileless support of the Tonkin Gulf Resolution in 1964, is blaming its wounded pride generously.

Vietnam is, however, far from the whole explanation for passage of SR 85. Unquestionably the persistence of international problems without end or solution, passed on from one Administration to another like family heirlooms, has underlined the limitations of the President's flats in the world, not to speak of the military measures often required to support them. There is a keen feeling in Congress, too, that the task of being the world's policeman—grimly and boldly undertaken in the days of Hitler, Mussolini and Tojo—has not only soured as a national policy but has become an unbearable military burden. In telling the President that he cannot be Chief of Police plus District Attorney, Judge and Jury in foreign affairs, Congress was demanding an end to a dispensation that had come to seem natural as well as anathema to millions at home and abroad.

It was inevitable, also, that in a time when almost every institution in society is responding to calls for fuller participation by the public in the making of decisions, the formulation of foreign policy would not remain an exception. An inclination in this direction has long been evident. Since the beginning of the century Americans have increasingly sat like a nation of Madame Defarges in constant critical judgment on their countrys' international agreements. Up to now, though, their judgments have come chiefly as after-the-fact reflections on irrevocable decisions.

Another ingredient of SR 85 is that Congress is beginning to recover at last from its chagrin at having been so terribly wrongheaded in 1919 about the possibilities for peace through collective security, and in the 1930s about the dangers to America from the Fascist dictatorships. Fulbright stated the matter baldly in 1967:

"Since at least 1945 when the Senate ratified the United Nations Charter with virtually no debate, Congress has been doing a kind of penance for its prewar isolationism, and that penance has sometimes taken the form of overly hasty acquiescence in proposals for the acceptance of one form or another of international responsibility. . . . In its deference to the Executive in foreign affairs, Congress has conceded him, and the experts around him, a kind of infallibility which the wisest among them would readily admit they do not have. Versailles, like Munich, has conveyed more lessons than were in it; its only lesson, as far as the workings of the American government are concerned, is the need not of congressional diffidence but of congressional responsibility. . . ."

In addition to these special factors playing at the moment on the relationship between the President and Congress, the Resolution may reflect a new swing of the pendulum in the ancient struggle for supremacy between those two branches of government. The Constitution is by no means clear as to where the dividing line is between the Legislature and the Executive in the responsibility for making foreign policy and war. The Framers expected reasonable men to be in charge of the Republic and did not write rigid guidelines.

The President's duties and powers are dealt with in only 320 words. With regard to international affairs the Constitution states that the President is to be sworn and bidden to "preserve, protect, and defend the Constitution." He is to be the Commander-in-Chief of the Army and Navy; with the advice and consent of the Senate he may make treaties; with the consent of the Senate he is to appoint ambassadors and other public ministers; and from time to time he may give to Congress information on the state of the Union and make recommendations for its consideration that he deems necessary and expedient. That is all the Constitution says about the President's power to make foreign policy. Beyond this he is guided by his conscience, his respect for tradition, his imaginativeness—including his sense of history—and his ability to persuade the people to follow him.

Congress, on the other hand, has the stated power to provide for the common defense and general welfare of the United States. It can declare war, raise and support armies, provide and maintain a navy, make the rules governing land and naval forces, call out the militia, and take charge of whatever part of the militia it presses into Federal service. In addition, Congress has the power of the purse and the power to regulate foreign commerce with the United States. Its relationship with the President is embraced in the words "advice and consent," a phrase recognized as vague ever since President Washington stormed out of the Senate chamber "in a violent fret," according to reports at the time, because he wanted consent more than advice.

History shows, as Edward S. Corwin, a distinguished scholar of the Presidential office concluded, that by its wording the Constitution offers to both the President and Congress nothing less than "an invitation to struggle for the privilege of directing American foreign policy." And experience has revealed that in this struggle the Presidency has immense advantages, which John Jay long ago pointed out in *The Federalist*: its unity, its superior access to information, and its capacity for secrecy and dispatch. A consequence has been to make Congress less active than reactive in the making of policy, and more eager to denounce it than to devise it. The names attached to the great dicta of American foreign policy, therefore, have been provided by the Executive Branch: Monroe, Polk, Hay, Theodore Roosevelt, Marshall, Truman, and Eisenhower. Congress has supplied the naysayers: from Thomas B. Reed to John W. Bricker; from Henry Cabot Lodge to Robert A. Taft and now J. W. Fulbright.

Still, the opposition to Presidential policy-making which SR 85 represents is a response to a deep-seated fear of Executive power that is a by-product of activist Presidencies. The United States has participated in approximately 100 foreign military operations since 1789—almost all of them a result of Presidential initiatives. These initiatives have become more frequent in this century, and since World War I especially they have sometimes been on a large scale.

Some critics of the Resolution argue that the handling of the Cuban missile crisis, the *Pueblo* incident, and the more recent case of the "spy" plane bagged over North Korea required such secrecy and quick decision that public consultation with Congress would have been precluded even if there had been a Commitments Resolution. Proponents know—or at least so they say—that in a crisis the President must act fast because he is the Commander-in-chief. Their concern is that in the major debacles of the past few years—the Bay of Pigs, the Tonkin Gulf, and the Dominican Republic—the President erred, and they note that in none of these cases was the urgency to act so acute that Congress could not have been consulted beforehand.

The unease about the power of the President to make war began to grow at the start of the 20th century. The so-called Philippine Insurrection of 1899–1902 was a bloody struggle that cost 4,000 American lives. Carl Schurz, the veteran politician and ardent anti-imperialist, denounced the fighting as a "President's War." "I ask any fair-minded man," he thundered, "whether the President, before beginning that war, or while carrying it on, has ever taken any proper steps to get from Congress, the representatives of the people, any proper authority for making that war."

Woodrow Wilson's actions in sending troops into various parts of Latin America, and most notably into Mexico against Pancho Villa, were accepted by the public without question. These were not foreign wars, it could be said; these were order-keeping expeditions appropriate for a people whose country had recently become a "first-rate power," and who would be forgiven if they occasionally confused technological superiority with moral superiority.

The military interventions continued to take place during the 1920s, remaining confined to this hemisphere. At the same time, World War I had turned millions of Americans into isolationists with respect to involvement in Europe and they found a style in being anti-President. The President—which meant *any* President—was an evil genius not to be trusted in international affairs. Most isolationists had a greater faith in Congress to keep the country out of war. But some sought an even better alternative. One effort, now generally forgotten, was the so-called Ludlow Resolution of the 1930s.

The work of Representative Louis Ludlow of Indiana, it was based, as is the National Commitments Resolution, on the conviction that the conduct of foreign relations requires no expertness or special training. Ludlow proposed a Constitutional Amendment providing that, except in case of an attack on the United States or its possessions or upon any country in this hemisphere by a non-American country, "the people shall have the sole power by a national referendum to declare war or to engage in warfare overseas."

Ludlow's argument was that war could be declared by a total of 267 persons in Congress, "while 127 million other people have nothing to say about it. Thus we find the war power vested in a very little group in Washington . . . that is singularly influenced and dominated by one other individual, the other individual being whoever happens at any given time to occupy the office of President of the United States." Roosevelt condemned the suggested Amendment in a letter to the Speaker of the House, saying it "would cripple any President in his conduct of our foreign relations; and it would encourage other nations to believe that they would violate American rights with impu-

nity." Early in 1939 the Ludlow proposal was defeated when the House failed to pass the discharge motion required.

A comparable and better-known effort to bind the power of the Chief Executive, grounded in much the same reasoning as Ludlow's, was begun in 1952 by Senator John Bricker of Ohio. It aimed to control the President through a Constitutional Amendment giving Congress regulatory power over "all Executive and other agreements with any foreign power or international organization." Once again it seemed right to many Americans that the nation try to protect itself not only from the actions of irresponsible or misbehaving Presidents but also from the actions of unwary Senators who might be pressured by the Chief Executive.

Under much heat from the White House, the Bricker idea failed in the Senate. A version was defeated in 1954 by only a single vote. The Presidency, therefore, was spared being punished for the Korean War. Still, the fact that Dwight Eisenhower, a victorious general and a Republican to boot, sat in the Oval Office had not protected him from the attack that the Republican isolationists mounted.

The National Commitments Resolution is an intellectual descendant of the Ludlow and Bricker proposals. While the Presidency has not been handcuffed, it has been put under surveillance, and the President himself is on notice. But the most important aspect of SR 85 is the support for it. This has come from "internationalists" as well as "isolationists" on both sides of the aisle. Besides Fulbright, the backers include Karl Mundt and Claiborne Pell, Jacob Javits and Herman Talmadge, James Eastland and George McGovern, Walter Mondale and Harry Byrd. Many of the staunchest advocates have long records of pleading for national efforts against aggression and international Communism, for foreign-aid programs, for technical assistance to emerging nations, and for intercultural relations; Fulbright's own name, indeed, adorns the most generous international fellowship program ever created. The movement of these men to their present stand has been as painful and as self-conscious as the lonely journey a generation ago that took Senator Arthur Vandenberg from the leadership of the isolationists to a proud place as one of the fathers of the United Nations.

The implications are portentous: These men are, in effect, criticizing the idea that a President must be as strong as he can make himself—a conception that has guided the reforming Presidents of this country from T.R. to L.B.J. They are also declaring that through the default of Congress the President's power has been allowed to burgeon and bulge, and that they are determined to realign the scales of power.

The response of the Administration to the Resolution, at least outwardly, has been of a traditional type so far: Yield not an inch. President Nixon admits that when he was in Congress he favored a limitation on the power of the President to act militarily. But now, he says, he thinks differently. He fears that "for a President of the United States to have his hands tied in a crisis in the fast-moving world in which we live would not be in the best interest of the United States." Nevertheless, in decrying SR 85 the Administration has not been forceful even though its opposition is unqualified. It relies on the fact that there is no simple formula for arranging the relationship between the Executive and the Legislature. And since the Resolution is only an expression of the "sense of the Senate," it is not legally binding upon the President.

The Administration, of course, is aware that the language of the Resolution is, or appears to be, ambiguous on an important point. Can the Executive make a commitment on his own hook if there is already supportive legislation or a pertinent treaty on the books, or does the requirement of Legislative as well as Executive action point to the need of specific joint intention to create a "commitment"? The answers affect significantly the arrangements to defend Thailand. Moreover, does the Resolution mean that joint Legislative-Executive steps are necessary in order to carry out a commitment as well as simply to enter into it? Time and crisis will provide both the interpretations and the answers.

A nice point raised by Senator Gale McGee of Wyoming, the outstanding critic of the Resolution, is whether the Senate is not engaging in some special-pleading. He speaks of the Senate demeaning itself in seeking a role in the shaping of foreign policy even as it demeans the high office of President. "Imagine," he says, "the impact on the prestige of any pro football team whose only excuse is that the other side has stolen the ball." The Senators' resolution, McGee declares, is deeply tinged with neo-isolationism—a withdrawal from world responsibility at the very time that the world is shrinking in size. On McGee's side is the startling fact that many of the arguments in favor of the Resolution might have been taken from Senator Taft's well-remembered speech of 1951 on the subject of Presidential power in foreign affairs, a speech that was widely denounced as isolationist.

The Resolution has broad support, too, among many thoughtful students of foreign policy outside of government. As they have become more "doveish" they are looking for comfort to the branch of government that is also "doveish." When they were "hawks" not so long ago, they defended the prerogatives of the Presidency, which happened to be "hawkish." Ruhl J. Bartlett, Professor Emeritus of Diplomatic History at the Fletcher School of Law and Diplomacy, gave extensive favorable testimony at the hearings the Senate Foreign Relations Committee held in 1967. Bartlett concluded that passage of a Commitments Resolution "could be the first great constructive act in returning the ship of state to a safer course." Henry Steele Commager of Amberst College, who twice in articles in the New York *Times Magazine* (1941 and 1951) came down hard in favor of the argument that the conduct of foreign relations rests exclusively with the President, has changed his mind. He avers today that the power of Congress in international affairs has been grievously eroded.

Commager's turnabout is not unique. In 1961, in a lecture subsequently published in the *Cornell Law Quarterly*, Senator Fulbright advocated a strengthening of the role of the President. "As the leader of a beleaguered community of free nations," he said, "the United States is under the most pressing compulsion to form wise and farsighted policies. . . . The essence of this compulsion is the conferral of greatly increased authority on the President. . . ." (Fulbright was unabashed by McGee's use of this material in the debate on the Resolution.)

Shortly after the Korean War ended Walter Lippmann, in his brilliant book *The Public Philosophy*, deplored the degradation of democratic leadership in foreign affairs, choosing as a descriptive the phrase "the enfeebled Executive." Later his unceasing criticism of the role of the President in the making of the Vietnam war became a significant element in the collapse of the Johnson government. Finally, it should be noted that in June 1968 the editors of the *Harvard Law Review*, never notably opposed to a vigorous Executive Branch, examined the respective powers of the President and Congress to commit forces to combat abroad and judged the Resolution (they had an earlier version of it) "a commendable attempt to restore the proper constitutional balance."

But if a new mood has descended on the country in which the intellectual leaders share, President Nixon need only be attentive; as his foreign-policy message suggests he has been, he need not be intimidated. Presidential power to act decisively in a crisis—including the use of troops—is not yet seriously eclipsed. Each Chief Executive as he begins his term reminds himself that history deals roughly with weak Presidents. He speedily makes up his mind, therefore, not to be a Buchanan. In his determination he can take advantage of his high, daily visibility and his easy access to the channels of public communication. Familiarity breeds confidence as well as contempt, and normally the President alone is in a position to mold public opinion on a national scale. Consequently, if the President and Congress should be at loggerheads, the battle may be uneven, especially if the President has personal magnetism, regardless of "the sense of the Senate."

The Resolution and the Senate debate on it convey the notion that Presidents require the additional wisdom that congressmen can supply. Among the assumptions, no doubt, is the idea that several hundred heads are better than only one, despite the fact that the world of cliché also knows the truth that too many cooks spoil the broth. Almost nothing in the American political process forces the voter to examine candidates for Congress as possible makers of foreign policy. Nor could anyone argue successfully with the view that, on the whole, the electorate has chosen better Presidents than congressmen, and is going to continue to do so. Then, too, the forces that play upon a congressman are likely to make him keep both ears close to the ground—familiar congressional acrobatics that, despite its usefulness, greatly reduces the angle of vision.

Another unspoken assumption underlying SR 85 is that congressmen are less bellicose than Presidents and, therefore, capable of exercising needed restraint. The record will always show, though, that the War of 1812 was a product of congressmen who forced their will upon a weak President. The sobriquet "war hawks," once reserved by historians for those militants of 1812, has been notably resuscitated in our own day to describe the supporters of a "President's War." The Spanish-American War was also thrust upon an unwilling President by a "hawkish" Congress. In fact, President McKinley responded to the loud beat of the drums just in time to prevent the men on the Hill from declaring war without a message from him.

As the pendulum swings toward Congress again, it is worth reminding ourselves that legislatures tend to be inert on most large questions, galvanizing themselves into action only at the last possible moment. The examples abound. Congress, archaic in its organization and functioning, is the branch of government least able to anticipate troubles abroad, alter the national policies at the choicest time, or break a lance in a bold and stirring cause.

Furthermore, a singular problem in the formulation of foreign policy in a democracy is the need to fix responsibility before the public. The Congress collectively cannot be the responsible agent and, therefore, cannot be co-equal with the President in fact. In the missile crisis in 1962 when President Kennedy announced to the congressional leadership his intention to establish a blockade of Cuba, Senator Richard Russell of the Armed Services Committee spoke up for bolder action. Kennedy replied that it was possible to respond as Russell had only if one did not have the responsibility for the consequences—in this case of killing Russians as well as Cubans. Six years later, Russell—who, incidentally, is credited by Fulbright with having played an important initiatory role in the framing of SR 85—was not alone among Senators who spoke quickly for harsh action against North Korea in the *Pueblo* crisis.

The question for the American people is not whether to choose between the President and the Congress as the keeper of the gate, or to seek some greater security in following them conjoined. Americans, to judge from many kinds of evidence, yearn for a policy in the world that will protect them as well as inspirit them—what the actions of the strong Presidents and their Secretaries of State seemed to produce until Vietnam. For all manner of reasons such actions are not likely to yield the desired results again in the foreseeable future.

The racial turmoil at home, for one, carries a message to every part of the world, and particularly to those places where Presidents have been inclined to act without consulting Congress. The message says that the power of the United States is enormous but strangely unaccompanied by conviction. The ringing phrases that were once part of the American arsenal—"all men are created equal," "liberty and justice for all"—seem empty, almost as if they were old heraldic mottoes. The American performance at home is not measuring up to the American promise to the world, and no amount of force—whether applied by the Executive or by the Congress, with or without the approval of the other—is likely to be persuasive.

The nation is shifting its sights and its feet, looking for a more effective stance. The effort to alter the present relationship between the President and the Legislature is only one stage in the correction taking place. It is not of itself a new move toward isolation—although it may foreshadow such a move. It has been undertaken in the hope of discovering a fresh way of defining such unavoidable concepts as "national interest" and "international responsibilities." The method chosen—the passage of SR 85—is obviously pregnant with possibilities good and bad, but probably not as significant as its sponsors believe and hope. The policies that achieve success hereafter will require approval far beyond the White House and the Capitol, separately or yoked.

FORT MONMOUTH, N.J., ARMY SIGNAL SCHOOL

Mr. WILLIAMS of New Jersey. Mr. President, rumors regarding a contemplated transfer of the Army Signal School at Fort Monmouth, N.J., have recently caused serious concern throughout my State. The continuance of this strategically important communications operation in the northeastern region of our Nation is vital; and the New Jersey Education Association and the Council of Eatontown, N.J., have unanimously passed resolutions expressing opposition to any such move. Their respective arguments are presented eloquently and cogently, and they merit consideration by Senators as well as by appropriate officials with the Department of the Army.

I ask unanimous consent that the resolutions be printed in the RECORD.

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

RESOLUTION OF THE BOROUGH OF EATONTOWN, N.J.

Whereas, the Department of Defense is presently conducting a study affecting the continuance of the Army Signal School located at Fort Monmouth, New Jersey, under the auspices of the Army personnel, commonly known as the Boatwright Committee; and

Whereas, it is anticipated that said Committee shall file its findings together with its recommendations with the Secretary of Defense on October 1, 1970; and

Whereas, a substantial portion of the facilities commonly known as Fort Monmouth lie within the geographic confines of the Borough of Eatontown, in the County of Monmouth, New Jersey; and

Whereas, the continuance of the Army Signal School at Fort Monmouth is a matter of community concern to the Borough of Eatontown and other adjacent municipalities;

Now, therefore, be it resolved that the Boatwright Committee consult with the affected municipalities and particularly with the Mayor and Council of the Borough of Eatontown in the course of its fact-finding endeavors; and

Be it further resolved that it is respectfully requested by the governing body of the Borough of Eatontown that the Department of Defense through its Secretary advise this Borough of the recommendations of the Committee prior to any public determination permitting this Borough, if necessary, to submit to the Secretary of Defense its viewpoint and recommendations.

Seconded by Mr. Dixon and adopted upon the following roll call vote:

Ayes: Councilmen Smock, Dixon, Stillwagon, Kaufmann, and Frey. Absent: Councilman Festa.

Nays: None.

Approved.

HERBERT E. WERNER,
Mayor.

RESOLUTION OF THE NEW JERSEY EDUCATION ASSOCIATION

The following resolution was adopted by the Executive Committee of the New Jersey Education Association at its meeting on Saturday, March 7, 1970:

Whereas, the United States Army Signal School at Fort Monmouth, New Jersey, has provided an invaluable service to the community, county, State and Nation; and,

Whereas, many of its faculty members are ably serving in the administration of public and private schools in New Jersey through membership on their governing bodies; and,

Whereas, many of the faculty members are participating in exchange teaching programs in the public schools and colleges of Monmouth County; and,

Whereas, the United States Army Signal School has shared its innovative methods in the use of media instruction with the public schools of Monmouth County and the State of New Jersey; and,

Whereas, the relocation of the Signal School would have a devastating effect on local schools because of the immediate loss of federal aid, and the exodus of supporting industry that would surely follow;

Therefore, be it resolved, that the New Jersey Education Association is unalterably opposed to the phasing out or relocation of the United States Army Signal School from its present location at Fort Monmouth, New Jersey; and,

Be it further resolved, that the New Jersey Education Association shall notify Secretary of Defense Melvin A. Laird, Senator Clifford B. Case, Senator Harrison A. Williams, Congressman James Howard, and other New Jersey Congressmen, of our concern regarding this contemplated move; and,

Be it further resolved, that the New Jersey Education Association shall immediately communicate this resolution to the National Education Association and urge their support of this resolution and any assistance they can afford us in our efforts.

SHORTAGE OF LOW SULFUR COAL

Mr. BROOKE. Mr. President, the current national emergency involving critical shortages of low sulfur coal seriously affects efforts to deal with the environmental problem effectively.

In order to reduce air pollution, our cities have attempted to limit the amount of sulfur that can be contained in coal burned by utility companies at the present time. The shortages of low sulfur combustibles are critical.

At a time when stockpiles are at the lowest level in history and production is uncertain, we have been permitting the export of substantial volumes of low sulfur coal.

Until such a time as we can assure sufficient supply and a reliable production of low sulfur steam coal, we should give strong consideration to appropriate action which would restrict the export of coal in order to insure an adequate domestic supply at tolerable prices.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on the subject, published in the Wall Street Journal of Wednesday, March 11, 1970.

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

SUPPLY-DEMAND PARADOX: COAL INDUSTRY'S NEW VIGOR IS BEING SAPPED; OUTPUT PINCH THREATENS ELECTRICITY LEVELS

(By Thomas Lindley Ehrich)

PITTSBURGH.—A litany of woes stemming from poor planning, labor problems and transportation snafus is hampering the first real boom the coal industry has experienced in a quarter of a century and is creating a supply pinch that threatens the nation with power shortages.

After years of minimal growth while utilities—the biggest buyers of coal—rushed to order nuclear generating units, the industry suddenly finds itself swamped by demand. Nuclear units haven't been installed as fast as planned, and demand for power has grown even faster than expected. Meanwhile, foreign countries have begun buying U.S. coal in large volume just at a time when domestic stocks have been slashed by last year's labor problems.

Thus, while other industries fret over waning business, King Coal has so many orders that the industry finds itself steadily falling behind in supplying this nation's needs.

"Things are in such deplorable shape that something has to be done about it," says James E. Watson, manager for power at the Tennessee Valley Authority. The TVA, one of the nation's biggest utility complexes and by far its largest single coal buyer, currently has a stockpile of 2.8 million tons of coal. Its normal full stockpile is eight million tons. Moreover, half the current stock is at two of the TVA's facilities, says Mr. Watson, while the remaining nine plants in the system have only enough coal to operate for a week or two.

The pinch has bred a kind of under-the-table market for coal, in which some operators are breaking delivery contracts signed years ago in order to sell their coal at higher current prices. It has prompted Armco Steel Corp. to suggest putting limits on coal exports. It's even triggered eager coal users to offer financing of new mines in order to assure themselves of future supplies, a rare move even in coal's heyday 30 years ago.

PINCH SEEN WORSENING

Meanwhile, the pinch is almost certain to get worse. If the threatened nationwide railroad strike materializes, it will halt almost all coal deliveries. On April 1 a stronger Federal mine health and safety law takes effect. According to the National Coal Association, an admittedly pro-industry trade group, the effect of the more stringent mining rules will be to slow production at most mines and

force an unknown number of the smaller, marginal mining operations out of business.

All this could leave some consumers without electricity this summer, when air conditioner use strains generating capacity. Utilities have less than a 60-day supply of coal on hand, compared with 71 days at the end of 1968 and 88 days in 1967. Some individual utilities, of course, have more. Dayton Power & Light Co. has more than a 60-day supply and is "in great shape," according to an official. Others aren't as lucky. "Some have gotten down as low as 10% of the 60-day to 90-day supplies they like to have," says a coal official.

"There is a quite lively prospect of power shortages and blackouts this summer," says a spokesman for the coal association.

PRICE INCREASES PASSED ON

Other coal-using industries, notably steelmakers, are even closer to the line. As of Dec. 31, that industry had an average of 19 days of coal supplies, down from as much as 49 days in 1968. "We like to carry 60 days," says a coal buyer at one large steel company, "but now 45 days supply is considered good."

Even if power shortages are avoided consumers aren't likely to escape one effect of the pinch—markedly higher prices. Like most other businesses in this inflationary period, coal operators have been hit by sharply higher labor and materials costs. Unlike others who've had to absorb at least some of them, the pinch is allowing coal operators to pass their increases right on to users.

"Prices rose 10% in 1969," estimates William Bellano, former president of Island Creek Coal Co. and recently appointed president of its parent, Occidental Petroleum Corp. "And there will be 15% to 20% increases this year," he adds, with many of them tied to the April 1 effective date of the Federal mining law.

Coal operators' price increase plans, moreover, could include wholesale renegotiations of long-term supply contracts signed in the early 1960s.

The aim, coal men say, would be to bring their escalation clauses, which are limited, more into line with the "sophisticated" escalation clauses written since 1967, which grant price boosts on a broad basis. John Corcoran, president of Consolidation Coal Co., a unit of Continental Oil Co., says, "We didn't know all we'd face in escalation costs" at the time the early contracts were signed.

For their part, many utilities, including New York's Consolidated Edison Co., have escalator clauses permitting them to increase utility prices as their raw material costs climb.

STRIKES DECREASE CAPACITY

On the face of it, the snafu in the coal industry is a simple case of not enough production capacity to meet demand. During 1967 through 1969, coal output held steady at about 550 million tons a year. Consumption of coal in the same period rose to 564 million tons from 530 million tons. Electric utilities coal use alone rose 15% during the three-year span. To make up the difference, users consumed an estimated 19 million tons of reserve coal in that period.

Why didn't coal operators increase output? In part, it was beyond their control. Labor trouble in the nation's coalfields, which never have been entirely peaceful, boiled over during 1968 and 1969, with several major wildcat strikes and an untold number of short, isolated stoppages, which cost about 10.5 million tons in lost production. According to one industry estimate, only one month during the past 18 has been strike free in the industry.

There's little agreement on the reasons for the strikes, though it's clear that dissent within the United Mineworkers union, last year's UMW presidential election campaign and heightened rank-and-file concern over mine health and safety were central causes. Besides strikes, increased absenteeism and more intensive efforts to increase mine safety have cut productivity, coal men say.

In part, though, the production shortfalls stem from the coal industry's failure to expand. During the early 1960s, production dwindled to 403 million tons a year, and electric utilities were rushing toward nuclear power plants. Fearing a sizable loss of utility business and the resulting overcapacity, coal operators almost stopped opening new mines.

"During the atomic scare," says Occidental Petroleum's Mr. Bellano, "there weren't enough new mines being built to take care of the new requirements of utilities and others and to take care of exhaustion of old mines."

FOREIGN DEMAND LEAPS

Nuclear plants ran into more than just production delays. For instance, construction was slower than expected, costs began to mushroom and a concerted opposition by conservationists slowed building even more. It currently takes as long as seven years to install a nuclear plant. Originally the utilities thought it would take about two years.

The stretch-out forced utilities to use more coal and hastily to add coal-burning power stations to meet power demand they'd expected the nuclear units to fill.

To top it off, a coal export market began opening up. Foreign steelmakers, especially the Japanese, have begun increasingly to buy metallurgical coal needed for making steel. In a $500 million transaction nearing completion, a Japanese trading company will pay Island Creek Coal nearly double the going price for 30 million tons of U.S. coal at a new Buchanan County, Va., mine to be financed by the Japanese.

Nor is there any near-term hope of balancing the output with demand. Labor troubles continue to plague the industry and may again boil over, coal men fear. Old mines are running at capacity, and it will be several more years before significant new capacity, being hastily developed, will make an impact. It takes from two to four years to bring a mine from start to full production.

Meanwhile, many coal companies are allocating their production as best they can. "Some companies have told their customers to figure on getting no more than 80% of what they got in 1969," says a large coal operator. Eastern Associated Coal Corp., an affiliate of Eastern Gas & Fuel Associates, figures only a 30% increase in production would fulfill its contract commitments. Like most companies, says John Phillips, Eastern Associated's president, "we were unable to meet all our contracts."

A HARDENING OF ATTITUDES

One big steel company, expecting a 20% shortfall in commercial deliveries, is considering working its "captive mines"—those owned outright—on Saturdays at overtime rates.

A few coal companies, aware that they can get more money for their coal, are reneging on contract commitments entirely.

Says Mr. Watson of the TVA: "One producer quit delivering to us in November and hasn't delivered a pound since then, though we have a contract." He says the TVA hasn't "yet" taken legal action, but he notes there have been some recent suits by power companies against coal suppliers on the same grounds.

The shortage of supplies and hardening attitudes among mine operators also has shattered some of the traditional relationships between consumer and supplier. "I never used to talk about this," says Mr. Watson grimly, "and a lot of utility executives still won't, because when you talk about coal shortages the prices go up. But I've crossed that bridge now. Our first obligation is service. Somebody has to talk about this."

Ironically, the coal industry's chance for a prolonged boom may be jeopardized by a number of factors. Growing concern over air pollution is bringing mounting pressure on utilities to clean up their smokestacks. Some big city electric utilities are switching to low-sulphur-content fuel oil or natural gas. Others are seeking to buy low-sulphur-content coal, which is in short supply. In time, the nuclear plants may live up to their expectations.

In the interim period, the coal industry may even have a hard time maximizing returns from the higher prices it gets. The transportation system that distributes coal, say both utility and coal men, is dismal.

For one thing, there's an absolute shortage of hopper cars. For another, the distribution of the available ones often defies logic. Thousands of empty cars may stand on unused spurs leading to small mines at the same time big mines have to stop production because they don't have enough cars. Nor is the situation any better on the delivery end. On Feb. 22, for example, some 19,000 hopper cars of coal were waiting at the Norfolk and Hampton Roads, Va., ports. Another 8,521 cars were on the way. The port was loading at the rate of only 2,000 cars a day.

Says one frustrated coal man: "If the coal industry could produce what it would like to produce, the railroads couldn't haul it."

EDUCATIONAL REVOLUTION IN AMERICA

Mr. McGEE. Mr. President, a revolution is going on today in America. There is an educational revolution, the scope and sense of which we are still not fully aware.

As Crosby Noyes observed in his column in the Washington Evening Star yesterday, the traditional concept of education is now in the process of being scrapped before a new coherent system has been worked out to replace it. Mr. Noyes wrote this in the context of what he sees as "snorts of derision" at the President's request for establishment of a National Institute of Education, which would function as a clearinghouse for educational research. Clearly, the revolution in education deserves deep study, as the column says.

I ask unanimous consent that the column be printed in the RECORD.

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

[From the Washington Star, Mar. 19, 1970]

REVOLUTION IN EDUCATION DESERVES DEEP STUDY

(By Crosby S. Noyes)

President Nixon's recent message to Congress on educational policy is a most unsettling document. Its major theme is that American education is in serious danger of flunking out.

The big problem, it seems, is not just more money or more schools and teachers, although these quite obviously are deficient. The big problem is that we still don't know how, or what, to teach. And in order to find out, Congress is being asked to set up a new clearing-house for research, known as the National Institute of Education.

One can hear the snorts of derision. If, at this late date, after all the money that has been spent and all the studies that have been made, we still don't know how to run an educational system, then heaven help us. If we really must start now to mount a "searching re-examination of our entire approach to learning," we are in a fine mess.

And so we are. The message has hit the essential and most disagreeable truth. We are faced with the problem of defining all over again what schools are and what they

are supposed to do. And this, in turn, calls for a basic redefinition of what we mean by "education" in modern society.

Revolution today is an overworked word. Yet the revolution that is taking place in American education is as profound as the one which took place 500 years ago when education was pretty much confined to the learning of Latin and Greek. Now, as then, the effect on the society is tremendous. And it is happening in a fraction of the time-span of earlier changes.

Education, to be sure, has come a long way in the last 500 years. But, for the last century or so, it has changed very little in its primary purpose. In most Western countries today, the educational systems still are geared to the objective of creating an intellectual elite—progressively more competitive sorting out of sheep and goats—in which brains and discipline—not to mention money and cultural background—are the essential assets.

It is this traditional concept of education that is now in the process of being scrapped at least so far as the public school system is concerned. It is being abandoned under the pressure of rapidly changing social necessities before a new coherent concept of an educational system has been worked out.

Hence, all the talk and all the confusion these days about "relevance" in education. Relevant to what? Well, for starters, relevant to the need of creating a successful multi-racial society. And next, relevant to the needs of the child in making a place for himself within that society.

In these terms, one must admit that there is much—perhaps most—in school curriculums that is irrelevant to all of the students: Black and white, rich and poor alike. What is being taught, for the most part, are the rudiments of long-established disciplines. But the disciplines themselves are changing so fast that the classic preparation is becoming more and more a waste of time and a source of irritation.

The difficulty is to work out a single system of education which will be equally relevant to blacks, whites, rich and poor. The basic tools, no doubt, remain literacy and language, and to acquire these, the most intensive remedial efforts can and must be made at the lowest levels of school and pre-school training. But beyond this, what is or isn't relevant in the system depends very largely on the individual's view of the society, as it is and as it ought to be.

Because one aspect of the educational revolution, at least, is perfectly clear: The function of the schools now is more than the preparation of children for a successful multi-racial society. The schools themselves are the principal mechanism by which such a society hopefully may be achieved. A truly integrated educational system, assuming that it can be created, is held to be essential to the creation of a truly integrated society.

Yet, only too obviously, this society does not exist today and probably will not for a good many years to come. So, to some extent, an educational system designed to give students the aptitudes and attitudes suitable to a successfully integrated society is preparing children for living in an unreal world.

It is in their perception of this dilemma that different people and different groups come to differing conclusions about what kind of an educational system is relevant to them. The problem greatly complicates the "new approach to learning" that is being attempted, and it will be examined in another article.

THE POSTAL STRIKE

Mr. WILLIAMS of New Jersey. Mr. President, it is essential that full-scale mail delivery service be restored immediately. The walkout or absenteeism of postal workers is in violation of Federal law, making them subject to specified penalties. But we must now take full account of the frustration of our mailmen over administration failures to correct totally inadequate wage scales through proposing further specific amendments to existing law.

Congress has been prepared to raise Post Office funds and is concluding action on pay raises for postal workers. I supported substantially higher wage scales for all postal employee grades, but I am at present concerned that there be no further delay in the enactment of this legislation.

However, the administration has frustrated congressional action on comprehensive improvements in wage scales and on making provision to extend the right of collective bargaining with binding arbitration to our postal workers, by tying these actions to an extensive reorganization of the Post Office system. I strongly believe that legislative action should be taken now on these specific matters, while Congress continues an intensive study of necessary postal reforms.

Nevertheless, the current work stoppage cannot be condoned. The crucial importance of the mail system to our economy and to millions of Americans must be clearly recognized. Post Office officials must make an intensive cooperative effort with postal union leaders to secure the immediate return to work of postal employees.

Nor can the administration continue to delay the fulfillment of its promises to postal employees on wage scale improvements and bargaining rights. Court injunctions and mail embargoes must now be supplemented by positive assurances that these valid needs of our postal employees will be acted upon as soon as possible.

APPLAUD FOREIGN RELATIONS COMMITTEE APPROVAL OF SENATE RESOLUTION 211

Mr. BROOKE. Mr. President, the Foreign Relations Committee has advanced the cause of a secure peace by its endorsement of Senate Resolution 211. The perfected resolution offers clear support for a concerted effort to head off deployment of MIRV—multiple independently targetable reentry vehicles—and other new strategic weapons.

My proposal for a suspension of MIRV testing and deployment has always been explicitly conditioned on progress in limiting other strategic weapons, specifically the total number of offensive missiles and the size of any anti-ballistic-missile deployment. The committee language specifically incorporates this call for a general freeze of offensive and defensive weapons at the present level. The resolution emphasizes that a mutual suspension of MIRV flight tests and deployment is a critical element in the effort to obtain such a freeze. Indeed, the principal means for verifying compliance with the proposed freeze on MIRV deployment is a moratorium on further flight tests of such technology, since such tests would be essential to deployment of the kind of accurate and reliable weapons which would jeopardize mutual deterrence.

The committee's favorable action provides the Senate an historic opportunity to render its advice on the grave issues of nuclear arms control. I trust that the 43 original cosponsors of Senate Resolution 211 will be joined by an overwhelming majority of their colleagues in prompt approval of this vital proposal.

By reinforcing the President's quest for strategic arms limitation, the Senate can facilitate serious and constructive diplomacy in the SALT negotiations which resume shortly. Senate Resolution 211 can be an essential vehicle in this effort. I applaud the committee's enlightened contribution to this campaign.

HUNGARIAN INDEPENDENCE—LAJOS KOSSUTH

Mr. WILLIAMS of New Jersey. Mr. President, March 15 marked the celebration of Kossuth Day, an appropriate tribute to a Hungarian revolutionist, Lajos Kossuth.

Kossuth, born in 1802, began his political career as an appointed deputy to an influential member of the National Diet. While holding this position, he gained an outstanding reputation through clever, politically oriented letters. His writings were so successful in influencing his fellow Hungarians that he soon became the editor of his own magazine.

However, Kossuth's attempt to initiate a movement for national reform was forcibly suppressed. In May 1837 he and several others were arrested on charges of high treason, and they subsequently spent 5 years in prison.

During his captivity, his reputation as a representative of the masses grew extensively, and upon his release, he immediately became the leader of a new political movement designed to draft reform.

With the help of a strong Hungarian army, the movement became successful. And on April 19, 1849, Kossuth and the movement declared their independence from Hungarian rule. But despite the support of the people, freedom from the Hungarian throne was short lived, and in August 1849 Kossuth was forced to flee from his nation and escape to Turkey.

Mr. President, the enthusiastic reception given to Lajos Kossuth in 1851 when he visited the United States demonstrated the concern of the American people for the cause of Hungarian independence. I ask, today, that this Nation continue to extend to the people of Hungary our good faith and best wishes.

MONDALE SUPPORTS COALITION FARM BILL

Mr. McGOVERN. Mr. President, the Senator from Minnesota (Mr. MONDALE) recently delivered strong testimony to the Committee on Agriculture and Forestry in support of a farm bill which he and I are sponsoring with a number of other Senators. It would make the Food and Agriculture Act of 1965 continuing

legislation, with some important improvements.

Senator MONDALE pointed out that failure to act would cause farm income to fall by a billion dollars or more in 1971, and he also said a review of the administration's generalized set-aside proposal shows it "would be far less effective in supporting farm income than current programs."

The statement, which I ask unanimous consent to have printed in the RECORD, notes that the cost of existing farm programs is less than 2 percent of this year's $200 billion Federal budget. I agree with Senator MONDALE's point:

I don't think that we should be on the defensive regarding the cost of an adequate farm program which stabilizes farm supplies and prices and gives consumers an abundance of high quality food.

Mr. President, this bill, S. 3086, has wide producer and congressional support. I would point out that 27 national farm and commodity groups now support the measure. Certainly Senator MONDALE has presented an excellent case for its prompt enactment.

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

STATEMENT IN SUPPORT OF EXTENSION OF THE FOOD AND AGRICULTURAL ACT OF 1965, BY WALTER F. MONDALE, U.S. SENATOR FROM MINNESOTA

Mr. Chairman and committee members, I joined with Senator McGovern and several other Senators on October 23, 1969, in introducing S. 3068, which we called the Agricultural Stabilization Act of 1969. At that time 22 national farm organizations and commodity groups had announced their support of such an Act. Since then five more commodity groups have added their support to this bill.

In appearing before you today, I want to restate my support of S. 3068 which, after adding a few amendments to strengthen farm income, would make the Food and Agriculture Act of 1965 continuing legislation. But I want to do even more. I want to urge your committee to move with all possible speed to report out an agricultural bill which has wide producer and congressional support. We must have a bill which will assure farmers a fair share of our National income and we must have it enacted well before August, the beginning of fall seeding of winter wheat for the 1971 crop.

Other witnesses have discussed the provisions of the continuing authorities which would become operative if the 1965 Act were allowed to expire without replacement. I want to add my warning regarding the decline in farm income which will occur if we fail to enact S. 3068 or a comparable bill in the next few months.

Analysts are generally agreed that farm income would fall by a billion dollars or more in 1971 if we fail to enact new legislation. Wheat producers would probably lose all their wheat certificate payments which will amount to $900 million in 1970. The second year, wheat acreage allotments probably would be reduced even further because loans at 50 percent of parity, now required in the continuing legislation, would cause stocks to pile up again.

Although cotton producers might receive higher incomes in 1971 if the 1965 Act is allowed to expire, the continuing cotton legislation would create unmanageable stocks of cotton, if not repealed. New legislation would be almost imperative the second year.

Feed grain producers would be most adversely affected in 1971. They would lose all their current payments which will total about $1.5 billion in 1970 and market prices would rest on the 50 percent of price support level provided in the continuing legislation. This will be about 90 cents a bushel for corn for the 1971 crop.

Although feed grain producers would incur the most serious income losses in 1971, if the 1965 Act is not renewed or replaced, cotton and wheat growers may incur the greater income losses over a 3 to 5 year period. Farm income losses would surely reach $4 to $5 billion a year—a fourth to a third of the net income now realized by farmers.

After the first year or two lower prices of grains, soybeans, cotton and livestock products would result in lower values for all agricultural assets. Cattle breeding herds and ranches might increase in value for a year or two but, they too, would decline after that.

The decline in agricultural income and farm assets would adversely affect all rural financial institutions and all public institutions in rural areas. The financial pressures created by lower asset values would affect the one million largest farms most severely.

In my own state of Minnesota farm program payments have exceeded $100 million every year since 1962 except for 1967. Last year they totaled $171 million. I have attached certain tables which reflect on this and other aspects of farm programs regarding Minnesota.

Livestock products make up two-thirds of the farm marketings in Minnesota. If the 1965 Act is not renewed, Minnesota farmers will lose farm program payments equal to a fourth of their net income in recent years. In addition they will suffer a substantial decline in their income from feed grains and livestock products as excessive supplies glut the markets.

I was impressed by your statement, Mr. Chairman, when you opened these hearings. As I recall, you reported that the farm prices for an identical market basket of food were only 8 percent higher in 1969 then in 1947–49. Yet during this period the processing and marketing charges for the market basket of food increased 55 percent.

I have been reminded many times by my farmer constituents that farm prices in 1969 were only 2 percent higher than 21 years earlier, in 1947–49, whereas the prices of goods purchased by farmers, interest, taxes and farm wage rates have increased 50 percent during this period. Quite frankly I have difficulty in understanding how the average farm family survives the cost-price squeeze in our current inflationary economy.

I don't think, therefore, that we should be on the defensive regarding the cost of an adequate farm program which stabilizes farm supplies and prices and gives consumers an abundance of high quality food. Actually only 5% of consumers after tax income goes to farmers for the domestically produced food they buy.

Farm program costs of $3 to $4 billion appear large when they are considered without reference to other parts of the government budget. But the government budget this year is $200 billion and farm price support program costs are only 2% of the total. If we can hold farm program costs at current levels when other costs are rising, they will be a declining percentage—less than 2% of the total budget.

Before going on to comment upon the generalized measure which the Administration finally sent forth as their program permit me to tell this Committee of the need for permanent advance payment legislation for wheat and feed grain producers. As you know, I have introduced a bill making advance payments to farmers participating in the feed grain program mandatory. This bill has 14 cosponsors. I am also a cosponsor of Senator Burdick's bill which does the same for producers participating in the wheat program.

At the time the Secretary of Agriculture announced its decision to eliminate advanced payments for the 1970 programs, I said this was a wrong decision for a number of reasons. First, halting such payments is not a cost savings to the government, but simply a shift in funding to another fiscal year.

Second, it will place a new financial burden on our farmers who must now borrow money at today's high interest rates in order to finance crop planting and operating costs. Third, the advance payments program has been working well for seven years. It is directly responsible for encouraging many farmers to sign up and divert acreage. Under the program those farmers who elect to participate receive an advance on their payments in the spring with the balance paid in August. Without benefit of advances, farmers may well choose not to sign up, thus planting heretofore diverted acres with resultant lower grain prices this summer and fall.

Last year Minnesota farmers received more than $31 million in advances under the feed grain program. For farmers to borrow the equivalent of $31 million for six months—assuming they could find 9% loan funds—would saddle them with nearly $1.4 million in interest charges. The on-paper savings to the Federal government in the current fiscal year does not seem adequate reason for imposing a new financial burden on family farms.

Our, bills, therefore, require the Secretary of Agriculture to make advance payments to producers under the feed grain and wheat programs. They would amend existing legislation requiring the Secretary to make not less than 50% of any payments under the programs to producers in advance of determination of performance.

I am told this bill will receive early hearings by a Subcommittee of the Committee. I hope these will come promptly since early sign up figures are most distressing—bearing out my earlier warning.

After the initial two weeks in the feed grain program, as illustration, only 42 percent of Minnesota farmers had signed up as compared to the 1968 program. Nationally, the figure is 65 percent.

Now, to return to the matter of major concern, I assume that at some time in the near future you will have Secretary Hardin come before you and explain in some detail how he would administer the proposed Agricultural Act of 1970 which his staff has drafted and sent to members of Congress. I fully endorse the goal of the proposed act, "To give farmers a wider range of decision-making on their own farms . . . through increased opportunity and flexibility for farmers to specialize in those crops which will maximize their net returns." But I doubt that the proposed Act will meet the acid test of maintaining farmers income.

Professor Luther Tweeten of Oklahoma State University was recently asked to make an economic appraisal of the Administration's "set-aside" proposal at a seminar sponsored by the Iowa Center for Economic and Agricultural Development. In his words the set-aside proposal is designed to provide restraints on production that will permit satisfactory levels of price and income and will neither inhibit the growth of markets nor place needless obstacles in the way of efficient farm operation.

After a detailed analysis of the most probably economic response to the set-aside provision in different sections of the country, however, Professor Tweeten concluded that they would be far less effective in supporting farm income than current programs. He concludes that if the cost of a set-aside program were held the same as for the current programs, $3.2 billion, then net farm income,

would be $0.5 billion less under the set-aside program. Said another way, the program is estimated to cost the U.S. Treasury $0.5 billion more than the 1969-type program in 1971 to achieve the same farm income.

He finds the set-aside program less effective than current programs in reducing the acreage of the major grains. If cotton, wheat and feed grain payments were kept at 1969 levels, Professor Tweeten estimated 10 million additional acres of feed grains would be planted.

This would be offset partially by the diversion of 15 million acres of minor crops, oats, tame hay, etc., under the set-aside program, but the increased supplies of feed grains would lead to lower prices and increased supplies of livestock products within a short time. Livestock producers would also experience lower incomes as output expanded against inelastic demand.

Professor Tweeten also observes that dropping the restraints on the production of allotment crops means that the conserving base will become a relatively more important factor than before in controlling production, yet some states have dropped or deemphasized the conserving base. States which have dropped the conserving base will be relatively advantaged under a set-aside program.

Mr. Chairman, I hope it will be possible for you to schedule Secretary Hardin's appearance before your committee at an early date so that we can obtain a better understanding of the advantages and disadvantages of shifting from our voluntary relatively successful acreage adjustment program for cotton, wheat and feed grains to an untried set-aside program.

Thank you for alloting me the time to appear before this Committee.

GOVERNMENT PAYMENTS TO MINNESOTA FARMERS
1966-68

[Dollars in thousands]

	1966	1967	1968
Conservation	$5,910	$7,069	$5,578
Sugar Act	3,298	3,275	3,343
Wool Act	835	615	1,220
Soil Bank	7,973	6,028	4,649
Feed grain program	105,200	62,141	103,424
Wheat program	9,796	11,247	11,863
Cropland adjustment	2,417	4,876	4,433
Total	135,429	95,251	134,510

Source: Economic Research Service, Farm Income, State Estimates 1949-68, FIS 214 Supplement.

REALIZED GROSS AND NET INCOME FROM FARMING
MINNESOTA, 1960 AND 1968
[Dollars in millions]

	1960	1968	Change percent
Cash receipts from:			
Farm marketings	$1,437.1	$1,864.9	+30
Government payments	31.7	134.5	+324
Value of home consumption	47.0	31.5	−33
Gross rental value farm dwellings	84.5	121.6	+44
Farm production expenses	1,167.3	1,571.5	+35
Realized net income	433.0	581.1	+34

Source: Economic Research Service, Farm Income, State Estimates, 1949-1968 FIS 214 supplement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPREME COURT OF THE UNITED STATES

The PRESIDING OFFICER. In executive session, the question recurs on the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

The Senate resumed the consideration of the nomination.

Mr. MILLER. Mr. President, on January 19, the President forwarded to the Senate his nomination of the Honorable George Harrold Carswell, a member of the Fifth Circuit Court of Appeals, to be a Justice of the U.S. Supreme Court.

Hearings on this nomination were held by the Senate Comimttee on the Judiciary on January 27, 28, and 29, and on February 2 and 3, 1970. The printed hearings were distributed to Members of the Senate on Monday, March 2.

Not being a member of the Judiciary Committee and not having any personal knowledge of Judge Carswell, it seemed prudent for me to study the hearings record before reaching a final decision on this matter. To do otherwise would be to make a judgment on a most important matter without considering the evidence—to indulge in "trial by the press" and to thus shirk the duties of a Member of a separate, coequal branch of our Federal Government in his exercise of the constitutional power of confirmation.

It should be pointed out that only last June 19, the Senate confirmed the nominee to his present position without debate. Perhaps the reason there was no debate was that there were no dissenting votes in the Judiciary Committee when the nomination was reported to the Senate with the committee's recommendation for approval. Similarly, there were no dissents at the time of the confirmation of his nomination to be a Federal district judge on March 31, 1958.

It should also be pointed out that no questions of substance have been raised regarding the nominee's adherence to the canons of judicial ethics—a far cry from the $437,000 financial interest in the case of Judge Haynsworth, which some journalists still persist in ignoring.

CIVIL RIGHTS DECISIONS

Shortly after the nomination was referred to the Senate by the President, news articles appeared which quoted from a speech given by the nominee over 21 years ago, August 2, 1948, when he was a candidate for the State legislature in Georgia. The quotation was:

> Segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed and I shall always so act.

It will be remembered that it was not until 1954 that the U.S. Supreme Court handed down its decision in the school desegregation cases of Brown against Board of Education, which reversed the longstanding "separate but equal" principle. However, since that time there has been a national commitment to the cause of civil and human rights—one which cannot be well served if biased individuals are elected or appointed to posts of leadership in our Government where the problems inherent in this great cause are not dealt with objectively.

When asked to comment on the statement he made over 21 years ago, the nominee said:

> Specifically and categorically, I renounce and reject the words themselves and the thought they represent; they are abhorrent.

Nevertheless, a number of witnesses appeared before the Judiciary Committee, seeking to show that the nominee's record on the Federal bench indicated a racist bias which would preclude his serving on the U.S. Supreme Court in an objective manner. One of the principal opponents to the nomination was Joseph L. Rauh, Jr., general counsel of the Leadership Conference on Civil Rights. Not to be overlooked are the facts that Mr. Rauh was national chairman of Americans for Democratic Action from 1955 to 1957 and is currently vice chairman of ADA; was vice chairman of the District of Columbia Democratic Central Committee from 1952 to 1964 and chairman from 1964 to 1967.

This witness placed the major portion of his argument on "the 15 cases in which Judge Carswell was unanimously reversed by the court of appeals in the area of human and individual rights," to use his words. He described eight cases in the field of civil rights and seven relating to habeas corpus proceedings.

Unfortunately, Mr. Rauh's presentation constitutes an example of the very bias which he sought to prove exists in the nominee. The presentation ignores all of the other civil rights cases in which the nominee participated as a Federal district judge for 11 years: six which were not appealed and four which were affirmed; also five since he was elevated to the court of appeals. The analysis appearing in the hearings record, commencing at page 311, discloses eight "pro-civil-rights" decisions; 10 "neutral"; and five "anti-civil-rights." The "neutral" decisions are classified into three groups: First, those in which Judge Carswell's ruling as a district judge was affirmed by the court of appeals, indicating his correct application of existing law; second, those in which he, while sitting on the court of appeals, joined in a unanimous decision; and third, those in which his ruling as a district judge was vacated by the court of appeals for reconsideration in light of U.S. Supreme Court or court of appeals changes in the law subsequent to Judge Carswell's district court ruling.

The "neutral" decisions include three claimed by Mr. Rauh to be "anti-civil-rights": *Wechsler* v. *County of Gadsden, Fla.*, 351 F. 2d 311; *Steele* v. *Board of Public Instruction of Leon County, Fla.*, 371 F. 2d 395; and *Youngblood and United States* v. *Board of Public Instruction of Bay County, Fla.*, CCA(5) No. 572.

However, Mr. Rauh did not reveal that in the Youngblood case Judge Carswell was one of the judges on the Fifth Circuit Court of Appeals who joined in a unanimous policy decision resulting in reversal of 13 cases—including Youngblood—in light of an intervening U.S. Supreme Court decision. Judge Carswell properly abstained from the decision re-

versing Youngblood, because he himself had sat on that case; but he joined in the others—all of which were governed by the intervening U.S. Supreme Court decision.

In Wechsler, the Fifth Circuit Court of Appeals vacated an order entered by Judge Carswell in light of two decisions handed down by the higher court after Judge Carswell entered his order.

And in Steele, decided by Judge Carswell in 1963, we have another situation involving an intervening decision of the fifth circuit in 1966, on the basis of which the district court decision of Judge Carswell was reversed in 1967.

Mr. Rauh apparently did not go to the trouble of looking to see whether the unanimous reversals of Judge Carswell in these civil rights cases represented reversals in light of intervening decisions which Judge Carswell could not have foreseen at the time he rendered his decisions. If he had done so, he could hardly have classified them other than "neutral."

Mr. Rauh's testimony with respect to the seven habeas corpus cases must be discredited for the same failure—either to properly research them or, if this was done, to present the full picture to the committee. Although his testimony received considerable publicity in the press and was, therefore, most unhelpful to the public's being fully and completely informed, the confirming power of the Senate must not be exercised on the basis of one-sided publicity.

Beginning at page 315 of the hearings report is a full analysis of these seven cases, along with the information that nine of Judge Carswell's decisions in habeas corpus cases were affirmed by the court of appeals—information which Mr. Rauh neglected to provide in his testimony. Nor did he point out in his testimony that in another case, *McCullough v. United States*, 231 F. Supp. 740, Judge Carswell had followed the more liberal position of the Fourth Circuit Court of Appeals in granting relief—a position later changed because of a less liberal position of his own fifth circuit.

As pointed out at page 318 of the hearings report, the question of when a hearing in this type of case is required has been a difficult one for lower Federal court judges generally, and seven reversals on different factual situations over a period of 11 years could hardly be considered a showing of bias against human and individual rights.

The one sidedness of Mr. Rauh's presentation is difficult to reconcile with his well-known ability as a lawyer and lays a foundation for concluding that his equally well-known partisan political proclivities simply overwhelmed the professionalism which should have characterized his testimony.

A complete and fairminded analysis of the decisions certainly does not leave the impression that the nominee would fail to serve obectively if he were a member of the Supreme Court.

THE COUNTRY CLUB ISSUE

One argument advanced by opponents of the nomination to support their allegation that Judge Carswell is biased is that 14 years ago, when he was a U.S. attorney with headquarters in Tallahassee, Fla., he was an incorporator and director of a corporation which took over from the city a golf and country club for the purpose of achieving a private, segregated facility. It is not argued that being a member of a private, segregated country club is illegal or indicative of racial bias. The argument, rather, is that it has been declared illegal to manipulate a transfer of a municipally operated facility, open to the public, to private ownership for the purpose of segregating the facility. And it is said that Judge Carswell knowingly participated in such a deal.

From some of the debate that has occurred and from the hearings record, it is apparent that the opponents have been confused between the Tallahassee Country Club and the Capitol City Country Club.

The Tallahassee Country Club was organized as a private country club in 1924. In August of 1935, during the depression, it turned over the clubhouse and golf course to the city, because the few members were unable to carry the financial burden; but it reserved the right to lease back the property should the city decide to lease or otherwise dispose of the property in the future.

In September of 1952, the stockholders of the original club reorganized and petitioned the city commission to return the property, because the clubhouse was run down, the golf course was in need of improvement, and the city—which had been losing some $14,000 a year in the operation—was unwilling to incur the expenses needed to restore the facilities. Finally, on February 14, 1956, the city leased the facilities back to the original club for $1 a year, thus getting out from under the $14,000 loss operation. The next day, February 15, 1956, a front-page story appeared in the Tallahassee Democrat captioned: "Municipal Golf Course Leased to Private Firm—Vote Is 4 to 1 as City Makes Deal for $1." The article reported that the representative of the original club, when asked if the course would be open to the public, said:

> Any *acceptable* person will be allowed to play. (Emphasis supplied.)

The article further stated that a former commissioner had said, at the time the proposal was first introduced 2 months before, that racial factors were hinted as the reason for the move.

Two affidavits from citizens of Tallahassee—page 274 of the record—claim that the transaction had racial overtones and that this was known to the public. Moreover, use of the phrase "acceptable person" could be interpreted as excluding Negroes in a racist environment.

However, Judge Carswell had nothing to do with all of this.

The following April 24, a new corporation—the Capitol City Country Club, Inc.—was organized, and on September 1, 1956, it took over operation of the facility from the old corporation. On September 5, there appeared an announcement by the new corporation on the front page of the local newspaper with the caption: "Country Club Corporation Elects 21 New Directors—Directors To Name Officers Before October 1." The announcement stated further:

> Public Can Play—Although the new club is now a private organization, the golf course facilities are open to the public at daily, monthly, or yearly green fees.

It is noteworthy that the announcement by the new corporation, in contrast with the statement from the old corporation, did not delimit the public availability of the facility to "acceptable persons."

Judge Carswell, who was U.S. attorney in Tallahassee at the time, was a nominal member, subscribing incorporator, and director of the new corporation. I use the word "nominal," because he was only one of over 400—including then Gov. LeRoy Collins—signed up for membership, each of whom paid in $100 toward a $300 membership; never attended a single meeting; did not participate in the management of the club or the drawing up of the bylaws; never had any discussion or heard anyone else discuss anything that this was an effort to take public lands and turn them into private hands for a discriminatory purpose; was not one of the 21 directors elected from a slate of 42—of which his name was one—obviously because of his inactivity; and the following February 1 withdrew his name from the club, requesting a refund of his $100; on February 12, he was refunded $76.

The degree of his inactivity is clear from his testimony in the record and also from the testimony of Julian Proctor, one of the original founders of the club, who brought all of the pertinent records before the committee for inclusion in the RECORD. In fact, Judge Carswell paid so little attention to the club that he thought he had received a certificate of stock for his $100—pages 12, 13 and 31; and Senator HRUSKA of Nebraska, in his questioning, thought that he had too—page 12. According to Proctor, however, no stock or membership certificates were issued until after Judge Carswell had withdrawn his membership—page 253.

In the face of the record, to argue that 14 years ago Harrold Carswell was a knowing participant in an illegal, racially motivated deal would be to draw inferences that distort the record. Those who would draw such inferences cannot distort the record in one place, to their advantage, and not permit inferences and distortion in another place to their disadvantage. If they wish to infer that Harrold Carswell knew this was a racially motivated deal when he paid in his $100 14 years ago, let his supporters infer that Harrold Carswell dropped out when he learned that it was a racially motivated deal. Either way, taking the evidence that he was not a knowing participant or distorting the record and inferring that he dropped out when he found it was an illegal, racially motivated deal, the opponents must fail on this point. Furthermore, there is no evidence that this was an illegal, racially motivated deal—as far as the Capitol City Country Club, Inc., is concerned.

ABILITY

Some of the opponents have loosely and superficially referred to the nominee as "mediocre," "incompetent," "undistinguished," "lacking the brains," possessing a background of no "demonstrated achievement" or "professional excellence," having only a "level of modest competence," and the like. One, for example, is Louis H. Pollak, dean of the Yale Law School, who testified "from what little I knew of him at hearsay and from the press" plus an admittedly limited review of some of Judge Carswell's opinions. Such testimony, from a registered Democrat, who, in turn, leans on the opinions of two other registered Democrats, Professor Van Alystyne of Duke Law School and Prof. John Lowenthal of Rutgers Law School, lacks the very "professional excellence" in which the nominee is claimed to be deficient.

Contrast this with the testimony of James W. Moore, sterling professor of law and 34-year faculty member of Yale Law School, "on the basis of both personal and professional knowledge: a vigorous young man of great sincerity and scholarly attainments—moderate but forward looking, and one of growth potential—a fine jurist." Contrast it with the letter—page 321 of the hearings report—from Mason Ladd, long-time dean of the Iowa Law School and, following his retirement, the first dean of the Florida State University Law School at Tallahassee: "Well qualified in every way—scholarly—free from prejudice upon the current issues of the day"—based on knowing the nominee well, personally. Contrast it with evaluations of several fifth circuit judges with whom he has served and who observed his record when he was on the district bench—set forth in letters appearing in the hearings record: "fine skill as a judicial craftsman," "superior intelligence," "an excellent writer and scholar," "his volume and quality of opinions is extremely high," "possesses the professional and judicial qualifications to be a distinguished Justice of the Supreme Court."

After reading a representative group of Judge Carswell's opinions, and taking into account the fact that a busy district judge rarely has the time to engage in long, erudite writing in the manner of an appellate judge, I cannot but conclude that Judge Carswell has the capacity to be a good Supreme Court Justice. Indeed, his responses to questions during the hearings display an ability to be both articulate and eloquent. This does not mean that I do not believe I could have selected someone whom I might, in my own subjective thinking, believe to be more erudite, more scholarly, or more experienced. Most Members of the Senate have their favorites and their preferences—just as we did when previous nominations have been made to the Supreme Court. But "preference" can hardly serve as a basis for evaluating a nominee of the President.

A DISTINGUISHED IOWAN WHO KNOWS JUDGE CARSWELL VERY WELL

I have already referred to the letter appearing in the RECORD from Mason Ladd, the long-time dean of the law school at the University of Iowa whom I have known well for 24 years. Dean Ladd has always enjoyed a reputation for being not only an outstanding educator and legal scholar, but for being a moderate, progressive, and very fairminded person. When he retired from his deanship at Iowa, he became the first dean of the new law school of Florida State University at Tallahassee in September 1966, from which he is now retired. He spends most of his time in Iowa, but occasionally returns to Florida State as a visiting professor of law.

On February 16, Dean Ladd wrote to me from Florida State University because, as he said:

I feel that the race claim and attack upon the Judge is a very unjust and unfair attack.

He went on to say:

I know Harrold Carswell very well . . . He is one of the five men with whom I visited when I decided to come down here to establish this new College of Law. At that time I made definite inquiry as to whether the law school would be integrated and how the blacks would be regarded. He was very definite in urging that Negroes be brought into the law school even though they might not meet the aptitude tests which we require of white applicants . . . I regard him as competent, capable, and he is one of the hardest working judges I know. I would very much like to see him go on to the Supreme Court.

Words and opinion from one of my distinguished fellow Iowans, who knows Judge Carswell very well, carry great weight with me.

I shall support the nomination.

Mr. KENNEDY. Mr. President, I believe that each Senator has two straightforward questions facing him:

First. Is George Harrold Carswell a jurist with sufficient eminence, intellect, legal scholarship, judicial insight, and professional leadership to be qualified, above all the other lawyers, judges, and legal scholars in the Nation, for one of the nine seats on our Highest Court?

Second. Has George Harrold Carswell performed his judicial functions fairly, justly, in accordance with the law, the Constitution, and the controlling decisions of higher courts, and with an objectivity that proves him able to separate personal prejudices from his official acts?

Unfortunately, for the President, the Senate, the nominee, and, most of all, for the country, the answer to both of these questions is clearly "No."

George Harrold Carswell's 12 years on the bench has provided no evidence whatsoever that he deserves to be placed in the first rank of American lawyers. Despite his long service, he has shown no ability to contribute to the development of the law. He has displayed no particular talent for articulating the logic of the law, for anticipating—or even keeping pace with—the direction of legal progress, for applying old legal concepts to new problems, for providing lawyers and judges with opinions which help explain and settle complex legal issues. Despite 8,000 opportunities to do so, he has rarely, if ever, produced opinions which generated interest or comment or respect in the legal community, with the exception of his human rights cases, which I will come to in a moment. Our Nation has hundreds, perhaps thousands, of eminent jurists and advocates and law teachers who have dedicated their lives to the study and advancement of the law, to the strengthening of the legal profession, of the progress of the judiciary, and to imparting an understanding of the law to aspiring lawyers. They are the standard against which every Supreme Court nominee must be judged, and by this standard George Harrold Carswell does not even merit consideration, let alone nomination.

Yet, even if Harrold Carswell's attainments and leadership did meet the minimum standards for Supreme Court eligibility, his performance as a district judge would disqualify him. The job of a district judge is to apply the law to the facts presented him, and to do so fairly, dispassionately, and objectively. He must take the law as he finds it, in the Constitution and in the code, and in the decisions of the Supreme Court and the appeals court for his circuit. To do his job well, he must adhere to both the letter and the spirit of those decisions, and must help explain their meaning and elaborate on their application. He must rule in such a way that his decisions will stand up on appeal, so that the workload of the higher courts is not expanded by the need repeatedly to substitute their decisions for his.

Judge Carswell has failed on all these counts. He has refused to follow controlling constitutional precedents, even when they had already been applied and explained in previous appeals from his room, has aided those who sought to own decisions. He has ignored statutes specifically mandating court procedures. He has been rude to lawyers in his court-evade his own decisions, has taken it upon himself to be advocate for one side in certain cases, even when representatives from that side did not choose to contest the proceedings. The evidence detailing these facts is set out at length in the hearings and in the minority report, but I think certain pieces of evidence bear repeating.

We have heard the charge that these facts were reported only by dissatisfied lawyers representing disappointed litigants and that, therefore, their recollections can be considered biased or faulty. We have heard claims that their views were based on brief encounters with the judge, so that they had an inadequate basis to get to know him. One Senator yesterday referred to these witnesses as lawyers who knew the judge only on a one-shot basis.

I believe that anyone who listened to the testimony of these witnesses, and had a chance to judge their sincerity and demeanor, would have been persuaded and moved by the facts each of them related. But one lawyer, in particular, provided information which leaves little doubt as to the facts. Mr. Leroy Clark is now a professor at the New York University Law School, one of the most respected legal training institutions in the Nation. From 1962 to 1968 he supervised all civil rights litigation in Florida for the NAACP legal defense fund. In that capacity and over that extended period of time, amounting to more

than half of Judge Carswell's tenure on the district court bench, Attorney Clark probably appeared before the nominee in more human rights cases than any other single lawyer in Florida. There can be no question whatsoever as to his substantive assessment of Carswell's work, for each of us can also make our own assessment from the printed opinions. Time after time, Judge Carswell threw plaintiffs or claims out of court on motions to strike or on motions to dismiss for failure to state a cause of action or similar motions. In layman's terms, the granting of such motions means that the defendant has met a heavy burden of proving that there is no possible way the plaintiff can win, that there are no real contested issues of law or fact, in short that even if the plaintiffs can prove everything they allege, there is no conceivable theory under which their claims can be granted. As every judge knows, these are extremely difficult motions to sustain. But Judge Carswell had no difficulty granting them when Negroes seeking to vindicate their rights were the plaintiffs. And so, plaintiffs were repeatedly denied a chance to prove their cases, and justice was either totally denied, where appeals were impractical or too late, or justice was substantially delayed, even where appeals could be taken in time to do some good. In some of those appeals, the reversal of Judge Carswell was so curt that one gets the impression there was a charade going on, a process in which the fifth circuit knew that almost any civil rights case in Judge Carswell's court had to go through his hands at least twice as a matter of routine. The Due case is indicative of this phenomenon. There the fifth circuit said:

> The orders of the trial court dismissing the complaint for failure to state a claim on which relief would be granted can be quickly disposed of. These orders were clearly in error.

The message here is not that Judge Carswell had a different view of civil rights from that of many Senators, or many citizens. The point is that he repeatedly decided difficult cases without even considering the issues, repeatedly refused to hold hearings on matters that were complex and plainly subjects, at least, of legitimate dispute. These are neither charges of mere judicial error, nor descriptions of judicial restraint—these are blatant examples of judicial abdication and judicial irresponsibility. If every judge acted as Carswell acted, and only did what the law required him to do when specifically told to do so by the appellate court in each case, then we would have no viable judicial system at all.

Let me stress again, however, Mr. President (Mr. HOLLINGS) that these are conclusions that all of us can reach from a reading of the judge's decisions and the appeals from them. We do not need to rely on the interpretations of Mr. Clark to see that Carswell's court was a barrier to law and justice rather than a source of law and justice.

But what Mr. Clark's testimony, based on his experience as a lawyer in Florida, adds, is a feeling for the tone and atmosphere in the Carswell courtroom, the factors of temperament and character that do not show up in a cold transcript or a written decision. Mr. Clark's description of these factors speaks for itself:

> Judge Carswell was insulting and hostile . . . He turned his chair away from me when I was arguing . . . It was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according to opposing counsel every courtesy possible. 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.

Mr. Clark was sophisticated enough and secure enough a person not to get upset by such behavior, and does not even now consider these matters as important for what they show about Carswell the judge as for what they show about Carswell the man. But for the Senate, some of whose members might be willing to accept a nominee's personal predilections, no matter what they were, as long as they did not affect the quality of his official performance, the implications of this evidence regarding Carswell the judge are crucial.

And let there be no doubt of the strength of this evidence. These are not merely the isolated recollections, after the fact, by a single attorney. They are fully corroborated by the first-hand testimony of other lawyers who endured the same treatment. And the accuracy of Mr. Clark's recollections of past events is confirmed by his contemporaneous reaction. At the very time of these events, Mr. Clark considered appearances before the judge by his younger associates to be such harrowing experiences, that he prepared them by making them rehearse their arguments the night before while Mr. Clark, playing the role of Judge Carswell, harassed them.

Given this evidence, we must ask the question, "Why?" Why would a member of the Federal bench perform so poorly in substance and in style? Why should he frustrate justice and ignore the canons of judicial behavior? What philosophy or theory of jurisprudence could explain his attitudes and his abdication? I submit that we have heard no suggestion of a legitimate rationale for these characteristics. And I submit that there is only one possible explanation which fits the facts:

This nominee to the Supreme Court was not able to divorce his personal prejudices and predilections from his official actions. His private resistance to equality of opportunity and of rights overwhelmed his public obligation to adhere to constitutional, and statutory, and judicial guarantees of such rights. His personal disagreement with the law of the land led him to public attempts to frustrate it. His was civil disobedience of the worst order, for it was clothed in the robes of justice.

We have heard the incredible suggestion that those lawyers who are unqualified for services on our highest court should have a representative on it. But I daresay that no one would suggest that those few judges who are unwilling to adhere to the Constitution, to the Federal Code, and to controlling cases, deserve a representative on the Supreme Court. The possibility that such a phenomenon might occur is a slur on all American lawyers and all American judges, but it is an especially disheartening show of contempt for those judges who have courageously followed the dictates of the Constitution, the code, and the cases—and of conscience—in the face of the most serious threats to their careers, their social stature, and even their personal safety.

What, then, is the argument in favor of this nominee? Reduced to its basic terms, the argument seems to consist of the following claims:

First. The President has the right to choose anyone he wants for the Supreme Court.

Second. There is no "ethical" issue here, so the Senate has no basis for rejection.

Third. The Court needs a southerner.

Fourth. There is a philosophical imbalance on the Court which needs to be corrected.

Fifth. The Senate already rejected one nominee for this seat, and as a matter of etiquette towards the President should not reject the second, no matter how unqualified he is.

Sixth. The Senate rejected Haynsworth and got Carswell, who is plainly worse; thus, if we reject Carswell, we will get a nominee with even poorer qualifications.

It is hard to believe that this is the case being made, but I think I have read or heard every one of those arguments being made, almost in those exact words, and I am embarrassed to say that on occasion they have been tendered and received with a straight face.

Let me take them up one by one:

First. "The President can choose his own Court."

Certainly no one who has read the Constitution of the United States can accept such a claim. The Founding Fathers very wisely divided the responsibility for designating members of the judicial branch of Government between the other two branches. The President selects the Supreme Court Justice with the advice and consent of the Senate. Both have a role to play, and those roles are equally important. The President has the power to select, but the Senate has the power and the responsibility to decide whether the person selected meets the needs of the Court, the Nation, and the times. This responsibility is particularly crucial in the case of the Supreme Court, for in no sense is the Court "the President's own," in the way that the Cabinet is, or that some administrative agencies may be. The President's term is 4 years; the Justice's term is life—perhaps 30 years to make decisions from which there is no appeal, decisions of life or death, decisions of peace or turmoil, decisions of progress or retreat, decisions of liberty or bondage. The President does not choose a Justice for himself, or to reflect himself. He chooses a Justice for the Nation, and to reflect the best the Nation has to offer. And very properly the Constitution mandates that the standards and the limits for that choice be set by the Senate, by 100

elected representatives of all the people, acting in the interest of all the people.

Mr. President, the Constitution makes clear that we are not supposed to be a rubberstamp for White House selections. We are not intended merely to be an outer boundary to prevent the appointment of thieves, madmen, or fanatics. We do not meet our duty if we place the sole burden on those who question a nominee's qualifications, and no burden on those who propose him. When a man is selected to be one of the nine members of our highest judicial body for the rest of his life, there is a substantial burden on those who support him to demonstrate that he is qualified professionally and personally, that he will do honor to the Court, that he will have the respect and attention of the bar and the populace, that he will contribute to the work of the Court and the growth and progress of the law, that he has a breadth of understanding and sensitivity that enables him to deal with the great issues of the day, and perhaps most of all, that along with whatever normal human failings he may have, he also represents the best instincts of mankind. That is a difficult burden to meet, but it is a vital burden. And it is not presumed to have been met as to a particular individual merely because the President nominated him. The act of nomination identifies the person as to whom the burden must be met; but under no conceivable logic can that act meet it.

The pragmatic proof of this all too obvious proposition lies in the nomination process itself. The fact is that under today's selection system, unless the Senate performs its functions fully and aggressively, the Nation has less assurance of the quality of Supreme Court appointments than of its lower court appointments. In the process of selecting district or circuit judges, there are at least three points where a candidate can be screened out quickly and quietly.

First, the Justice Department can screen him out based on its full field investigation of his background, associations, writings, speeches, and paper records, and the detailed opinions and comments of his friends, neighbors, associates, subordinates, superiors, and even his enemies. Although such investigations draw some local attention, that notice does not produce any real constraints, since several candidates for each position are usually investigated, and almost everyone knows who they are anyway. Since secrecy is not a factor, the investigations can be careful and thorough and even lengthy if necessary. On the basis of this full field investigation, the Justice Department can frequently eliminate many candidates for lower court positions, or identify issues or doubts for the White House to resolve. Candidates who survive this test must go through still another pre-appointment stage. All proposed district and circuit court appointments are submitted to the American Bar Association Committee on the Federal Judiciary, and no action is taken on any candidate until that committee's report has been received. The committee has time to complete a thorough survey in the limited areas of the candidate's professional experience, integrity, and temperament. It can reach its conclusions knowing that since the nomination has not been announced, a rejection will not embarrass anyone. And since it knows that its findings will be adhered to, it can act in frankness and candor, without a need to protect its own flank. The third screening occurs once the selection has been announced. At that time, the bar and the local public becomes aware of the nomination, but it is frequently identified more with the nominee's political sponsor than with the President himself. Thus, the President retains ample legroom—and the sponsor, ample incentive—to withdraw the appointment swiftly and silently if adverse information is uncovered after the announcement.

Thus, by the time the Senate committee, let alone the Senate, receives most nominations to lower Federal courts, they have been screened though all three of these effective screens, although naturally the screening standards are much lower than they would be for the Supreme Court.

The strange fact is, however, that although the standards for the Supreme Court are higher, the screening process does not work at any of those three stages. Because of the recent fetish for total secrecy regarding all high appointments, the Justice Department cannot conduct its full field investigation with the usual thoroughness. In particular, it can interview safely only those who are known to have the candidate's interest at heart and therefore will keep the secret. Thus, for all practical purposes, those with adverse information cannot be interviewed if the secret is to be maintained. The Department and the President are then left, as the two most recent Supreme Court nominations have demonstrated, with only a fragmented and lopsided view of the candidate, and with no idea of the problems in his background, character, or associations.

The ABA screening of the Supreme Court candidates does not help at all to fill this gap. Although Presidential Candidate Nixon promised in the fall of 1968 to refer all judicial nominations to the ABA's Federal Judiciary Committee for preannouncement screening, President Nixon in 1969 changed his mind and decided to do so only with respect to district and circuit judges. Thus, the Bar Association Committee hears of the Supreme Court nominations only when the public does, and, of course, only after the damage has been done, in the sense that the full prestige of the President and the Attorney General have been placed behind the nominee.

The committee is thus faced not with proffering private advice to the Attorney General based on neutral principles as to the candidate's qualifications, but instead must decide whether or not to buck the political powers that be. Moreover, they only have the briefest period to do so. In the Carswell case, the ABA committee was invited by telegram on January 21 to submit its views in advance of a hearing scheduled for January 27. At most, it had 3 working days to complete its very difficult task. The result was expectable. It succeeded in accomplishing only the most perfunctory checks on the nominee's qualifications, failing to interview personally or in depth even those who were known to the committee or its agents to have relevant information. In fact, it, like the Justice Department, failed to obtain or consider much of the derogatory information which the hearing and subsequent inquiries later brought to light. But once its finding of "qualified" was issued on January 26, its own prestige was on the line, and a change of position would have constituted not only a rebuff to the administration, but also an admission of the inadequacy of its own procedures and the shallowness of its allowed role. As expected, once the die was cast, the committee stuck to its guns, upon a post-hearing review of some, but not all, of the evidence.

While I am on this subtopic, let me mention exactly what that committee's finding is and what it is not, because this finding has been one of the two chief underpinnings of the pro-Carswell case since the beginning. The other, of course, was the Tuttle recommendation, otherwise loosely referred to as "the support of his colleagues on the fifth circuit." As we have seen, despite the use of the Tuttle letter in the hearings, in the majority views, in constituent letters, and on the floor, that endorsement disappeared less than 1 week after it was solicited by Judge Carswell, although none of us in the Senate knew of that fact until 1 month later at the earliest. As to at least one, and probably two other fifth circuit judges, it turns out that the support never existed at all. But returning to the ABA committee, the Attorney General made a statement on network television the other evening which may have reflected and encouraged a general misunderstanding of what the bar association role has been. The Attorney General stated that the nominee had been "highly recommended by the American Bar Association." I would suggest to the Attorney General, and I would hope that the media can confirm this with the association's president, that there are two basic errors in this statement. First, no one connected with the association has "highly recommended" anyone. Second, whatever was done was not done by the American Bar Association. The facts are that an appointed group of 12 members of the association, constituting the Standing Committee on the Federal Judiciary of the ABA, but not the ABA itself, gave the nominee a rating of "qualified," without any adjectives. As the Members of the Senate well know, the ABA is extremely jealous of the accuracy of its public positions. If in a legislative hearing we have an ABA witness, we are always carefully told whether he is expressing the views of a committee, a section, a council, some executive body, or of the entire house of delegates of the ABA.

Perhaps the Attorney General's unfamiliarity with these distinctions led him to make a loose reference, but I hope that we can be more discriminating here

on the floor of the Senate. As for his extra adjective and his substitution of "recommended" for "qualified," I think they can perhaps be attributed to understandable enthusiasm in the heat of battle, but again our debates should avoid that error. One related point, the distinguished minority leader indicated that the ABA Committee on the Federal Judiciary was appointed by the eminent and respected president of tne ABA, a constituent of the minority leader's, Mr. Bernard Segal. The minority leader seemed to imply thereby that Mr. Segal would endorse the Carswell nomination. First of all, the committee serves in staggered terms and many of the members were appointed by Mr. Segal's predecessors. Second, Mr. Segal has certainly made no statements endorsing Mr. Carswell, and the public statements he has made on the subject justify a conclusion that he at least has grave doubts about the nomination and probably opposes it. Finally, of interest in assessing the weight to give the finding of the ABA committee is the fact, which may or may not be relevant, that the chairman of that committee was appointed to a judgeship and a sub-Cabinet post by the previous Republican administration, and served for a year in an important post in the present administration.

Returning to the inadequacies of the screening process for Supreme Court candidates, we have reached the last stage, where the public and press provide the President with vital information overlooked in the previous two stages. But unlike district and circuit court selections, Supreme Court nominations cannot be withdrawn quietly and without substantial embarrassment. The President and the Attorney General have placed themselves on the line, and it is hard for them to retrace their steps without appearing to admit gross error, even though such error, as we have seen, is almost inherent in the machinery. Thus, for example, during the Haynsworth debate, even after the administration realized that there was a substantial chance of rejection, even after leading Republicans had pleaded with the President to withdraw the nomination, and even after the nominee himself had suggested withdrawal, the President and the Attorney General felt the necessity to push through to the bitter end, regardless of the consequences.

I hope that the lessons of last time have been learned, and that the serious problems which have been revealed, and the substantial opposition in the Senate, will persuade the President that, even if party loyalty carries the confirmation through, the nominee's effectiveness will be so seriously impaired and the Court's stature so compromised, that the nomination should be withdrawn before the Senate is forced to make a decision it should not have to make.

Concluding my assessment of the first argument in favor of Carswell, I think it is clear that the notion of absolute Presidential discretion is unsupportable in theory or in history, and totally untenable in practice.

Second. The Senate cannot reject without an "ethical" issue.

This argument errs both in its premise and in its conclusion. In the first place, it is myopic and disingenuous to argue that there is no ethical issue here. The evidence of the nominee's behavior in court, his aiding and abetting the circumvention of his own orders, his refusal to adhere to direct precedents in his own cases, his failure to carry out Supreme Court and circuit court mandates, and, in general, his failure to resolve the conflict between his personal prejudices and his official obligations, raises the most serious and sensitive ethical questions. Senator CRANSTON performed a most valuable service earlier this week by pointing out that even from a layman's perspective, the evidence against Judge Carswell appears to indicate multiple violations of the canons of judicial ethics. And Senator GRAVEL yesterday added a most succinct statement of the ethical issues.

If the claim of those who make this argument, however, is that there is no question of financial ethics here, in the present state of the record, then they are correct. But I doubt that the Senate is willing to agree to the proposition that the only ethical questions relevant to judicial appointments are ones with dollar signs. If other kinds of conflicts of interest and prejudice and abdication of official duties are deemed irrelevant, then the days of excellence and fairness and justice on the bench cannot last much longer.

Of course, even if there were no "ethical" question here, the Senate's jurisdiction and responsibility would not be eliminated. The Constitution does not say that the Senate shall provide its advice and consent only on "ethical" grounds, and the Senate has never considered its role to be so constrained. Certainly qualifications are a legitimate and necessary criterion for our review. Surely, understanding of the times and sensitivity to the Nation's problems are factors we may and should take into account. And without doubt, we can consider what the impact of an appointment would be on our national fabric and our legal institutions. So I think we can justifiably reject this argument both in theory and in fact.

Third. The Court should have a southerner.

Of course, the Court already has a southerner, so this argument starts at a disadvantage. Despite the fact that the present nominee would be the second southerner, I have heard no Senator—and no one else for that matter—express opposition on that basis. There can be no doubt that those who are opposed to this nomination on its merits would be gratified, and required, to vote to confirm any southern lawyer or judge with the eminence and qualifications for Supreme Court service. But we are not going to vote to confirm a man who is not otherwise qualified, merely because he is a southerner.

What is more, as one who went to law school in the South, and who knows firsthand of the many distinguished lawyers and jurists and scholars there, I think I would be extremely unhappy about this appointment if I had remained in the South. The clear implication is that the administration feels that George Harrold Carswell is the best the bench and the bar of the South can produce. That notion is an insult to every judge and attorney in the region, whether he considers his own qualifications to be better or worse than the nominee's. For the suggestion that this man is outstanding and superior by the region's standards betrays a low opinion of the region and its lawyers.

Again, if the President wants to choose another southerner, that is his privilege. But let him choose a man who is clearly qualified and a credit, not an embarrassment, to his region and his nation.

Fourth. We need to balance the Court with a conservative.

This argument was a familiar refrain throughout the 1968 campaign, and was a key argument during the Burger nomination. The Senate overwhelming voted for Chief Justice Burger despite his reputation as a strong conservative. Most of us, including most of those who are opposed to Carswell, felt that Judge Burger's qualifications were so outstanding that his particular jurisprudential philosophy was irrelevant, and that would be our position with regard to any eminently qualified candidate, no matter what his judicial philosophy. Again, if I were a judicial conservative, I think I would take umbrage at the implication that this nominee was the best of my stripe that could be found. And again also, the mere fact of "conservatism" cannot turn an unqualified candidate into a qualified candidate.

Fifth. "Etiquette demands that we not reject a second of the President's nominees."

Mr. President, if I had not heard this argument seriously discussed in these Halls, I would consider it laughable. This is not a matter of etiquette or noblesse oblige. The stakes are too high to yield to politeness. Our responsibilities are too grave to fall before the interests of the President's pride. We have a duty to our own consciences, to the Senate as a coequal branch of government, to the Court, to the Nation, and to the President himself, to see that his legacy and our legacy to the next generation of Americans is not a Court which generates disrespect and derision.

There is no escape from the fact that the President has displayed neither etiquette nor kindness nor sensitivity toward the Senate and the citizenry in his last two nominations to the Court. Why we should now sacrifice substance and duty to some vague notion of courtesy is beyond my understanding. The administration has twice erred. We must not compound the most recent error by ignoring it. We are not given the power and obligation of advice and consent merely for show, just to trot out and exercise every once in a while to prove that we still have it. It was given to us as part of a very careful division and balance of powers to protect our democracy and our liberty, our Government and our people. If we let "etiquette" take precedence over our constitutinal mandate and over national need, then we are abdicating our functions in the govern-

ment of laws. Chivalry is fine in its place; but it is no substitute for the Constitution, for reason, or for the U.S. Senate.

Let the President send us a nominee he, and we, can be proud of, and then we will show him how courteous and kind and cooperative we can be.

Sixth. If Haynsworth was bad, and Carswell is worse, just imagine what the next nominee will be like.

Once again, the logic would be ludicrous, something out of Art Buchwald or Russell Baker, if not for its repetition in the halls of the Senate. The clear message of the Haynsworth vote was "We want something better." Perhaps at the time Carswell was named, the President thought he was better; but as we have seen, we are in an a fortiori situation. It is difficult to understand how anyone who voted against Haynsworth, for whatever reason, can vote for Carswell. And it is unlikely that anyone who was troubled by his vote for Haynsworth can vote with a clear conscience for Carswell.

We cannot, we must not, assume that because there have been two serious errors in the executive branch, there will be a third, even more serious. Perhaps we in the Senate are partially to blame. Our assignment is not only consent, but advice. Perhaps if this nomination is defeated, we can be more forceful and direct in our advice, both as to specific candidates and general principles. The message of a vote of rejection now would be clear: "Mr. President, we want a candidate who is so clearly qualified that we will all be pleased to share in the honor of his appointment. We want a man who represents the best this Nation has to offer. We want a man who will do justice to the Nation in every sense of the word, whom the entire country can look up to, whose opinions will enlighten and stimulate, even if they do not persuade. Mr. President, we have many such men, and we will help you to find them." That will be our message if we reject this nominee.

If we confirm Harrold Carswell our message will also be quite clear: "Mr. President, you can appoint anyone you like, no matter how pedestrian, no matter how undistinguished, no matter how pedestrian, no matter how unworthy of respect, no matter how abhorrent to our ideals, our traditions, and our liberty. And you will not have the Senate to worry about any more. We consider advice and consent a vestigial power which we are content to allow to atrophy."

Surely, we cannot allow such a message to go forth. We cannot dash the hopes of those who depend on the Senate as a bastion of liberty and justice and constitutional supremacy. We cannot take the easy route of silence and inaction. We must raise our voices in protest, and we must take action.

Mr. MONDALE. Mr. President, there has been a great deal of discussion in recent days about the standards for choosing and approving nominees to the Supreme Court. It has even been suggested that a nominee's mediocrity and lack of distinction are not valid grounds for voting against confirmation.

I refuse to believe that a majority of the Senate adhere to that view. But the very fact that such an argument has been made says something about the faith which Judge Carswell's defenders have in the nominee's abilities.

That their faith is shaken is not surprising in light of the overwhelming record verifying Judge Carswell's "slender credentials"—his failure to distinguish himself as a suitable candidate for membership on the Nation's highest court. For example, a Republican organization, the Ripon Society, stated:

> Virtually all legal historians and scholars who have examined G. Harrold Carswell's record have found him to be one of the least qualified, if not the least qualified, nominee to the United States Supreme Court in the twentieth century. Exhaustive studies which have been performed jointly in the last month . . . give extremely strong statistical corroboration to the contention of judicial scholars that G. Harrold Carswell is seriously deficient in the legal skills necessary to be even a minimally competent Supreme Court Justice.

The Ripon Society conducted a very unusual study of Judge Carswell's record upon the district bench. On the issue of reversals on appeal, the society came to this startling conclusion:

From 1958 to 1969 as a Federal district court judge, 58.8 percent of all of those cases where Judge Carswell wrote printed opinions and which were appealed resulted ultimately in reversals by higher courts. By contrast, in a random sample of 400 district court opinions, the average rate of reversals among all Federal district judges during the same time period was 20.2 percent of all printed opinions on appeal. In a random sample of 100 district court cases from the fifth circuit during the 1958–69 time period the average rate of reversals were 24 percent of all printed opinions on appeal.

Judge Carswell's rate of reversals for all of his printed cases was 11.9 percent as compared to a rate of 5.3 percent for all Federal district cases and 6 percent for all district cases within the fifth circuit during the same period.

When these results are analyzed cumulatively, they form a most impressive indictment of Judge Carswell's judicial competence. The incredibly high rate of reservals—59 percent—which Carswell has incurred on appeals in those cases in which he has written printed opinions brings into serious doubt the nominee's ability to understand and apply established law.

On the basis of this evidence, the Ripon Society has urged Republican Senators "to uphold their party's best traditions by rejecting confirmation" of this nomination. Coming from members of the President's own party, this can hardly be viewed as a partisan attack on a President's Supreme Court nominee.

The Ripon Society's analysis of Judge Carswell's qualifications is similar to views expressed by deans and faculty members from law schools throughout the Nation. Dean Derek Bok of the Harvard Law School stated that Judge Carswell has "a level of competence well below the high standards that one would presumably consider appropriate and necessary for service on the Court." Dean Louis Pollak of the Yale Law School testified before the Judiciary Committee that Judge Carswell "has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court. With all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth this century."

And Duke University Law School Prof. William Van Alstyne, who testified in favor of Judge Haynsworth's nomination, told the Judiciary Committee:

> There is, in candor, nothing in the quality of [Judge Carswell's] work to warrant any expectation whatever that he would serve with distinction on the Supreme Court of the United States.

These strong and unequivocal expressions of "no confidence" in Judge Carswell's qualifications are not unique. As the dissenting members of the Judiciary Committee point out:

> The outpouring of professional dismay over this nomination has reached a level unequaled in recent history. Lawyers and law professors from all over the country, despite their preference for maintaining cordial relationships with members of the Court, have forcefully expresed their view that the Carswell nomination will demean the Court and dilute its stature.

This outpouring of professional dismay came to a head on March 13, 1970, when a group of almost 500 prominent members of the legal profession signed a statement urging the Senate to reject this nomination. This group—composed of Republicans and Democrats, liberals, and conservatives, academicians, and practioners—reminded the Senate of its constitutional duty in this matter:

> We respectfully urge that, although this is a second nominee for the vacancy, the Senate has a greater constitutional duty to exercise independent judgment in judicial appointments than it has in executive appointments. We believe that, in the exercise of that duty, the Senate should confirm an appointment to the Supreme Court only if the nominee is of outstanding competence and superior ability. Judge Carswell does not, in our opinion, meet that test.
>
> The Senate has recognized this obligation in repeated instances. For example, of the 71 Supreme Court nominations sent to the Senate during the nineteenth century by the Presidents, more than one-fourth were denied Senate approval (Charles Warren: The Supreme Court in United States History, Vol. II, pp. 758–762).

In addition to the nearly 500 prominent attorneys throughout the Nation who have urged the Senate to reject this nomination, nine of the 15 faculty members of the Florida State University Law School—a law school which Judge Carswell helped establish—yesterday wrote to the President of the United States, urging that his nomination be withdrawn. I think that statement, by a group of faculty members, is a significant statement indeed.

Given this overwhelming and unprecedented reaction to the credentials of a Supreme Court nominee by prominent individuals representing the mainstream of the legal profession, we might ask ourselves why the President made such a choice. Anthony Lewis, a distinguished

student of the Supreme Court, posed and then answered the question in a recent article:

> How, then, have we arrived at a point where a man with as minimal qualifications as Judge Carswell can be appointed? He was chosen, evidently, as an earnest of President Nixon's declared intention to roll back Supreme Court decisions that he thinks have gone too far in a libertarian direction. . . .
>
> But the tragedy is that the appointment of narrow men, men of limited capacity, will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed.
>
> The Supreme Court today needs more reason, more understanding, more wisdom. If it has strayed too far from the true vision of American life, as the President believes, those are the qualities that will bring it back. There is nothing wrong with the Supreme Court that G. Harrold Carswell can cure.

This evidence of Judge Carswell's minimal qualifications is, I believe, sufficient grounds for refusing confirmation. But there is a more fundamental reason for rejecting this nomination—one that involves a great deal more than diluting the stature of the Supreme Court by appointing unqualified individuals.

During the debate over Judge Haynsworth's nomination to the Supreme Court, I observed:

> The question before us is much broader and much more important than merely the nomination of a single individual to our highest court, as important as that would be by itself. The question really is the direction in which we will move in the country concerning the quality of rights which we say we stand for as a nation.

It is tragic that the nomination now before the Senate raises that same question—and raises it in an even more compelling manner.

For the Senate's acquiescence in this nomination will have an impact beyond that on the Court itself. At the very least, it will signify to millions of Americans that substantial evidence of an individual's hostility and insensitivity to human rights is no bar to membership on the Supreme Court. Perhaps even more important, confirmation of Judge Carswell will amount to an endorsement of this administration's calculated effort to reverse antidiscrimination policies developed over the past 10 years.

To determine Judge Carswell's position on human rights, it is not necessary to rely on a speech made 22 years ago. Even if that speech were erased from the record, Judge Carswell's actions since that time speak for themselves.

There are three basic aspects of Judge Carswell's career which clearly demonstrate his low regard for minority rights: his private activities, first as a U.S. attorney, and then as a Federal judge; his judicial decisions; and finally, his demeanor on the bench.

In regard to Judge Carswell's private activities, I believe that the three most disturbing facts are the following:

In 1953, Judge Carswell chartered an all-white booster club for Florida State University;

In 1956, he was an incorporator and director of a private segregated golf course, a move designed to circumvent the right of Negroes to play on a public course; and

In 1966, he signed a deed containing a "whites only" racial covenant.

There has already been a substantial amount of discussion about each of these episodes. However, it should be pointed out that these incidences take on an added importance in light of Judge Carswell's repudiation of his 1948 advocacy of racial supremacy. The nominee told the Judiciary Committee:

> There is nothing in my private life, nor is there anything in my public record of some 17 years, which could possibly indicate that I harbor racist sentiments or the insulting suggestion of racial superiority. I do not do so, and my record so shows.

As noted by the dissenting members of the Judiciary Committee:

> Judge Carswell's official and unofficial conduct must be scrutinized with this standard in mind, as well as for its implications regarding his professional qualifications.

Measured against this standard, the nominee's private activities "betray a continuing insensitivity to human rights and to his status as a Federal official and judge."

While there might be argument as to the real motive underlying Judge Carswell's private activities, there can be little doubt about the disregard for human rights continually illustrated in the nominee's judicial record. The minority report of the Judiciary Committee best describes this record as "one of obstruction and delay, amounting too often to an improper refusal to follow the mandates of the Constitution and the clear guidelines of the higher courts."

The accuracy of this summary is obvious after examining some of the more important cases decided by the nominee. On the vital issue of school desegregation, Judge Carswell has demonstrated that he believes more in "obstruction and delay" than in the Constitution.

In *Augustus* v. *Board of Public Education of Escambia County*, 185 F. Supp. 450 (1960), reversed 306 F. 863 (1962), civil rights lawyers attempted to present evidence on the necessity of ending racial segregation of school faculties as an essential step to making school desegregation work. Judge Carswell responded that black students have no standing to sue for desegregation of faculties, stating:

> Students can no more complain of injury to themselves in the selection or assignment of teachers than they can bring action to enjoin the assignment to the school of teachers who were too strict or too lenient.

He, therefore, refused to hold a hearing on the issue and struck it from the complaint.

This part of the decision was reversed when the case was appealed to the fifth circuit. The court stated that Judge Carswell was wrong to assume without thorough investigation of the law or the facts that Negro students could not possibly be injured by faculty segregation. The court ordered a hearing on the issues, saying that "whether as a question of law or of fact, we do not think that a matter of such importance should be decided on a motion to strike."

In another aspect of the same case, Judge Carswell delayed for a year and a half in obtaining a desegregation plan from local authorities. He then approved a plan which gave local authorities 1 more year before even token desegregation would begin. This plan also allowed only 5 days a year for blacks to request transfer to white schools, authorized the school board to reject transfer applications on general grounds, and provided insufficient notification of rights to black parents.

The plan approved by Judge Carswell was contrary to existing law. The memorandum filed by dissenting members of the Judiciary Committee pointed out:

> Because of the danger that such plans could be used to maintain segregation, the Fifth Circuit had previously held in 1959 that a school board's adoption of the Florida Pupil Assignment Law did not meet the requirements of a plan of desegregation or constitute a "reasonable start toward full compliance" with the Supreme Court's 1954 decision in *Brown-Gibson* v. *Board of Public Instruction of Dade County, Florida* 272 F. 2d 763 (1959). The Fifth Circuit had reaffirmed this decision in 1960. *Mannings* v. *Board of Public Instruction of Hillsborough County, Florida*, 227 F. 2d. 370 (1960).
>
> In *Gibson* the Fifth Circuit also held that the Pupil Assignment Law, even if administered nonracially, was not enough to satisfy a school board's duty to desegregate; it had to be desegregating its schools simultaneously with the application of the Pupil Assignment Law.
>
> Despite the clarity of the law on this point, and despite Judge Carswell's obligation to follow the decisions of the Fifth Circuit, the desegregation order he entered against Escambia County in 1961, provided, in effect, only that the Board should continue using the Pupil Assignment Law which, up to that time, had resulted in the continuation of a fully segregated school system. No meaningful additional steps were required.

The fifth circuit, of course, reversed this desegregation plan approved by Judge Carswell. The court found that the plan "has not gone far enough," and then instructed Judge Carswell as to the minimum that should be required.

In another important desegregation case, *Steele* v. *Board of Public Instruction of Leon County*, 8 Race Rel. L. Rep. 932 (1963), Judge Carswell approved a desegregation plan giving all children blanket reassignment to the segregated schools they were presently attending; black children wishing to attend an integrated school would be required to follow the procedures of the Florida pupil assignment law before being reassigned to a white school. In addition, the Carswell-approved plan provided for desegregation at the rate of only one grade per year.

The the fifth circuit had already ruled every aspect of this plan unconstitutional in the previously decided Augustus case did not deter Judge Carswell. His disregarded for the guidelines of the fifth circuit was again illustrated a year later in *Youngblood* v. *Board of Public Instruction of Bay County, Florida*, 230 F. Supp. 74 (1964). In that case, Judge Carswell approved a plan intended to prevent anything but token integration—this plan, too, was based on the Florida pupil assignment law.

Judge Carswell's record in desegregation cases also demonstrates his refusal to speed the pace of desegregation. Ignoring various rulings by higher courts rejecting grade a year desegregation plans and calling for faster desegregation, Judge Carswell continued to deny plaintiffs' motions to change these plans in the counties under his jurisdiction.

As a result of Judge Carswell's refusal to abide by the Constitution and by higher court rulings in desegregation cases, two of the three school districts under his supervision were among the only four reported Florida districts maintaining completely segregated faculties into 1967. More than 90 percent of the black children in the Tallahassee schools were still in separate and completely segregated schools. Southern Education Reporting Service, statistical summary, 1966–67, page 11.

There are other illustrations of Judge Carswell's refusal to follow the law in cases involving racial discrimination.

In *Due* v. *Tallahassee Theatres, Inc.*, 335 F. 2d 630 (1964), Negro plaintiffs filed for injunction to restrain a conspiracy among theater owners, city officials, and the county sheriff to enforce a policy of segregated operation of theaters.

Judge Carswell dismissed three of five claims in the complaint for failure to allege a claim on which relief can be granted. No evidentiary hearing was afforded.

The fifth circuit was unanimous in reversing this decision, with Chief Judge Tuttle stating that:

> The orders of the trial court dismissing the complaint for failure to allege a claim on which relief could be granted can be quickly disposed of. These orders are clearly in error.
>
> * * * * *
>
> It appears, in fact, to be a classical allegation of a civil rights cause of action.
>
> * * * * *
>
> There is no doubt about the fact that the allegations here stated a claim on which relief could be granted, if the facts were proved.

In *Dawkins* v. *Green*, 285 F. Supp. 772 (1968), plaintiffs alleged that city officials had initiated bad faith prosecutions against them to retaliate for past civil rights activities and to intimidate them from engaging in future civil rights activities. Judge Carswell again granted the defendents' motions for summary judgment and dismissed the case. The fifth circuit reversed this decision, stating that "no facts were present so that the trial court could arrive at its own conclusions."

And in *Singleton* v. *Board of Commissioners of State Institutions*, 356 F. 2d 771 (1966), a suit to desegregate Florida State reform schools was brought by former inmates on probation at the time of the decision. Plaintiffs were still inmates when the suit was filed. Judge Carswell dismissed the complaint for lack of standing, stating that the plaintiffs were released from original commitment and were no longer under the board's custody.

The fifth circuit again reversed Judge Carswell, stating that the plaintiffs were released on conditional probation, and were thereby subject to recommitment if they violated the conditions. The Court found that this is "well within" the requirements for standing. The Court also observed that Judge Carswell's reasoning would prevent desegregation in reform schools, since an inmate's average stay was less than the time required to file suit and obtain a court order.

There are various other cases decided by Judge Carswell—involving issues of civil rights and of criminal rights—which present the picture of a judge who follows his own beliefs rather than constitutional and legal requirements. For example, there are at least nine criminal cases in which Judge Carswell was unanimously reversed by the fifth circuit for refusing to grant an evidentiary hearing in habeas corpus proceedings or similar proceedings under 28 United States Code, section 2255.

It is no wonder, then, that the dissenting members of the Judiciary Committee concluded that Judge Carswell's record:

> Reveals that he is not, in fact, a "strict constructionist" in any sense of that vague term. Indeed, he has displayed little, if any, regard for the principle of "stare decisis" when its application has directly required him to follow the holdings of the 5th Circuit and the Supreme Court in civil rights cases. His decisions in this area merely reinforce the picture of a judge who was unable to divorce his personal prejudices from his judicial functions.

Perhaps the most distressing aspect of Judge Carswell's overall record is the testimony before the Judiciary Committee concerning his courtroom demeanor when dealing with civil rights litigants and their lawyers. According to Prof. Leroy Clark, a black attorney who supervised the NAACP legal defense fund litigation in Florida between 1962 and 1968, Judge Carswell was:

> (T)he most hostile federal district court judge I have ever appeared before with respect to civil rights matters . . . Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.
>
> 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.

Since appearing before Judge Carswell was such a unique experience, Mr. Clark was forced to take extraordinary precautions. He told the committee that—

> (W)henever I took a young lawyer into the state, and he or she was to appear before Carswell, I usually spent the evening before making them go through their argument while I harassed them, as preparation for what they would meet the following day.

Three other attorneys appeared before the committee and verified Professor Clark's characterization of Judge Carswell's courtroom behavior. One of these witnesses, Norman Knopf, is now a Justice Department attorney who testified pursuant to a subpena. He corroborated the testimony of Prof. John Lowenthal of Rutgers University Law School that Judge Carswell "expressed dislike of northern lawyers" appearing in southern civil rights cases. According to Mr. Knopf:

> Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on . . . It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people, and he in effect didn't want any part of this, and he made quite clear that he was going to deny all relief that we requested.

Judge Carswell's hostility went beyond discourtesy and rudeness. These lawyers also testified that Judge Carswell acted outside a judicial capacity to detain civil rights workers in jail and to insure that nine clergymen arrested as "freedom riders" would retain a permanent criminal record.

I have been a lawyer for 15 years and served as attorney general in my State for 5 years, and I have never heard of any judge doing that sort of thing.

In addition to these witnesses, further evidence concerning Judge Carswell's antipathy to attorneys representing civil rights litigants was presented to the Senate by Senator CRANSTON on March 18, 1970. The distinguished Senator from California spoke with two other attorneys who had appeared before Judge Carswell and who had experienced the same hostility. Senator CRANSTON recounted his conversation with one of these attorneys, Theodore Bowers, of Panama City, Fla.:

> He said of his experiences in Judge Carswell's court that the judge was hostile, even in regard to routine procedural matters.
>
> He stated that civil rights cases seemed to affect him emotionally, that he would get excited in the course of such trials in his court.
>
> Bowers told me that Judge Carswell turned away from him, looking off to the side, turning his body to the side, when he was presenting an argument. He stated that Judge Carswell stayed turned aside throughout half of his total argument. He argued for 10 minutes, and for 5 of those minutes Judge Carswell was looking away, had turned bodily away, seemed to be totally ignoring the case he was seeking to make.
>
> He stated that Judge Carswell would appear especially hostile when he, Theodore Bowers, or others cited decisions of the Supreme Court. Judge Carswell attacked Supreme Court decisions while he was sitting on the bench of a lower court.
>
> All this, said Bowers, was a consistent pattern of behavior by Judge Carswell from 1964 until 1968, when he left the court where these observations were made.
>
> Theodore Bowers added that the judge would attack attorneys appearing in desegregation cases, and all this, he said, constituted what he would term to be "totally improper judicial posture."

I fully agree with Senator CRANSTON'S contention that Judge Carswell's courtroom behavior raises serious questions that he continually violated canons 5, 10, and 34 of the Canons of Judicial Ethics, which read as follows:

> 5. Essential Conduct
>
> A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.

10. Courtesy and Civility

A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.

* * * * *

34. A Summary of Judicial Obligation

In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, *courteous, patient,* punctual, *just, impartial,* fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; . . .

Somewhat like those of us in the Senate:

He should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

Despite the seriousness of the charges of unfairness and hostility made before the Judiciary Committee, Judge Carswell did not reappear to rebut these charges. Instead, he issued a general statement that there has never been "any suggestion of any act or work of discourtesy or hostility" on his part.

To accept this statement, we almost have to believe that four attorneys perjured themselves before the Judiciary Committee.

The significance of Judge Carswell's courtroom demeanor is best explained in the minority report on this nomination:

Our judicial system must accord litigants a fair hearing. Justice is not dispensed when a judge's personal views and biases invade the judicial process. In Judge Carswell's court, the poor, the unpopular and the black were all too frequently denied the basic right to be treated fairly and equitably.

Judge Carswell was simply unable or unwilling to divorce his judicial functions from his personal prejudices. His hostility towards particular causes, lawyers, and litigants was manifest not only in his decisions but in his demeanor in the courtroom.

Mr. BAYH. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. BYRD of Virginia). Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. MONDALE. I yield.

Mr. BAYH. I note with a great deal of interest the reference my colleague from Minnesota made with regard to justice and the attitudes that citizens who become involved in the judicial process have relative to the treatment they get in our courts. Is the Senator from Minnesota at all concerned about the impact that this nomination will have on large numbers of people that, through his efforts, and the efforts of others, are beginning to have a better opportunity to join other Americans who live in prosperity?

Is the Senator at all concerned how they will view this nomination?

Mr. MONDALE. I thank the Senator for asking that question, because it is quite apparent that one of the great and fundamental debates in this country involves capacity of American institutions to respond to the just needs of the people of this country—particularly the poor and the deprived, who are not in a position politically, economically, culturally, or educationally to assert their rights as others more privileged are able to do.

Whether our institutions will respond to the rights and privileges found in the Constitution depends upon the sense of humanity of the judiciary and those who make it up. I very much fear that Judge Carswell not only lacks competence to perform his duties as a Supreme Court Justice in a technical sense; but also I am even more certain that he lacks the basic commitment to human rights, decency, and justice which is absolutely essential if this country is going to hold itself together.

Mr. BAYH. I concur in the evaluation of this particular concern that the Senator from Indiana shares. I have talked to a number of people, as I have gone about my various duties, and have been in and out of Washington in the past 2 or 3 days, and I have been surprised at the number of cab drivers, hotel employees, and restaurant employees who are concerned over the nomination of Judge Carswell to the Supreme Court. I cannot, in all honesty, suggest how severe this is, or how nationwide it is, but I must say it is significant enough that I am deeply concerned over the impact this nomination has on those who have been trying to work within the system.

I appreciate the Senator from Minnesota yielding to me.

Mr. MONDALE. I thank the Senator for his observations. What is unique about this debate is that it is only the second time in 20 years, perhaps more, that we have ever had a Supreme Court nominee presented about whom there is any question of personal commitment to human rights and the principles enunciated by the Supreme Court.

This certainly is not a partisan issue. President Eisenhower presented nominees who were brilliantly qualified and totally committed to human rights. Indeed, I would believe most attorneys would agree that most of the Eisenhower court appointees in the South, as well as to the Supreme Court, established a magnificent standard of commitment to the cause of human rights and the cause of human justice.

What is unique about Judge Carswell's nomination is that it raises the question of whether a person who has a lifetime record—a personal record as well as a judicial record—of antagonism and hostility to human rights and civil rights, and to the enforcement of the law of the land, and specifically to orders of the circuit court under which he operated, should be permitted to serve on the highest court of the land.

I believe that it would be exceedingly unwise and disastrous to do so. And I regard it as one of the great historical departures of modern American history that we should be reopening the question of human rights and the 14th amendment and argue again a question going back to the 19th century on the issue of human rights.

Mr. GURNEY. Mr. President, the Senator mentioned his lifetime of hostility on the part of Judge Carswell in talking about civil rights cases that went through his court.

I draw the attention of the Senator from Minnesota to the letter to the chairman of the Judiciary Committee, as shown on page 328 of the record, written by Charles F. Wilson. Mr. Wilson was a civil rights attorney in the northern district of Florida for many years. He writes about his experience from 1958 to 1963.

He says:

I represented plaintiffs in civil rights cases in the Federal court for the northern district of Florida, which was then presided over by Judge Harrold Carswell.

I remember he was a black attorney. As a matter of fact, in checking with some of the lawyers in Florida who I know were also concerned in civil rights cases before Judge Carswell's court, they tell me that Charles Wilson really was the first attorney to represent civil rights litigants in the northern district of Florida.

The letter says, as I am sure the Senator from Minnesota knows—and I will read a little bit from it:

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.

He talks about representing plaintiffs in three major school desegregation cases. And he goes on and generally says that, during all of the time he appeared before Judge Carswell, he had only one disagreement with him, and that was over the extent of the relief to be granted.

An interesting thing about Mr. Wilson is that he is presently employed, as the Senator will observe from the letter, as Deputy Chief Conciliator for the U.S. Equal Opportunity Commission.

He was appointed, I presume, by President Johnson.

How can the Senator from Minnesota say that Judge Carswell has had a lifetime of hostility in these cases in view of the evidence in the record?

Mr. MONDALE. Starting from 1948, when he made one of the most outrageous statements on racial supremacy that I have ever heard from a candidate for public office——

Mr. GURNEY. That was a speech he made as a young man.

Mr. MONDALE. I can refer to four specific witnesses who appeared under oath before the Judiciary Committee and personally testified to outrageous acts of insensitivity and hostility by Judge Carswell.

Mr. GURNEY. One of those was a law professor who went down there one time to practice in his court.

Mr. MONDALE. We have affidavits from Mr. Maurice Rosen, under oath, and from Theodore R. Bowers, both of whom practiced before Judge Carswell.

We have a statement made by the Senator from California (Mr. CRANSTON) yesterday, based on personal conversations with attorneys who practiced before Judge Carswell's court. Then we have, may I say, a very decided pattern——

Mr. GURNEY. If we are going to get into the facts——

Mr. MONDALE. In which Judge Carswell, time after time, would not even listen to the factual case that was brought before him by litigants asserting civil rights claims, but would dismiss them summarily.

Time after time the circuit in which he operated would reverse him. He would not even show courtesy to plaintiffs' counsel who appeared before him in civil rights cases, and he would strike the allegations in the pleadings.

These facts, I think, establish a very clear record of insensitivity and hostility in civil rights cases.

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

Mr. MONDALE. I will yield in a moment. It is always said that those who know Judge Carswell best are for him. However, I note that in addition to the 500 prominent attorneys who urge the U.S. Senate to reject the nomination of Judge Carswell, nine of the 15 faculty members of Florida State University Law School yesterday wrote the President of the United States asking that the nomination of Judge Carswell be withdrawn.

I think that all of this establishes the type of pattern I have been discussing.

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

Mr. MONDALE. I would be delighted to yield at this time.

Mr. GURNEY. I would say in answer to the rebuttal argument of the Senator that there is some merit in it. I would point out, though, that he has not answered any of the questions I tried to get answered during his recitation.

So that we could get the facts on the table. How long had these lawyers practiced before Judge Carswell's court? I think in the case of one professor—and it may have been Lowenthal from Rutgers, but I do not recall—he appeared in court one time before Judge Carswell.

That is not exactly the kind of weighty evidence represented by Attorney Charles Wilson, who appeared before his court for 5 successive years, presented.

However, here is another——

Mr. MONDALE. I would be glad to respond to the Senator.

Mr. GURNEY. All right.

Mr. MONDALE. Mr. Clark, the NAACP Legal Defense Fund attorney in that area, on page 227 of the record said:

> Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carwell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible. 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. But I mention those as asides, really, and I do not think them important, because I am sophisticated enough, and other lawyers, black lawyers who appeared before him, were sophisticated enough to sustain that kind of personal insult.

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

Mr. MONDALE. I yield.

Mr. BAYH. I think it is most appropriate that the distinguished Senator from Minnesota raised this question on the testimony of Mr. Clark in relationship to the comment of our distinguished friend, the Senator from Florida.

I think it would be appropriate to add in the RECORD at this time the further testimony of Mr. Clark on page 226 of the hearings that indicate his competence to testify before us on this point.

Mr. Clark said:

> I knew every single lawyer in the State of Florida who practiced civil rights law, white and black, and indeed I know what their evaluation of Carswell was.

He goes on to say that he has appeared before Judge Carswell at least nine or 10 times personally, and that he has had access to the opinions of every attorney that has been working in this important area in the State of Florida.

So, I think the Senator from Minnesota has found the correct answer to the question raised by the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, if the Senator will yield, he apparently has overlooked Mr. Charles Wilson, who appeared in the court for 5 years. He did not make any mention of him.

May I introduce one of the best pieces of evidence into the RECORD? On this matter of sensitivity I think it is very interesting.

I received a telegram from Julian Bennett. He also wrote a letter for the record, on page 328. Mr. Bennett represents the Bay County School Board in Bay County, Fla. That county has Panama City located in it. He handled the litigation involving the school desegregation in Bay County before Judge Carswell.

Here is what his telegram has to say:

> First counsel for Negro plaintiffs was Charles F. Wilson, Pensacola, Florida, who I understand has filed a letter supporting Judge Carswell's nomination to Supreme Court. Present counsel, Theodore Bowers, . . .

That is the attorney that the Senator from California (Mr. CRANSTON) mentioned the other day. I continue to read from the telegram:

> Present counsel, Theodore Bowers, is one of 14 different lawyers representing individual plaintiffs against school board in seven years that this case has been pending.
>
> Judge Carswell was a District Judge for approximately six of these seven years. During six years Judge Carswell . . .

I think this is extremely interesting on the sensitivity issue:

> actively encouraged and challenged the parties to pursue voluntary desegregation, failing which he entered numerous desegregation orders. He was constantly calling counsel together to determine desegregation progress. Voluntary efforts without court orders resulted in the total integration of high schools in 1967 by closing county's all-Negro school. Presently there are no all black schools in Bay County, Florida. Indicative of Judge Carswell's fair play and fair rulings is that in 6 years of continuous desegregation litigation, plaintiffs and NAACP, thought it necessary to appeal his orders only one time and that in 1969 resulting in the fifth circuit court of appeals, en banc, saying of the Bay County desegregation efforts: "This system is operating on a freedom of choice plan. The plan has produced impressive results but they fall short of establishing a unitary school system." Page 23 of slip opinion—Sing Leton et al. v. Jackson Municipal Separate School District et al., case No. 27863.
>
> In 6 years I saw Judge Carswell patiently listen to all arguments of all counsel. No allegation made in any pleading anywhere or on appeal to higher court of mistreatment of any client or counsel by Judge Carswell at any time. No attorney in my 6 years before the court complained to the court of any alleged mistreatment, publicly or privately, prior to nomination of Judge Carswell to U.S. Supreme Court. Judge Carswell did request Justice Department representing USA to try to assign the same lawyer to our case for continuity in order to avoid the court having to review for new counsel old ground already covered and former rulings of the court on evidentiary matters. His patience and courtesy in bring each new counsel up to date was remarkable to behold. All counsel were treated with respect and fairness. Judge Carswell constantly chided the school board to do better. He told us after Green v. New Kent County, that freedom of choice was out and that we must come up with some other plan. Presently school system operating on straight neighborhood zone plan with all black schools integrated with white students. Letter to follow.
>
> JULIAN BENNETT.

There is direct evidence from a lawyer who spent years in litigation in school desegregation matters before Judge Carswell. It seems to me that kind of evidence is very probative in our case and that it is far more important than a law school professor who came down there for one case. There is another side to the sensitivity story. It is borne out in the letter of Charles Wilson, in this telegram, and others letters in the record.

I thank the Senator.

Mr. MONDALE. I thank the Senator. Of course, the testimony of Mr. Clark was under oath before the committee. He tried nine or 10 cases before Judge Carswell. He was the Director of the NAACP Legal Defense Fund Office in the area. He supervised civil rights cases throughout the State of Florida and was in a fine position to know what was going on. Testimony on this matter was not limited to a single lawyer, but included several other attorneys who testified to the same effect with respect to Judge Carswell's record.

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

Mr. MONDALE. I am glad to yield.

Mr. DOLE. I just noticed at page 324 of the hearings a letter from Mike Krasny. I will read a portion of that letter because it relates to whether there was a period of hostility and whether Judge Carswell was pro or anticivil rights:

> I was Judge Harrold Carswell's law clerk from February 1960 to June 1962, a period of approximately two and a half years. I believe I was his law clerk longer than any other law clerk he had before or since. I am a member of the Florida Bar practicing law in Melbourne, Fla.
>
> As a member of the Jewish faith and consequently a member of a minority, I sincerely believe that the day to day association which I had with Judge Carswell, both in and out of the courtroom, would have revealed any racist tendencies or inclinations, had there been any. Without the slightest hesitation, I can assure you and the members of your committee that the litigants in the United States Federal District Court in Tallahassee were not judged by their race, creed or color.

Judge Carswell's integrity and honesty is beyond question in this regard. He dealt fairly honestly and respectfully with all those who came before him. His judicial manner was not altered by the race or color of those who appeared before him. I believe that I am more qualified to judge this man than are his accusers. I would be willing, at my own expense, to testify under oath that none of the decisions rendered by him during my tenure of office were tainted in any manner with a so-called racist philosophy, nor were civil rights lawyers or litigants treated in any manner other than the respectful manner accorded to all litigants and attorneys appearing before him.

The people of this country have a right to know the truth about his beliefs, unsullied by false accusations and innuendo.

I deeply resent the attempt of some to tarnish the reputation of a man of Judge Carswell's caliber. He would be a great asset to the Supreme Court.

MIKE KRASNY.

That letter was sent to the chairman of the Committee on the Judiciary. The point I make is that apparently the Senator's case is built upon the statement of Mr. Clark, as well as the statement of the Senator from Massachusetts, but there is other evidence.

It has been pointed out many times that we all have a duty and obligation to weigh the evidence, not just the evidence against and not just the evidence for, but all the evidence. The Senator from Minnesota cites the statements of four witnesses but how many litigants and attorneys appeared before Judge Carswell all the time he was on the bench? What percentage of the total number of lawyers who appeared before Judge Carswell does Mr. Clark represent? There is no specificity about the number of litigants or their mistreatment, only general statements by the Senator from Minnesota and the Senator from Massachusetts about a man's bias and hostility. That may be a fair statement, but I do not believe it is.

It would be helpful to have the facts. How many lawyers appeared before Judge Carswell? How many litigants appeared before Judge Carswell? What was the occasion of his being rude or turning the chair?

Mr. MONDALE. I refer the Senator to my earlier remarks in which I detail the argument to which the Senator objects.

These are four witnesses who testified under oath. Mr. Clark had wide experience before several judges in Florida, including Judge Carswell. He was in charge of litigation in that area. There are several affidavits. The Senator from California (Mr. CRANSTON) testified as to conversations with attorneys who practiced before Judge Carswell. There is an abundance of evidence under oath which showed his antipathy toward settled law, his dismissal of legitimate lawsuits brought by civil rights attorneys, and his personal involvement in the efforts to keep segregated institutions in his own community—tracing from the present all the way back to 1948. All of these occurrences raise grave doubt as to whether there is any commitment whatsoever on the part of Judge Carswell to human rights and to the enforcement of the Constitution; they also raise grave doubt as to whether Judge Carswell has the competence necessary to discharge the responsibility of serving on the Highest Court of our land.

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

Mr. MONDALE. I yield.

Mr. DOLE. I believe this information would be helpful to all of us in the Senate and to the public. The bad things about Judge Carswell are widely reported in the newspapers and the network programs.

I would like to know how many lawyers appeared before Judge Carswell. I would like to know how many litigants appeared before Judge Carswell. He has been a member of the bench for 12 years. He has handled approximately 4,500 cases. He has been a Federal district judge, which is a trial judge, as the Senator from Minnesota knows. He has been a member of the appellate court for well over a year. He has had literally thousands of litigants and lawyers before his court.

I would guess any of us, whether it be in a political campaign or a campaign of this kind, could pick up one or two, or half a dozen, people who may not agree with the Senator from Kansas or the Senator from Minnesota. So to be fair and honest, as I know the Senator from Minnesota wants to be, we should have relative numbers. The Senator is great on numbers of reversals—x number of x cases. But what about the total number of lawyers who appeared before him, the total number of litigants? Is that information available?

Mr. MONDALE. I do not know. I have referred to the record I have before me. I am no statistician on the northern Florida judicial district. I do not know how many lawyers practiced before the court or how many cases there were. One has to judge on the basis of his official opinions and on the basis of the experience of those who practiced before him; and the issue we are now debating is Judge Carswell's opinion on human rights. What is his attitude and demeanor toward those who practiced before him in those cases?

We have heard sworn testimony from NAACP legal defense fund attorney who tried cases before him nearly 10 times and sworn testimony from three other attorneys. All the testimony was to the same effect. How many other attorneys who tried other lawsuits? How many property cases? How many title cases? How many patent cases? How many aircraft accident cases? I would not have the slightest idea, and I do not think it is slightly relevant.

Mr. DOLE. Will the Senator yield further?

Mr. MONDALE. I am happy to yield.

Mr. DOLE. We are talking about the "total man." The Senator is looking for the perfect man, apparently.

Mr. MONDALE. I am looking for somebody better than this.

Mr. DOLE. I could comment on that.

We have heard these same arguments before. It is a replay of the Judge Haynsworth nomination—the same cast of characters, the same accusations, the same parts, are paraded in this Chamber. The arguments made during the consideration of Judge Haynsworth's nomination are now being applied in the case of Judge Carswell. Judge Haynsworth was "insensitive." I am not certain whether the Senator from Minnesota said this but others have said Judge Carswell is very mediocre; therefore, he is not worthy of the honor of sitting on this High Court. It is the same cast of characters and the same scenario—just a different picture.

Mr. MONDALE. And we were correct both times. The Senator from Kansas will recall that I supported the nomination of Judge Burger to be Chief Justice of the United States. The record will show I have supported most nominees sent to the Senate by the President of the United States. The President should have a broad parameter of choice. Where I draw the line is when a nominee is before us who is wrong on human rights—because we cannot back off the cause of human rights. We cannot back off the 14th amendment to the Constitution and still have a country.

That is why I am opposing the nomination of Judge Carswell. That is why I opposed the nomination of Judge Haynsworth. It may be the same cast of characters, but I am proud to be a part of the play. I am sorry we are faced with this kind of nominee.

Judge Carswell's record, both on and off the bench, persuasively leads to but one conclusion: that at best, the nominee has shown himself to be indifferent and insensitive to human rights; at worst, he has demonstrated his hostility to those who sought to challenge unlawful discrimination through legal channels.

To the nearly 500 lawyers who urged the Senate to reject this nomination, it is a record which clearly indicates that "the nominee possesses a mental attitude which would deny to the black citizens of the United States—and to their lawyers, black or white—the privileges and immunities which the Constitution guarantees." Anthony Lewis, a distinguished student of the Supreme Court, has said:

That record displays at the very least extraordinary insensitivity. It must raise questions about Judge Carswell's fitness for a lifetime position on a court that must decide some of the most sensitive and most important racial questions before the country. For the black community, the idea of Judge Carswell on the Supreme Court bench must now be a provocation.

Particularly disturbing about the nomination of Judge Carswell is the fact that it is one more symbol of the indifference to racial justice displayed by this administration. Those who believe that the southern strategy exists only in the minds of partisan journalists should consider this nomination as a part of the following pattern of administration actions:

The award of defense contracts to textile firms with a history of racial discriminations;.

The proposal of a voting rights bill which was designed to downgrade our commitment to equal suffrage in the South and which was a patent call to southern members to embroil the simple

extension of the 1965 act in a welter of confusion and delay;

The issuance of a policy statement on school desegregation, which was nothing more than a blatant invitation to the South to delay further;

The request to the Supreme Court to slow down enforcement of school desegregation plans could not be implemented in time;

The refusal to seek cease-and-desist powers for the Equal Employment Opportunity Commission; and

The dismissal of Leon Panetta for attempting to enforce civil rights legislation, and the elevation of those who believe that the law should not be fully enforced.

Unlike the nomination of an individual to the Supreme Court, each of these actions can be reversed in a short period of time. But a Supreme Court appointment is a lifetime proposition, and one vote inherently weighed against civil rights litigants might decide close cases for years to come.

The Supreme Court is simply too vital an institution to be embroiled in any sectional strategys. It is the one institution which has represented the last hope for redressing the grievances of those who have been denied fundamental rights and opportunities.

If the President really wanted "geographical balance," he could have named John Wisdom, Griffin Bell, Frank Johnson, or a variety of other distinguished southern jurists—all of whom are fair and impartial judges.

But I fear that the President wanted something else—and thus he nominated G. Harrold Carswell.

I think all of us, including the President, should heed the words of Marion Wright Edelman, a young lawyer who has spent a good part of her life in a courtroom fighting against discrimination:

> We do not defuse the George Wallaces by selling our principles and becoming more like them—we defuse them by clear and resounding repudiation with a national tone and policy that makes it clear that the Constitution is not a political football. For surely whites cannot now expect, once again, blacks and Mexican-Americans and Indians and Puerto Ricans to respect a Constitution they render so cheap.

Mr. McCARTHY. Mr. President, I will speak today principally of the role of the Senate in the confirmation of nominations for Justices on the U.S. Supreme Court and of the very special responsibility which rests upon the Senate in performing that very clear constitutional responsibility.

Nearly every major compromise worked out at the Constitutional Convention involved the sharing of responsibility with the U.S. Senate. The conflict between the large and the small States was resolved by providing two Senators from each State and by assigning House membership on the basis of total population. The controversy over the power of the Executive—and particularly his power in the conduct of foreign affairs—was settled by providing that the Senate confirm high officials of the Government and that a two-thirds vote of the Senate be required for ratification of treaties.

The controversy over whether we should have a judiciary which was elected by the people or appointed by the Chief Executive was settled by the constitutional provision that members of the Federal courts must be confirmed by the Senate of the United States.

Today the Senate is called upon to exercise that responsibility.

As in the exercise of other responsibilities, Senators and the Senate can make a choice of playing any number of roles. Three principal roles are always available to us.

The first one is that in which the appearances of power and prestige are maintained without accepting the responsibility or exercise of power.

We can take on the role similar to that of the constitutional monarch in Great Britain, appear at ceremonial occasions and state dinners, and be invited to the White House for prayer services. Some accept special missions unrelated to the real world of authority of the Senate, and sign everything the President sends up to us.

The second role is that under which we can assume power without responsibility—as has sometimes been the case in the conduct of Senate business, and in irresponsible public statements—or in the Government by ordeal which is sometimes carried on under the name of the filibuster. We can act in this manner, and then second-guess, as we did to a large extent with reference to the Fortas case.

The third role is that of accepting full responsibility, set against the real power and authority which the Constitution does grant to the Senate.

This a time when the Senate must carefully reexamine its constitutional functions in relation to all of its obligations and duties, its relationship to the House of Representatives, and its relationship to the executive branch of the Government and to the judiciary. This reexamination is as important for the other agencies of Government as it is for the Senate, but the responsibility here is ours.

There is, I think, a very special need for this consideration today, because in the period of the last 25 years there has been a significant change both in the substance of American government and in the functioning of governmental institutions and the relationships among them. There are also special conditions today which make such a reexamination easier and potentially more productive.

I was one of many Senators who expected that after the rejection of the Presidential nomination of Judge Haynsworth for the Supreme Court, the President would offer a nominee of such qualifications that the Senate might quickly confirm his choice and turn to other important domestic and international matters.

I do not know of a case in which two successive nominees have been rejected, except in the administration of President Grant.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. McCARTHY. I yield.

Mr. DOLE. I think it is also true that the Senator from Minnesota opposed Chief Justice Burger's nomination.

Mr. McCARTHY. That is quite right, and every day I feel better about it. I was especially moved to think it was a good action when I heard the Senator from Nebraska say that only men who know the nominees intimately have any right to speak about them; and I suppose I knew Judge Burger more intimately than anyone else in the Senate. On that basis, I suggested that he should not be Chief Justice, and voted against him.

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

Mr. McCARTHY. I yield.

Mr. HOLLAND. Other Senators have similar views with reference to Judge Carswell. I think I know him better than any other Senator, and I strongly support him. I have waited all afternoon to get a chance to take the floor, but the floor has been farmed out from the distinguished Senator from Massachusetts (Mr. KENNEDY) to the distinguished junior Senator from Minnesota (Mr. MONDALE), and now to the distinguished Senator from Minnesota who presently holds the floor.

We who know him best are given little chance to say anything, as long as this farming out process continues.

Mr. McCARTHY. Mr. President, let me say to the Senator that I did not say that Senators should vote for or against Judge Burger because I knew him more intimately than others did. I say this only because the argument has been made by supporters of Judge Carswell that only those who know him intimately should be listened to in this debate. The question about Judge Burger was raised incidentally to my presentation.

I might say, so far as farming out time is concerned, this is the first time that I have spoken with reference to the Carswell case, and I think that it is in order for me to speak for an hour without anyone charging that the floor has been farmed out to me. I do not know what the Senator from Florida has in mind. Who farms out time? I was recognized by the Chair. Nobody farmed out any time to me.

Mr. HOLLAND. Mr. President, if the Senator will yield——

Mr. McCARTHY. The Senator from Florida was not seeking recognition.

Mr. HOLLAND. The Senator from Florida meant that the Senator from Massachusetts had the floor, yielded to the Senator from Minnesota (Mr. MONDALE), who then proceeded and, after speaking at length, yielded to his able colleague.

Mr. McCARTHY. No; I was recognized by the Presiding Officer. I was not yielded the floor by another Senator.

The PRESIDING OFFICER. (Mr. BYRD of Virginia). The Senator is correct.

Mr. HOLLAND. The Senator from Florida simply reiterates that he knows Judge Carswell pretty well, and would like at sometime to be heard, and he thinks his experience might even be im-

pressive on the Senator from Minnesota, who does not know Judge Carswell.

Mr. McCARTHY. I would be quite willing. I have been listening, and have been reading what the Senator from Nebraska (Mr. HRUSKA) and others who are advocates of Judge Carswell have said; after some 2 or 3 weeks of listening and reading reports, and newspaper reports as well, I thought I might speak today.

The PRESIDING OFFICER. Will the Senator from Minnesota yield for a moment?

Mr. McCARTHY. For what purpose?

The PRESIDING OFFICER. For a statement by the Chair. The Senator from Minnesota is correct; the junior Senator from Minnesota had indicated he had finished, and thereupon the Chair recognized the senior Senator from Minnesota, who was the only Senator then seeking recognition.

Mr. McCARTHY. That is correct.

As I stated, I hoped President Nixon might send us the name of another nominee whom we might confirm rather quickly, and then turn to other important domestic and international matters. I am never happy to be involved in an action opposing any person who may be nominated, but I think in the case of confirming nominations to the Supreme Court, perhaps more than in any other action we take, we have to deal in personalities.

If you examine the composition of the present Court, you will find that it is made up of some men who were appointed by Franklin Roosevelt. Because of retirement there is no one there who was appointed by President Truman. It has two appointees of President Eisenhower, one by President John Kennedy, one by President Lyndon Johnson; and one by President Nixon. Now we are considering another.

Appointments to the Supreme Court are not the special right or province of the President in the way that other appointments are. Court appointees live on long after a President has left office, and in many cases even after he has died. The Senate has a continuing responsibility to take the long view in considering the appointment and confirmation of members of the Supreme Court.

We now have before us for consideration the nomination of Judge Carswell.

On Monday, the Senator from Nebraska (Mr. HRUSKA), the principal advocate of Judge Carswell's nomination, argued that the Senate should not really examine the qualifications of a Supreme Court nominee when considering confirmation, but should accept the President's recommendation. He also suggested that since there are, as he said, lots of mediocre judges, people, and lawyers, that they are entitled to representation, too.

I will not challenge this latest argument for mediocrity, and I trust that no one would be moved to vote to confirm on these grounds, but rather take up some of the more serious questions and more substantial considerations relating to the Court and to the nominee, Judge Carswell.

The persistent argument that was made when Judge Haynsworth was under consideration and one which has been continued in dealing with the present case—is that the Court needs balance and that the appointment of Judge Carswell will somehow balance it or at least bring it closer to balance.

On page 10 of the committee hearings, Senator HRUSKA was quoted as saying:

> There are some who feel there should be less activism and that the law should be strictly construed. The President has felt that there can be a better balance to the Court. He indicated this last summer.

According to Senator HRUSKA, the President indicated last summer that he wanted better balance on the Court. Neither the President nor Senator HRUSKA has explained in what way he considered the Court to be unbalanced.

Does he want one good decision and one bad decision? Does he want one right decision and one wrong decision? Is it geographical balance that he wants, or racial, or by sex, or religion, or age? Should we have more nonlawyers on the Court? There are not any nonlawyers on the Court now. There is nothing in the Constitution that says that members of the Supreme Court should be lawyers. In fact, there is nothing in the Constitution that says they have to be 21 years old. Perhaps we should have some people who are 18 or 16 on the Court. There may be some overrepresentation, now, of those who are old.

Is it certain decisions that the President would like to have reversed? If it is, we ought to be told which ones they are. Do we want to go back to Plessy against Ferguson, in 1896? That was a balanced decision—separate but equal. It sets back progress toward desegregation in this country by roughly 60 years.

Does the President want all decisions to be made by a vote of 5 to 4? Or would he like to have them 4 to 4? In that case we ought not to make this additional appointment and just run it with an eight-judge Court. You would have some kind of numerical balance which would not mean very much.

If the President is really concerned about this Court, if he does want to balance it, he should tell us how he wants to balance it. He should give us some explanation as to what this means, if this is in fact his objective.

In the same statement, the Senator from Nebraska said there should be "less activism" on the Court. What does the President mean by "less activism," or what does the Senator mean by "less activism?" If he speaks for the President, we should know. Would he like to have the Court hear fewer cases than it now does? Should it postpone consideration of some of the vital issues before the country? Would he prefer that all precedents established in the 19th century be applied to contemporary problems? Would he suggest that at a time when social, economic, and cultural change in this country is growing at the most rapid rate in the history of our Nation, that the Court should be indifferent and unresponsive?

At a time when nearly every one of the traditionally established civil rights is under strain and requires new definition and new interpretations and new judgment—and freedom of speech, which was a relatively simple matter back in 1789, is now involved in the whole question of television and radio and newspapers, as the Vice President tells us almost every other day—should the Court be indifferent to the complexity of freedom of speech today?

Should the Court be indifferent to the problems of the right to assemble, which was also relatively easy to define in 1789, but which is now involved in very complicated questions of the right to belong to certain organizations or the right to picket or the right to march? Should the Court be indifferent to some of the basic questions of conspiracy such as were raised in the case of Dr. Spock and William Sloan Coffin, and in other cases that recently have been the subject matter of judicial proceedings?

Are we to have a Court which is indifferent to the question of the right to privacy, which in 1789 related to rather simple things like quartering troops and now involves all the technological complexity of electronic devices for spying upon people, either visually or by listening in or by other means that have been developed?

Should the Court be indifferent to the new problems of due process and individual rights and the rights of citizens as they move into a time of an emancipated and much more complex culture than we knew 160 or 170 years ago?

Is this the kind of activism which is frowned upon? Is this the kind of opposition to activism that we would expect if Judge Carswell were to be appointed to the Court?

The Senator from Nebraska did not stop with the statement that the President wants balance and less activism. He goes on to say, a few lines later, that it is not only the President who wants balance, but the country wants balance on the Court. He says it is obvious that the country wants balance on the Court, and he cites the election of President Nixon as an indication that the country wants that balance.

It is hard for me to accept that the result of the election in any way suggests that the country wants balance, unless we go again to the mysterious source of Presidential power which comes from the silent majority. Mr. Nixon was not elected by a majority of the people of this country. The vote for the presidency was almost a tie. This did not suggest that the country wanted much change in the Court, I would say.

If the Court was unbalanced, it would seem that the country was somewhat indifferent and would permit it to continue to be unbalanced. Ideally, of course, the Court should be made up of the most intelligent and responsible and most learned men in the country. One would hope that, this being the case, almost every decision would be close to unanimous. You could have a kind of choir of angels in which all would see things in

the same light and judge it by the same high power of reason and conclude to the same end. We cannot reach that kind of ideal situation, but we ought to make a rather serious effort to come close to it.

The Senator from Nebraska goes on to another principle for selection. He quotes in this case Mr. Dooley, who said "No matter whether the Constitution follows the flag or not, the Supreme Court follows the election."

He goes on to say that he did not mean this literally, but that it has a grain of truth in it: the appointees to the Court should reflect the mood of the country, and the mood of the country is reflected in the election results.

Mr. President, the idea of a representative Court is something foreign to the American tradition. The men who drafted the Constitution were rather careful not to make the Court representative in the sense suggested by the Senator from Nebraska. The constitutional convention did not even consider having the Supreme Court elected by the people, or other judges. It rejected the idea that members be chosen by the House of Representatives and by the Senate, and adopted the rather simple provision that Justices be nominated by the President and confirmed by the Senate.

I ask to have printed at this point in the RECORD an explanation of what this process meant and how it was carried out by Chief Justice Hughes.

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

THE SUPREME COURT OF THE UNITED STATES

(By Charles Evans Hughes, Columbia University Press, 1936, pp. 11–14)

Serious questions were raised as to the method of appointing judges. How was the ideal of the separation of powers to be reconciled with practical exigencies? Despite the emphatic terms in which the political maxim had been laid down by the States, Madison found "not a single instance in which the several departments of power have been kept absolutely separate and distinct." Jefferson in his "Notes on Virginia" observed that the legislature had in many instances "decided rights which should have been left to judiciary controversy." Rhode Island and Connecticut had long refused to recognize the principle of division of powers; in Connecticut, the legislature had been "in the uniform, uninterrupted, habit of exercising a general superintending power over its courts of law, by granting new trials." After a careful review of State practice, Madison concluded that "the legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex."

In many States, the legislature appointed the judges directly, and, notwithstanding the devotion to the doctrine of Montesquier, it is not surprising that in the Federal Convention the Virginia plan should have proposed that the national legislature should appoint the judges of the Supreme Court. The Patterson plan provided for appointment by the Executive. James Wilson opposed appointment by the legislature. He said: "Experience showed the impropriety of such appointments by numerous bodies. Intrigue, partiality and concealment were the necessary consequences. A pricipal reason for unity in the Executive was that officers might be appointed by a single, responsible person."

Dr. Franklin observed that two modes of choice had been mentioned, to-wit, by the Legislature and by the Executive. He wished that other modes might be suggested, "it being a point of great moment." Madison objected to appointment by the *whole* legislature. "Many of them were incompetent judges of the requisite qualification. The candidate who was present, who had displayed a talent for business in the legislative field, who had perhaps assisted ignorant members in business of their own, or of their Constituents, or used other winning means, would without any of the essential qualifications for an expositor of the laws prevail over a competitor not having these recommendations, but possessed of every necessary accomplishment." Madison proposed appointment by the Senate "as a less numerous & more select body"; or as he had said earlier, as "sufficiently stable and independent." This was adopted by the Committee of the Whole in their report on the Randolph plan and was embraced in the report of the Committee on Detail. Meanwhile it had been suggested, with reference to the practice in Massachusetts, that the judges be appointed by the Executive, with the advice and consent of the Senate, and this proposal was finally adopted.

Mr. MCCARTHY. In order to protect the integrity and the detachment of the Court, Justices were given life terms under the Constitution, which also provided that even their salaries could not be reduced during the period of their service. It really makes much better sense—the way some extremist groups call for the impeachment of Justices, Chief Justices, and others—to undertake to pack or unpack the Court, as has been done in times past, than to argue that we should have a balanced Court or a representative one.

Mr. President, this question has been asked by nearly everyone who has spoken of this matter during these many weeks, but I think it fair again to ask: What are the standards by which a Supreme Court Justice should be picked? The Constitution is not very clear, not very specific. It does not even, as I said earlier, lay down an age requirement as it does in the case of the President and for Members of Congress. The Constitution does not even, as I said earlier, require a Supreme Court Justice to be a lawyer.

Nonetheless, there are qualifications and standards, which have developed over the years from experience, from reflection on the nature and the importance of the Court, from historical forces that have run, from an examination of its historic achievements, and principally, from the conduct of the men who have been appointed to the Court.

The Senator from North Carolina (Mr. ERVIN) on page 19 of the committee hearings set a limited standard, one which is clearly better than that which was stated by the Senator from Nebraska. The Senator from North Carolina said this:

I would like to say that the Senator from Nebraska used the quotation from Mr. Dooley facetiously, but I would like to expressly disavow myself as a disciple of Mr. Dooley. I don't think judges should follow election returns. I think that the duty of a Supreme Court Justice was stated by Chief Justice Marshall in the most lucid fashion in his opinion in the famous case of *Marbury* v. *Madison*, where he pointed out that the Constitution obligates a Supreme Court Justice to take an oath to support the Constitution, and declared that the obligation which that oath imposed upon a Supreme Court Justice is to accept the Constitution as the rule for his official actions.

Certainly, one must agree with that basic statement.

A much more complete and appropriate statement of his qualification is that presented by Alexis de Tocqueville in his book "Democracy in America":

So they created a federal Supreme Court, a unique tribunal one of whose prerogatives was to maintain the division of powers appointed by the Constitution between these rival governments. * * * But that is just the theory which has been put in practice in America. The Supreme Court of the United States is the sole and unique tribunal of the nation.

It is responsible for the interpretation of laws and of treaties; questions to do with overseas trade or in any way involving international law come within its exclusive competence. One might even say that its prerogatives are entirely political, although its constitution is purely judicial. Its sole object is to see that the laws of the Union are carried out;

To this first cause of its importance is added another even greater one. In the European nations only private persons come under the jurisdiction of the courts, but the Supreme Court of the United States may be said to summon sovereigns to its bar. When the court crier, mounting the steps of the tribunal, pronounces these few words: "The state of New York versus the state of Ohio," one feels that this is no ordinary court of justice. And when one considers that one of these parties represents a million men and the other two million—

This was about 1835—

one is amazed at the responsibility weighing on the seven men—

At that time there were seven on the Court—

whose decision will please or grieve so many of their fellow citizens.

The peace, prosperity, and very existence of the Union rest continually in the hands of these seven judges. Without them the Constitution would be a dead letter; it is to them that the executive appeals to resist the encroachments of the legislative body, the legislature to defend itself against the assaults of the executive, the Union to make the states obey it, the States to rebuff the exaggerated pretensions of the Union, public interest against private interest, the spirit of conservation against democratic instability. Their power is immense, but it is power springing from opinion. They are all-powerful so long as the people consent to obey the law; they can do nothing when they scorn it. Now, of all powers, that of opinion is the hardest to use, for it is impossible to say exactly where its limits come. Often it is as dangerous to lag behind as to outstrip it.

The federal judges therefore must not only be good citizens and men of education and integrity, qualities necessary for all magistrates, but must also be statesmen; they must know how to understand the spirit of the age, to confront those obstacles that can be overcome, and to steer out of the current when the tide threatens to carry them away, and with them the sovereignty of the Union and obedience to its laws.

The President may slip without the State suffering, for his duties are limited. Congress may slip without the Union perishing, for above Congress there is the electoral body which can change its spirit by changing its members.

Felix Frankfurter, in his book "Of Law and Men (Papers and Addresses)," page 39, writes in commenting on the quality of judges on the Court.

A judge whose preoccupation is with such matters (the problems faced by the United States Supreme Court under the Commerce Clause and under the Due Process Clause) should be compounded of the faculties that are demanded of the historian and the philosopher and the prophet. The last demand upon him—to make some forecast of the consequences of his action—is perhaps the heaviest. To pierce the curtain of the future, to give shape and visage to mysteries still in the womb of time, is the gift of imagination. It requires poetic sensibilities with which judges are rarely endowed and which their education does not normally develop. These judges, you will infer, must have something of the creative artist in them; they must have antennae registering feeling and judgment beyond logical, let alone quantitative proof.

Learned Hand further states:

I venture to believe that it is as important to a judge called upon to pass on a question of constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant, as with the books which have been specifically written on the subject. For in such matters everything turns upon the spirit in which he approaches the questions before him. The words he must construe are empty vessels into which he can pour nearly anything he will. Men do not gather figs of thistles, nor supply institutions from judges whose outlook is limited by parish or class.

Mr. President, I think that all of us who accept these rather general standards should ask how do we judge Mr. Carswell as measured against the standards. Let us begin with the most elementary consideration; namely, that of whether or not he is skilled in the law.

I always have some hesitation about raising a question of this kind. Sometimes Members of the Senate who are lawyers get up and say, "Now, speaking as a lawyer," and sometimes they say, "Now thinking as a lawyer."

I have never been sure what they mean. If they speak as a lawyer, does that mean with more competence, or does it mean that their competence is reduced, or discounted, lengthened, or expanded? I have asked this question several times of Senators who have spoken as lawyers and have never been able to get an adequate explanation of what they mean.

John Griffiths, of Yale Law School, in a letter to Senator EASTLAND, wrote:

That only the most distinguished and technically qualified members of the legal profession ought even to be considered for the highest court in the nation. . . . it is part of the Senate's duty to exercise the highest standard, in proficiency as well as integrity, as a minimum qualification for elevation to the Supreme Court. [p. 15 of Individual views]

There is little in the record of the hearings to sustain the argument that Judge Carswell is skilled in the law.

Mr. William Van Alstyne, professor of law at Duke University Law School, former special consultant to the Senate Subcommittee on Separation of Powers, chaired by the distinguished Senator from North Carolina (Mr. ERVIN), states on page 136 of the committee hearings:

Respectfully, however, while relief was not denied in these cases, it was only in circumstances where heavily settled higher court decision and incontestably clear acts of Congress virtually compelled the results, leaving clearly no leeway for judicial discretion to operate in any other direction. I would respectfully invite the committee's particular attention to the particular opinions to establish that conclusion.

More disturbing in the cases generally, and by generally I mean not to restrict myself to the area of race relations at all, although intrinsically far more difficult to illustrate in the nature of the short-coming, there is simply a lack of reasoning, care, or judicial sensitivity overall, in the nominee's opinions.

There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States.

In the series of cases cited by Prof. Van Alstyne, on pages 134 and 135 it appears that despite clear indications from various civil rights acts, Supreme Court decisions, and companion cases in the neighboring district court in Florida, Judge Carswell's opinions stand, and I quote, as "severe and restrictive and subsequently reversible interpretations on a principal point of constitutional law." What makes Prof. Van Alstyne's testimony most significant is that this same person, after a similar study in the case of Judge Haynsworth, concluded on page 134 of the committee report:

After a review of Judge Haynsworth's opinions and decisions during 12 years on the court of appeals, that the extent of the criticism then being made by others was not in fact justified. While it was not possible to review and to report on any large number of Judge Haynsworth's decisions in my filed statement, I did attempt to examine a sufficient number fairly to reflect in my statement what I believe to be of principal interest to this committee and to the Senate. On that basis, I concluded that Judge Haynsworth was an able and conscientious judge, that his decisions manifested a greater degree of judicial compassion within the allowable constraints of proper discretion than others had taken the care to acknowledge, and that even in instances where I could not personally find agreement, private or professional, with a particular result, I could, nonetheless see from the quality of the opinion that that result had been arrived at with reassuring care and reason.

Yet, unfortunately, in Mr. Carswell's case, while Mr. Van Alstyne "sought to review Judge Carswell's work in an equivalent fashion," his impressions are, and I quote, "sharply different from those I held of Judge Haynsworth, however, even without regard to additional circumstances which have made this an extraordinary case."

Mr. President, I would like to quote from the Ripon Society statistical study concerning Judge Carswell's record:

REVERSAL ON APPEAL

During the eleven years (1958–1969) in which Judge Carswell sat on the federal district court in Tallahassee, 58.8% of all of those cases where he wrote printed opinions (as reported by West) and which were appealed resulted ultimately in reversals by higher courts. By contrast in a random sample of 400 district court opinions the average rate of reversals among all federal district judges during the same time period was 20.2% of all printed opinions on appeal. In a random sample of 100 district court cases from the Fifth Circuit during the 1958–1969 time period the average rate of reversals was 24% of all printed opinions on appeal.

The report further states that Mr. Carswell's reversal rate compares unfavorably with reversal rates within his own district as well as the general reversal rate for all Federal district cases. Mr. Carswell had a rate of reversal of 11.9 percent of his printed cases compared with 6 percent for all district cases within the fifth circuit. In other words, Mr. Carswell's rate of reversal is more than twice the average for Federal district judges.

A good indicator of the scholarly value of judicial work is the number of times a particular judge's opinions are cited by brother jurists' opinions. Again Mr. Carswell, in the Ripon report, is found woefully lacking. I quote:

CITATION BY OTHERS

Carswell's 84 printed opinions while he was serving as a district court judge were cited significantly less often by all other U.S. judges than is the average for the opinions of federal district judges. Carswell's first 42 opinions during his first five years on the federal judiciary (1958–1963) have been cited an average of 1.8 times per opinion. Two hundred opinions of other district judges randomly chosen from district court cases spanning this same period have been cited an average of 3.75 times per opinion. The 42 most recent of Carswell's printed district court opinions have been cited an average of 0.77 times per opinion. Two hundred opinions of other district judges randomly chosen from cases spanning the same 1964–1969 time period have been cited an average of 1.57 times per opinion.

In the final analysis, the Ripon Society can only conclude:

When these results are analyzed cumulatively they form a most impressive indictment of Judge Carswell's judicial competence. The incredibly high rate of reversals (59%) which Carswell has incurred on appeals in those cases in which he has written printed opinions brings into serious doubt the nominee's ability to understand and apply established law.

Mr. President, not only is there a grave question as to Mr. Carswell's legal competence but there exists strong evidence of disrespect even for the procedures of the law and of the courts.

Consider the remarks of Norman Knopf, an attorney in the Department of Justice, who was subpenaed to appear before the Judiciary Committee. Mr. Knopf was one of those persons who in the summer of 1964 volunteered to work with the Law Students Civil Rights Research Council. These students provided invaluable assistance to civil rights law enforcement. Mr. Knopf, assigned to the northern Florida region to assist the Lawyers Constitutional Defense Committee in that area, possesses first-hand knowledge, based on actual court-room experience, of Mr. Carswell's deportment in the critical area of individual rights. On page 177 of the hearings, Mr. Knopf testified:

It is relatively clear in my mind. I remember this. This was my first courtroom experience, really, out of law school, and I remember quite clearly Judge Carswell. He didn't talk to me directly. He addressed himself to the lawyer, of course, Mr. Lowenthal,

who explained what the habeas corpus writ was about, and I can only say that there was extreme hostility between the judge and Mr. Lowenthal. Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on and he was especially critical of Mr. Lowenthal. In fact he lectured him for a long time in a high voice that made me start thinking I was glad I filed a bond for protection in case I got thrown in jail. I really thought we were all going to be held in contempt of court. It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people against—rather just arousing the local people, and he in effect didn't want any part of this, and he made it quite clear that he was going to deny all relief that we requested. At that point, Mr. Lowenthal argued that the judge had no choice but to grant habeas as the statute made it mandatory.

Additional testimony given before the Judiciary Committee evidence a disposition of hostility on Mr. Carswell's part based on issues—in this case civil rights advocates rather than bad courtroom performances.

This view is bolstered by the sworn testimony of Mr. Leroy D. Clark, associate professor at the New York University Law School, who from 1962 to 1968 was staff counsel to the NAACP legal defense fund in charge of the entire civil rights litigation in the State of Florida. Mr. Clark's credentials are unique. On page 221 of the committee hearings he states:

There is not a lawyer in the country today who has appeared before Judge Carswell on more cases with specific reference to civil rights matters, and indeed on each occasion on which I appeared before Judge Carswell, it was in connection with a civil rights case.

What was Mr. Clark's experience before Mr. Carswell? In his own words—page 227 of the committee hearings:

Let me talk a bit about his demeanor with respect to lawyers. And I say that with this caveat: I believe that the documentation as to his judicial performance is much more important than his demeanor with respect to myself and other civil rights attorneys. Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.

It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him using a civil tone to opposing counsel. But I mention those as asides, really, and I don't think them important, because I am sophisticated enough, and other lawyers, black lawyers who appeared before him, were sophisticated enough to sustain that kind of personal insult.

What I am concerned about is whether it indicates that Judge Carswell is not only a political segregationist but is a personal segregationist, because that will have a great deal to do with whether or not this man can change when he is in a different environment.

Regrettably, Mr. Clark's testimony was substantiated and amplified by the sworn testimony of two additional committee witnesses. Mr. Ernest H. Rosenberger, a volunteer lawyer for the Lawyers Constitutional Defense Committee of the American Civil Liberties Union in northern Florida during the summer of 1964, was counsel for nine clergymen who were arrested when they attempted to integrate a Tallahassee airport restaurant in 1961. On page 156, Mr. Rosenberger notes that Mr. Carswell's reputation in the area of civil rights was "bad sir." He stated further:

The filing fee is one example of obstruction without reason in a civil-rights situation. Another thing is a matter of applying for a writ of habeus corpus in that district, in that you had to use specific forms issued by the court. You could not just draw an application for a writ of habeas corpus. You had to use specific forms of that court for that purpose. His reputation was one of obstruction in civil-rights litigation.

Mr. John Lowenthal, professor of law at Rutgers University, another attorney who had first-hand experience before Judge Carswell in 1964, states on pages 141 and 142:

He expressed dislike at northern lawyers such as myself appearing in Florida, because we were not members of the Florida bar. I might add here that we could not find local lawyers willing to represent the voter registration people in Florida. It was either northern lawyers or no lawyers.

Mr. President, the testimony of all these individuals adds up to only one conclusion, that Judge Carswell, all too often, has given too much weight to his own personal views and not enough to the law itself.

The third standard is, I think, the most important—that referred to by Justice Hand, Justice Frankfurter, and also by de Tocqueville, the question of whether the nominee possesses the kind of broad historical and philosophical knowledge that a man should carry to the Supreme Court of this country.

Little is known of Judge Carswell's views on economics or theology or politics or social change. The only one clear statement by him is the speech of 1948 in which he said, "I yield to no man as a fellow candidate."

If he had just stopped short and said, "as a fellow candidate," one might have a little different view of him. But he added, "or as a fellow citizen."

One does not know what the conditions were in that State. It might have allowed a limited kind of judgment in view of the politics in that State in 1948.

But he did not stop at saying, "I yield to no candidate as a fellow candidate or as a fellow citizen."

He said:

I yield to no man, as a fellow candidate or as a fellow citizen, in the firm, vigorous belief in the principles of White Supremacy, and I shall always be so governed.

This was said in 1948 when Mr. Carswell was 29 years old. The judge says he no longer holds these views. A man can change. Living proof surrounds us as former White House and administration officials under President Johnson, who supported the Vietnam war for years, are being quoted as saying nowadays that the war in Southeast Asia is at least inadvisable. Conversions of such kind ought to encourage others.

There is too much evidence, I think, cumulated since 1948 down to very recent times that Judge Carswell still holds the rather deep philosophical views expressed in 1948 and that his pragmatic and practical position is consistent with the views which he says he has rejected.

In Mr. Carswell's case, time and his decisions have not indicated that he has altered his basic position. Some say, "What about Hugo Black? Was not Hugo Black a member of the Ku Klux Klan?" The fact is that Hugo Black, as Professor Van Alstyne indicates on pages 137 and 138 of the committee hearings:

As county prosecutor of Bessemer County in Alabama, Hugo Black prosecuted the mayor and chief of police for extorting confessions from Negroes. That is reassuring. . . . As a U.S. Senator, he had ample opportunity to take a political position under very public circumstances on a variety of constitutional and civil liberties issues. In one case, for instance, he voted against the Smoot-Hawley tariff, a very complicated bill, and primarily on the basis that it gave a certain power to one of the customs masters to screen out certain forms of writing from the United States; that is to say, his was the first amendment objection. This matter was carefully reviewed by people of politically liberal persuasion at the time, and they did find a repeated series of reassuring events at this time, so to indicate that at the very worst than Hugo Black's affiliation with the KKK was one of convenience, given their overwhelming political control of the area, but neither by public utterance nor by private conduct nor by subsequent participation in the U.S. Senate or otherwise in public or private life was there lacking the presence of reassuring events or any presence of things more detrimental.

There is, however, a different distinction as well; 1948 is not 1933. The race issue was not a major issue in 1933. The affiliation of convenience may not speak particularly well of a man, but this was by no means so serious a matter in 1933 as in 1948. In 1948 civil rights legislation was before Congress. This was in the context of all the political controversy. The President had just desegregated the military in which Mr. Carswell himself had been matured in part. The Nation had just then read President Truman's special report "To Secure These Rights." The issue was now central, the occasion to reflect was far better provided than in 1933.

It was late, in 1948, to hold the views expressed then by Judge Carswell. A campaign is a good time in which to discover what a man thinks and what he is prepared to do or say in order to win an election. What he does or says in a campaign is a good basis to judge his qualifications for other offices.

It was largely on the basis of this that I voted against the confirmation of Mr. Burger to be Chief Justice of the United States. It is an indication of how a man is likely to act when he is under pressure to make judgments. Judge Carswell does not stand the test of special legal competence as a candidate and as a judge. It raises most serious question and is a most important consideration of his judgment on history and philosophy. His conception of the role of a justice of the Supreme Court falls far short of any standard which the Senate should accept.

The suggestion that he be put on the Court to balance the Court indicates that there might be a policy of reversing the trend that has developed over the last approximately 20 years toward the cause of civil rights and securing rights for the people of this country and that we are moving backward, even beyond Plessy against Ferguson, a decision made in the 1890's when it was decided that the period of reconstruction was to be ended.

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

Mr. McCARTHY. I yield.

Mr. BAYH. Mr. President, before the Senator goes back as far as the 1890's, I have noticed, with a great deal of interest, his assessment that this nomination tends to be a retreat from the positive direction in which we have been heading for years long past in the history of this country.

The Senator observed a moment ago that he thought 1948 was a little too late to make a statement like the one Judge Carswell had made that year.

I thought it might be appropriate to note also that 1948 was the year that President Truman won the nomination at the Democratic Convention. As the Senator from Minnesota well knows, there was quite a confrontation at that convention and there was a major decision made to push for a major civil rights plank in the Democratic Party.

It seems to me that we were then moving forward in that area. Yet, that was the time, during that very campaign, that Judge Carswell made his unfortunate statement.

Mr. McCARTHY. It was a year of truth, I think. He went beyond saying, "as a candidate." He said that "as a citizen" he held that position of white supremacy. It was too late and it was the wrong year in which to take that position.

In my opinion, the nominee fails on the most important point in the de Tocqueville list of qualifications.

The indications and the suggestion that this may be something comparable to the end of the period of reconstruction raises another question with reference to the whole Federal judiciary. The judiciary is certainly more than a supreme court.

Most presidential nominations for appointments to the Federal judiciary are approved without significant debate or serious controversy. Of the 421 circuit and district court nominations presented from the beginning of the Truman administration in April 1945 to the end of the Kennedy administration in November 1963, only a few proved to be controversial. Only four—all Truman nominees in 1950 and 1951—were rejected by voice votes on the Senate floor after having been reported unfavorably by the Senate Judiciary Committee.

In the 89th Congress, however, presidential nominations received searching attention: one was the nomination to the Fifth Circuit Court of Appeals, and the other the nomination to the District Court of Massachusetts.

Professional competence, reputation, personal history were, of course, considered in these nominations, but there was, in my opinion, a deeper consideration: whether the Federal judiciary should remain a regional or a State system or become a truly national judiciary.

The appointment of James P. Coleman to the Fifth Circuit Court of Appeals clearly raised the civil rights issue. Had James Coleman been nominated during the Truman or Eisenhower administrations, or perhaps even during the years when John F. Kennedy was President, it is likely that he would have been approved with scarcely a murmur of protest in the Senate.

Coleman was qualified as a lawyer. He had proved himself as a circuit judge and as a supreme court justice in his own State. His record as a Governor and in other State offices was such that he would have met the standards for appointment to the circuit for which he was nominated.

But when in 1965, his name was sent to the Senate by President Johnson, his views, as well as his record and his qualifications, were subject to most thorough examination. The reason is clear. Civil rights has become a truly national issue and to assure the carrying out of national policy under the Civil Rights Act, the law, it is recognized, must be applied uniformly in all of the courts of the country.

The courts of this land must administer the law more or less on a regional basis. We are still inclined to accept a kind of regionalized system of justice in this country. I suggest that because we have made such progress in improving justice at the Supreme Court level that it would be a serious step backward if the Supreme Court were to become a regional court. The district courts reflect regional differences largely because of appointments in the past but also in some cases, recent appointments. The circuit courts generally have reached the point where on appeal uniform justice is applied on uniform standards from one part of the country to the other. But to establish a regional division in the Supreme Court might not cause chaos, I would say, but undoubtedly it would cause great confusion.

Mr. President, I now wish to speak on one or two other matters which I think are related to the matter we have before us. One of these matters is the suggestion made by the Senator from Maryland (Mr. MATHIAS) in his individual views on page 12 of the committee report, where he stated:

> It is a political principle that was hard won by courageous men in England and preserved by brave men in America. The freedom of a judge to determine a case on its merits, subject only to other judges opinions on appeal, and not to suffer any retribution from any external authority . . . .

The suggestion is that somehow or other the action by the Senate is a review of a judicial finding or determination. The Senate is not reviewing previous decisions by Judge Carswell but passing a necessary judgment as to whether he is qualified to be on the Supreme Court. In doing so, we are exercising our constitutional responsibility to confirm or to deny to confirm a presidential nominee to the Supreme Court. To suggest that the Senate's role in this instance is that of a court above the Supreme Court or as endangering the freedom of judicial action is not only to misconceive the Senate's role in making judicial appointments but also to ignore the entire history of judicial appointments under the Constitution of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD certain remarks made by Alexander Hamilton on this matter in Federalist Papers Nos. 76 and 77.

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

The material, ordered to be printed in the RECORD, is as follows:

FEDERALIST PAPERS NO. 76

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 preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

FEDERALIST PAPERS NO. 77

Let us take a view of the converse of the proposition—"The senate would influence the executive." As I have had occasion to remark in several other instances, the indistinctness of the objection forbids a precise answer. In what manner is this influence to be exerted? In relation to what objects? The power of influencing a person, in the sense in which it is here used, must imply a power of conferring a benefit upon him. How could the senate confer a benefit upon the president by the manner of employing their right of negative upon his nominations? If it be said they might sometimes gratify him by an acquiescence in a favorite choice, when public motives might dictate a different conduct; I answer that the instances in which the president could be personally interested in the result, would be too few to admit of his being materially affected by the compliances of the senate. The power which can originate the disposition of honors and emoluments, is more likely to attract than to be attracted by the power which can merely obstruct their course, if by influencing the president be meant restraining him, this is precisely what must have been intended. And it has been shewn that the restraint would be salutary, at the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrouled agency of that magistrate. The right of nomination would produce all the good of that of appointment and would in a great measure avoid its ills.

Mr. McCARTHY. Mr. President, Leo Pfeffer, in his history of the Supreme Court entitled "This Honorable Court," accurately summarizes this history:

> The organizational integrity of the Court has not been touched by any act of Congress nor by any Constitutional amendment. No member of the Court has ever been removed from it other than by death, voluntary resignation or retirement. [p. 18]

This unique and integral status of the Court, so necessary to the maintenance of the vitality of the Government, is, therefore, not the result of carefully

drawn procedures. Rather, the Supreme Court has proved itself on the basis of the quality of individuals serving on its bench. What the framers of the Constitution did not anticipate or not provide, the individual justices through their actions have molded a necessary and singular institution of justice without parallel in any other government. The Supreme Court has not evolved into a department of intrigue as feared by some of the men gathered in 1787. Rather, it has become the foremost and at times the only protector of individual rights, the innovator of social change.

Two examples in recent times that I would cite would be civil rights actions and the one-man, one-vote principle. The court acted only when social pressure was so great that action had to be taken and only after it was satisfied a reasonable length of time had passed for Congress and the executive branch to initiate action.

Benjamin Franklin, on June 5, 1787, acquainted the delegates to the Constitutional Convention with a mode of selection practiced in Scotland. He related:

A Scotch mode in which the nomination proceeded from the Lawyers, who always selected the ablest of the profession in order to get rid of him and share his practise among themselves. It was here, he [Franklin] said, the interest of the electors to make the best choice, which should always be made the case if possible. [Madison. p. 68]

Lincoln in 1864, when called upon to replace Roger Taney, stated what he considered acceptable criteria for determining an individual's capacity to sit on the Court:

We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it. Therefore, we must take a man whose opinions are known. [*This Honorable Court* by Leo Pfeffer. p. 165]

The standards we are applying to Judge Carswell are not unreasonable. It is said that Mr. Justice Taft envisioned heaven as a great court inhabited exclusively by angelic judges. Mr. Pfeffer, in his book cited earlier in my remarks, states:

Taft was thus the only mortal known to history who attained not only heaven but the heaven of heavens for he presided over this angelic court—ten years before his death. [p. 269]

I cite these examples of Benjamin Franklin, Abraham Lincoln, and Chief Justice Taft as three persons who have contributed a measure toward building the Court into the kind of reliable and trustworthy and important institution it has become.

Each Member of this body ought to consider the foregoing observations in making his decision. Each Member of this body ought to realize in making his decision that it has fallen to the men of the Supreme Court, to define and protect the Court's function and relevance to the national welfare. The triumph of Mr. Justice Marshall is evident. The Supreme Court has become an institution capable of withstanding the shifts of popular passions and has helped to shape the patterns of the Nation. In the words of Mr. Pfeffer:

Paradoxically, the institution least democratic in its structure—consisting of nine men serving for life and responsible to no one—has become the institution most committed to and effective in the promotion and preservation of democracy. [p. 425]

Mr. President, all of this, it seems to me, adds up to a rather strong case against the confirmation of Judge Carswell.

Mr. President, I would now make four or five observations on some incidental arguments which have been raised in support of the Carswell nomination.

The Senator from Nebraska has said that if Judge Carswell had had no trial experience, the argument would have been made that he should not have been appointed. I would suspect that someone would make the point, but it would not be a very telling argument. It could not have been made seriously, because there is a history of men who went on the Court without trial experience who turned out very well. I would rather see a Justice depend on his clerks for legal and technical advice than depend on his clerks for philosophy or knowledge of history or wisdom.

The Senator from Nebraska said that, because he was a trial judge, he did not have time to indulge in niceties of scholarship. I would not fault him for what he said. I think his case must be judged on the basis of what he has said and what he has done.

The Senator from Nebraska has suggested in that same argument that a trial judge is very good because he learns to read between the lines, where a vital part of the record is contained. This may be true. I do not know how important it is for a Supreme Court Justice to read between the lines. It might come to that if one is satisfied he has read what is written, if he had read the lines right in the first instance, and then judge him as to how well he reads between the lines. But when one cannot come to a positive, affirmative judgment on the basis of what was written or what was said, I do not think anyone should be moved to take action on the basis of what a prospective Justice may have read or seen somewhere between the lines.

It may be well to point out again that the term of office of a Justice of the Supreme Court goes far beyond the term of a President, which may be 4 years, and a maximum of 8 years. The Senate has the responsibility not to be moved by any special appeal which says we should confirm this nomination because a President of the United States has asked us to do so, that somehow he has the right to do so, or the argument that those who know the judge intimately are for him, and we ought to respond to their urging. If that is so, one would have to ask how intimately the President of the United States has known Judge Carswell, or what is his experience with him. Over how long a period of time did he know him? On what basis of the association did the President of the United States, Mr. Nixon, decide that Judge Carswell should be nominated for the Supreme Court?

So considering all of these factors, the legal record itself, his handling of his own court, and what I consider more important, the fundamental and basic expressions concerning the nature of the Court, the general question is whether or not Mr. Carswell possesses the breadth of knowledge and wisdom, a sense of what the function of the Supreme Court is, an awareness of that great tradition.

I would not want to say that he is disqualified totally on any one or more of these counts, but that, taken together, the Senate should not confirm the nomination of Judge Carswell to be a Justice of the U.S. Supreme Court.

Mr. HRUSKA. Mr. President, earlier this month a substantial quantity of mail, postcards, and letters were delivered to my Washington office. They appeared to be quite identical in their appearance as well as their substance, and also they were identical in another respect: none of them had a return address, although they were signed.

My staff made a diligent search in the city directory and the telephone book of Omaha to ascertain whether they could identify any of the senders of these letters, but they were unsuccessful.

Some days ago, a representative of the Chief Inspector of the Post Office visited my office and those of 20 other Senators and some 11 Representatives. This visit explains the bulk of the mail urging the defeat of Judge Carswell's nomination.

The inspector's purpose in calling at my office was to deliver several pieces of mail which came into the possession of the postal service as a result of incorrect addressing. Perhaps I should explain that when the Post Office receives undeliverable mail—that is, where the address is undecipherable or found to be incorrect, the envelope or parcel is treated as "dead mail" and forwarded to a special office. There the envelope or parcel is opened to see if it is possible to identify the intended recipient, or the sender, and get the material into the hands of the proper persons.

Toward the end of February, several parcels of dead mail came into the possession of the postal authorities. They were addressed to such organizations as "MPLA Publications, African Support Committee," the "Southern Patriot," and to named individuals. Some of the parcels were mailed from Oakland, Calif., on February 20, and some from San Jose, Calif., on February 18. Others had no identifying postmark. None of them had return addresses. They were found in several States far removed from California.

When the parcels were opened, it was discovered that they contained postcards and letters addressed to Senators and Members of Congress, urging that the nomination of Judge Carswell be defeated. They also contained an unsigned letter of explanation from what is described as ". . . a group of concerned citizens in California." I will discuss this unsigned letter in a few moments. I am informed that at last count, there were 586 pieces of mail of this description, delivered on Tuesday, March 3, and Wednesday, March 4.

In addition to those pieces of mail delivered by the Chief Inspector's office, I have received a flood of letters and post-

cards bearing Omaha, Nebr., postmarks. Some of these letters and postcards simply urge me to oppose Judge Carswell's nomination, while others are insulting and some border on the abusive.

Mr. HOLLAND. Mr. President, will the Senator from Nebraska yield? I ask the Senator to yield to me because I have probably 10 minutes of remarks on the same subject as those just made by the Senator from South Carolina. I ask the Senator if he will yield to me at a convenient time.

Mr. HRUSKA. Mr. President, I have a brief statement to conclude, and when I complete it I will be happy to yield to the Senator from Florida.

Not a one of them carries a return address.

Quite obviously, these letters were bulk mailed from some other point—perhaps from California, although there is no way of confirming that—for remailing in Omaha. Quite obviously, the purpose of all this was to create a false opinion that a great many people in Omaha objected to Judge Carswell's nomination.

The nomination of Judge Carswell has stimulated a great deal of debate, not only in the Senate, which has the constitutional responsibility to advise and consent in the matter, but also in the public press. There is, of course, nothing wrong at all with public exploration and consideration of the matter. In our open society we encourage the widespread discussion of important issues. I believe all my colleagues will join me in stating that we find it important to look and listen to what our people and the press are saying. Sometimes we agree and sometimes we disagree, but we must always listen.

For this reason, we want to make sure that what we are listening to is actually the voice we think it is. I certainly want to know what the people in Omaha are thinking about, not only on the matter of nominating associate justices to the Supreme Court, but on all other issues as well. It is important to me what they are thinking; they elected me to sit here and represent them. I am responsible to them. I must go before them every 6 years and demonstrate that I reflect their wishes and their views.

But the postcards and letters urging me to reject Judge Carswell's nomination to the Supreme Court were not the voices of Nebraskans even though someone went to considerable trouble and some expense to make me think that they were.

Now, I do not mind getting letters from Californians. I confess that they do not receive the same prompt attention in my office that letters from Nebraskans do, but that does not mean that I do not have affection for them, or that I do not value their opinion. Certainly, the distinguished Senators from California will understand and forgive me for the preferred treatment I give to Nebraskans.

However, I should think that if someone in California—or anywhere else—wanted to write to me, he would have the courage and common decency to properly identify himself. I should think that anyone with honest and honorable intentions would have no reason to try to conceal his address or what State he lives in.

Mr. President, a little earlier in these remarks I mentioned that the Post Office Department had found among the cards and letters addressed to Senators and Representatives, a letter of explanation and instruction. I would like to quote from that letter at this time. Please note that it does not carry any signature or return address. There is no way to determine who wrote it, who mailed it, or what his motives might have been.

The letter starts out with "Dear Friend." No name or address, just "Dear Friend." Now, that is a curious way to start a letter to a friend, and it is even more curious that a letter to a friend would not be signed.

Here is the text of the letter, Mr. President:

DEAR FRIEND: We are a group of concerned citizens in California. We feel that your organization would be interested in keeping the fires of democracy alive in our nation while we still have time.

There are many issues of great importance being deliberated at this moment. The Haynsworth nomination was such an issue and we felt that the people of this nation should be represented on the highest court with objectivity and reason by a man whose personal life as well as public life was beyond reproach. We made our voices heard on this matter. As you know Haynsworth was defeated.

Every letter that is written to a congressman represents over 600 people as it is unusual for people to write unless it is a subject which concerns them personally.

We write to our California congressmen and representatives on every issue that protects human and civil rights, but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's own constituent carries more weight. Would you be willing to mail these letters in your state?

We have checked with our legal staff who report that there is no legal restriction on the mailing of letters.

If you have any questions on the content of the letters you are welcome to open them. We oppose war and the oppression of any minority on every issue.

We want to see social change which will create a more just society.

Please mail these and help maintain the freedom of all in the Nation. Thank you so much.

Note, Mr. President, that the second paragraph starts out with a statement that "There are many issues of great importance being deliberated at this moment," and then recalls the Haynsworth nomination. The letter goes on to say that "We made our voices heard on this matter. As you know, Haynsworth was defeated."

Whose voices? Mr. President, whose voices? Whoever the unknown authors of this letter might be, they appear to believe that they were influential in the rejection of Judge Haynsworth. How did they go about this? In the same way that they are trying to influence the nomination of Judge Carswell? By underhanded, cowardly methods calculated to deceive? By convincing those in positions of responsibility of a supposed public attitude which, in fact, was created out of whole cloth?

The unsigned letter continues—and I quote in part from the fourth paragraph:

We write to our California Congressmen and Representatives on every issue. . . . but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's constituents carries more weight. Would you be willing to mail these letters in your state?"

So there it is. A clear invitation to duplicity. A blatant attempt to create a false impression of support for opposition to Judge Carswell's nomination.

One of the last remarks in the letter is especially interesting. It says that, "We want to see social change which will create a more just society."

I assume that means they reject the society that we now have—a society founded and preserved on a government of laws; a society which indulges behavior even of those who would destroy it, because that is the price of democracy.

Mr. President, as a result of this experience, I have had an exchange of correspondence with the Post Office Department. I would like at this time to read the letter which is dated March 16 from the office of the Chief Postal Inspector here in Washington, D.C. It is addressed to me, and says:

DEAR SENATOR HRUSKA: The Postmaster General has asked me to respond to your inquiry concerning the mass mailing of post cards and letters which advocate a particular course of action by the Senate on the nomination of Judge G. Harrold Carswell as Associate Justice of the United States Supreme Court.

We do not have a definite explanation for this type of mail recently received by you with the postmark of the Omaha, Nebraska post office under dates of March 2 and March 7.

There has come to our attention a series of similar mailings originating in California sent in individual parcel post packages to organizations in North Carolina, Tennessee, and Washington with the request that the receiving organization individually mail "these letters in your State". . . . "As you know a letter from a Senator's own constituent carries more weight."

The packages from California contained no name or return address of the initiating "group of concerned citizens in California." They came to our attention because they were not delivered as addressed and they were treated as dead mail. Following such treatment, the individual cards and letters were delivered to the addressed members of Congress with appropriate explanations.

We are making inquiry in an effort to identify the California source, but have negligible investigative leads at this point and, as you indicate, it appears rather questionable that a violation of the Mail Fraud Statute can be established.

Sincerely,

W. J. COTTER,
Chief Inspector.

IN RE CARSWELL MAILINGS

The Carswell material discovered in Seattle was addressed to MPLA Publications, African Support Committee, 11 West Cremona, Seattle, Washington 98119. There was no originating postmark.

The Tennessee mailings were addressed to Southern Patriot, 3210 West Broadway, Nashville, Tennessee with originating postmark of Oakland, California on February 20.

The North Carolina mailings (2) were addressed to Mr. Bob Friedman, P. O. Box 10, Carbarro, North Carolina, with originating

postmark of San Jose, California on February 18.

A total of 586 individual pieces involved in the mailings which have thus far come to our notice. The following Senators and Representatives are included among the addressees.

SENATORS

Jackson	Jordan
Magnuson	Kennedy
Bayh	Fong
Burdick	Baker
Byrd	Gore
Cook	Mathias
Dodd	McClellan
Ervin	Scott
Eastland	Thurmond
Hart	Tydings
Hruska	

REPRESENTATIVES

Brown, George E. Jr.	Preyer
Fountain	Jonas, Charles R.
Galifianakis	Mizell
Henderson	Lennon
Jones, Walter B.	Ruth
Taylor	

The mail was delivered to the named members of Congress on March 3 and 4.

That is the conclusion of the memorandum.

Mr. President, to make the record complete, the States to which these mailings were made to the Senators and Representatives are the following: Washington, Indiana, North Dakota, Kentucky, Connecticut, North Carolina, Mississippi, Michigan, Nebraska, Massachusetts, Hawaii, Tennessee, Maryland, Pennsylvania, and South Carolina.

I want to say again that people who use the mails in this fashion presumably have a right to do so. There very likely are no violations of the law. They have the right to use the mail this way if they wish. But those receiving the mail a right to know where it comes from and by what methods such mail finds its way into hands of the addressee, particularly when those receiving it are public officials trying to perform a duty. It would mean more if there were a constituent's name or if it were truly an anonymous source. Most of us would like to know who the witnesses are who appear before us, who the people are who communicate with us, and what their interests and motivations are. Who is paying the bill? Why the deceit in the method of mailing?

Is it really a groundswell or an indication of a groundswell of public opinion or is it a sham?

Note the words in the letter:

We write to our California Congressmen and Representatives on every issue that protects human and civil rights.

Then they branch out into the business of such mailings to other States.

I do not know what other Senators have in mind or what their thoughts are on the subject. I do know that there was delivered to my office a total of 250 or 300 such letters. I brought some of the samples to my desk here. There are post cards. Those that are not postmarked from my home city of Omaha, Nebr., are blank, because those were the ones brought us by the postal inspector.

The letters are pretty much on a uniform type of paper. Some of it is lined and some of it is plain. But nowhere in all these letters or on any of these postcards is there any name. Patently, it is an effort to try to create the impression of a groundswell when none actually exists.

I ask unanimous consent to have printed at this point in the RECORD an article published in the Columbus Dispatch of March 16, 1970, at page 3A of that paper. It is headlined as follows: "Postal Inspectors Discover Scheme To Dupe Solons; Carswell Foes Send Phony Mail."

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

POSTAL INSPECTORS DISCOVER SCHEME TO DUPE SOLONS: CARSWELL FOES SEND PHONY MAIL

(By George Embrey)

WASHINGTON.—Opponents of Judge G. Harrold Carswell's Senate confirmation to the U.S. Supreme Court engaged in a phony national mail campaign. The Dispatch learned Monday.

Post Office Department sources reported postal inspectors came upon shipments of hundreds of stamped post cards and letters addressed to U.S. senators which were to have been mailed from North Carolina and Washington state.

The parcel post packages had been undeliverable and carried no return addresses. They were opened under postal regulations which require a search to try to obtain the identity of the sender for return.

The inspectors found some 250 letters and cards with messages opposed to Carswell which obviously were to give the impression they were mailed from the senators' home states.

The cards and letters in the two parcels sent to the wrong addresses in North Carolina and Washington were to have been mailed to U.S. Sen. Sam J. Ervin Jr. D-N.C., B. Everett Jordan, D-N.C., Warren G. Magnuson, D-Wash., and Henry M. Jackson, D-Wash.

Discovery of the packages of mail sent to wrong addresses indicated to Washington observers that a major phony mail campaign was under way against Carswell.

A mimeographed covering letter was found in each of the two packages, both of which had been mailed from points in California.

The covering letter said at one point: "Every letter that is written to a congressman represents over 600 people as it is unusual for people to write unless it is a subject which concerns them personally."

The covering letter also observed that "our legal staff reported that there is no legal restriction on the mailing of letters."

The Post Office Department said it is required by law to deliver such material and will do so. However, postal inspectors are to accompany the mail to the four senators and explain they originated in California and not in their home states.

Mr. HRUSKA. I yield to the junior Senator from Florida for a unanimous-consent request, with the usual stipulation.

Mr. HOLLAND. I appreciate the Senator yielding to me.

Mr. President, I did not receive letters of the type mentioned by the distinguished Senator from Nebraska, but I did receive complaints from my State about this whole series of deceptive mailings.

The article which caused the furore—and it was that—in my State, as can well be understood, appeared in the Tallahassee Democrat on Monday of this week, March 16, entitled "Mail Plan Uncovered." I ask unanimous consent that the article be printed at this point in the RECORD.

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

MAIL PLAN UNCOVERED

A scheme to flood U.S. Senators with phony anti-Carswell postcards and letters from their home states has come to light in North Carolina but could well be protected over the nation by "privacy of the seal," Tallahassee Postmaster Peyton Yon said today.

Postal officials have discovered at least three packages of stamped letters and postcards addressed to senators. The packages were prepared in California and mailed to persons in various states with the apparent object of having them mailed from "home states" to senators, giving them the impression the messages in opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court came from their own constituents.

Two packages sent to an individual in North Carolina were opened by postal inspectors who could not locate the addressee. The packages carried no return address and were opened by the inspectors seeking identity of the sender so they could be returned.

The packages contained some 250 stamped postcards and letters, almost all of them addressed to Sen. Sam Ervin and Sen. Everett Jordan of North Carolina.

Postmaster Yon said first class, deliverable mail would never be opened by postal officials and that only if a package were torn open by accident in transit would its contents come to light.

Mr. HOLLAND. Several paragraphs in that article are well worthy of reading into the RECORD:

A scheme to flood U.S. Senators with phony anti-Carswell postcards and letters from their home states has come to light in North Carolina but could well be protected over the nation by "privacy of the seal," Tallahassee Postmaster Peyton Yon said today.

Postal officials have discovered at least three packages of stamped letters and postcards addressed to senators. The packages were prepared in California and mailed to persons in various states with the apparent object of having them mailed from "home states" to senators, giving them the impression the messages in opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court came from their own constituents.

Two packages sent to an individual in North Carolina were opened by postal inspectors who could not locate the addressee. The packages carried no return address and were opened by the inspectors seeking identity of the sender so they could be returned.

The packages contained some 250 stamped postcards and letters, almost all of them addressed to Sen. Sam Ervin and Sen. Everett Jordan of North Carolina.

Mr. President, when I first heard this, which was on Tuesday morning, through a telephone call from a longstanding friend of mine in Tallahassee, I immediately contacted the Department of Justice, having been told that one of the Assistant Attorneys General, Mr. Rehnquist, was handling this matter for the Department of Justice. I told him of the report which had come to me and asked him if he would check this matter with the Post Office Department and advise me as to what he discovered.

Later I checked with the offices of the two North Carolina Senators, and I shall report on that later in this brief summary of my findings.

Yesterday, or the day before, I received from Assistant Attorney General William

H. Rehnquist, the gentleman whom I had contacted, a brief personal note which I shall not include in the RECORD—it is a simple note of transmittal—and a copy of the letter from Mr. W. J. Cotter, Chief Inspector, to Senator HRUSKA, which the latter has already placed in the RECORD, and a copy of the letter which was contained in the packages, which I shall mention later and which Senator HRUSKA has already placed in the RECORD. It begins "Dear Friend" and ends with these words, in capitals:

Please mail these and help maintain the freedom of all in the Nation. Thank you so much.

It is unsigned.

The communication to me also contained a letter from the Post Office Department to Mr. William E. Timmons at the White House. I take it that all of this is for the information of the Senate so I think this should be included in the RECORD.

I read it into the RECORD:

Postal inspectors have alerted me to a considerable mail campaign designed to damage the Senate confirmation of Judge Carswell.

Two packages, undeliverable and without return address, have been opened by postal inspectors in order to determine any contents that might indicate the identity of the sender for return. The envelopes contained some 250 stamped postcards and letters addressed to the United States Senators. Almost all of these are addressed to Senators Ervin and Jordan of North Carolina.

Obviously this letter to Mr. Timmons from the Post Office Department, Mr. Paul N. Carlin, the signing official, related to the North Carolina issue in particular.

Continuing to read:

Also enclosed is a "ditto" copy of a covering letter urging the recipient to remail the letters.

That is the letter read into the RECORD by the Senator from Nebraska which was contained in the packages not delivered and the letter was found when the packages were opened by the Post Office inspectors.

These parcel post packages originated in California. One is postmarked San Jose, undelivered to an individual in North Carolina whose name was Bob Freidman, and his address is stated as Carrboro, N.C., which is a suburb of Chapel Hill where the University of North Carolina is located.

I am told that the fact is this package could not be delivered because they could not find the addressee Mr. Freidman, and that was the reason for calling in the Post Office inspectors.

Continuing to read:

These parcel post packages originated from California (one is postmarked San Jose) and are directed to an individual in North Carolina. The object, obviously, is to have these California postcards and letters mailed in North Carolina to the Senators from that state, giving them the impression that these messages are from their own constituents.

A similar package from California to Washington state, undeliverable at the address specified, also has been opened by postal inspectors and contains similar postcards and letters addressed to Senators Magnuson and Jackson in opposition to the confirmation of Judge Carswell.

The packages addressed to North Carolina and to Washington state to wrong addresses indicates a major mail campaign, using this misleading tactic to erroneously indicate greater opposition to Judge Carswell's nomination. The POD is required by law to deliver such material, and we are doing so. Postal inspectors will personally visit the offices of Senators to whom these letters and cards are addressed and explain to them that they originate in Calif. and not in their own states.

Enclosed is a copy of the covering letter.

I repeat that part of the covering letter because it seems to me to be particularly significant:

We write to our California congressmen and representatives on every issue that protects human and civil rights, but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's own constituent carries more weight. Would you be willing to mail these letters in your state?

We have checked with our legal staff who report that there is no legal restriction on the mailing of letters.

Mr. President, I, too, have been advised that there are no legal restrictions on this kind of tactic, which is certainly completely reprehensible.

I immediately called Senator ERVIN and he told me that he was working on something else, but that he had a great mass of cards and letters which had been personally delivered by a Post Office inspector who gave him the facts as stated in the letters which have been placed in the RECORD. He stated to me that all of the letters were sealed and stamped and were addressed to him, but were not canceled, and that he had not had a chance to go into them personally, although one of the employees in his office, Hall Smith, had gone into some of them, and he would send Mr. Smith around to my office with those which had not been opened.

Mr. Smith brought around to my office 51 unopened letters, all of which were addressed to Senator ERVIN, and 92 cards. Mr. Smith told me that he felt sure the others which had been opened already would equal 20 or 30 to add to that number.

We are talking solely about the number of letters and cards in the North Carolina package which were addressed to Senator ERVIN.

There was another group addressed to Senator JORDAN, but I am not able to make a report on that because I have not been able to contact Senator JORDAN today.

I have, however, along with Mr. Smith, personally opened, at the suggestion of Senator ERVIN, the letters which had not been opened, all of which were stamped and sealed and had been delivered to him by the Post Office inspectors.

I think it might be well to state that some of them are respectful and some of them are not. They were intended, as is clearly shown, to be mailed to Senator ERVIN from his home State over postal cancellations from certain places in his State. They had been included in one of the two packages sent to this little post office in Carrboro, just outside of Chapel Hill, addressed to one Bob Freidman, who could not be found.

Mr. President, the first of these letters which I opened at the suggestion of Senator ERVIN, reads as follows:

Senator SAM ERVIN, JR.: I am asking you to vote against Carswell he is no good for the poor we need man with issure—

I do not know what that word "issure" means—

to our country good not made pigs of the people.

Sincerely,

MITCHELL RICHARDSON.

Mr. President, that is one of the letters which I opened and which I now offer for the RECORD.

The second of the letters which I opened is a little dictatorial. It is written in red ink. The other one was written in blue ink. This second letter was to Senator ERVIN, and reads:

DEAR SIR: You must vote *no* to keep Carswell from being appointed to the Supreme Court.,

Sincerely,

PEARL MCGEE.

The third letter which I opened refers to Judge Carswell in a rather insulting way. Let us see what it says:

DEAR SENATOR ERVIN: Carswell is a fool and not a judge. He is an insult to the South.

ANDREW STEVENS.

The fourth one claims to be written by a citizen of North Carolina. It is one of the group of letters written in California seeking to mislead the Senator that the letters come from North Carolinians who are writing to their own Senators.

The letter reads:

DEAR SIR: I am a patriotic American and citizen of North Carolina, in this capacity I urge you to block the nomination of a Mr. Harrold Carswell to the Supreme Court.

Thank you,

ROBERT SIMPSON, Sr.

Mr. President, as to whether he is a citizen of North Carolina, I have no information, but it is one of the sealed letters written in California appearing as part of the group of letters coming in the package from California addressed to Mr. Freidman at Carrboro, N.C.

The next letter to Senator ERVIN reads as follows:

HONORABLE SIR: I as a citizen am asking you not to vote for Carswell. He is a dirty old racist. I am going to tell you, that if you vote for him I will have to put you in the same category as he is. Also you might not be a Sen. any longer if you vote for him.

Mr. HALL.

Mr. President, of course, none of these have any return address on them, nor are they identified in any way except that the letters are handwritten and were sealed when sent in this large package from California to Mr. Bob Freidman at Carrboro, N.C., with a covering letter asking that he make sure that they are mailed from points in North Carolina to Senator ERVIN.

Assumedly, the other group would be mailed to Senator JORDAN of North Carolina whom I have not yet had the privilege of seeing in his office.

The next letter addressed to Senator ERVIN reads as follows:

DEAR SENATOR: As a United States citizen, I demand you to make sure Harrold Carswell is not appointed to the position of Supreme Court Justice. I feel this man hasn't got the stature to hold a light post up let alone hold a job of this sort.

Thank you.

Mr. MICHAEL O'HARE.

That is written quite frankly, I should say, to indicate that Michael O'Hare might be a very frank Irishman.

The next of the letters is the one that refers to fascism as one of the things that they fear in the matter of the appointment of Judge Carswell. It reads:

Senator ERVIN: If you truly represent the people of this country, you will not allow Carswell to be appointed to the Supreme Court. He is worse than you last offering, Haynsworth! What is this country coming to anyway? You will find yourself on the short end of the stick also, if you put him into office. Fascism is rapidly taking over America. The Supreme Court is our final safeguard. Are you willing to see that safeguard removed by the appointment of this prejudice man? I hope not! Do not be caught up in the tradition of Southern hate for the Negro.

That is signed:

A Concerned White Patriot—Henry Jacobs.

Again, there is no return address on the outside of the sealed envelope.

The last letter refers to Senate bill 12. I had forgotten what Senate bill 12 was. I find in asking at the document room—and I have the bill in my hand now—that bill was introduced in the Senate on January 15, 1969, by Mr. EASTLAND for himself, the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD), the Senator from New Hampshire (Mr. COTTON), the Senator from Illinois, Mr. Dirksen, the Senator from Connecticut (Mr. DODD), the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. HOLLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from South Carolina (Mr. THURMOND), and that the bill is entitled: "A bill to strengthen the internal security of the United States."

There were, among the some 51 which we opened, five or six which referred to matters other than the Carswell nomination.

This letter reads:

DEAR SENATOR: Because I feel it is my duty to write and tell you how I feel about Senate bill # 12.

I feel it is outrageous to our country and, a complete violation.

Because if you don't do anything about it, it will be like Hitler was in Germany.

Please vote against this bill.

It is signed "Mrs. Donna Brimmer," without any return address or any other sort of address.

Mr. President, not only is this part of the program which on its very face is deceitful, but it is also deceptive, and meant to be so. It is dishonorable. And I think it is truly despicable.

I want to make it very clear that I do not think any Member of the Senate had any knowledge of this program or had any part in it. But I want to make it very clear for the record as to the type of campaign that is being aimed against an honorable man who has rendered many good years of service to his Nation—first in the Navy under fire, and second in the various positions which he has held, as U.S. attorney, as district judge, and now as judge of the circuit court of appeals.

I have been grieved to hear people talking about mediocrity in connection with this man. In the first place, I want to call attention to the fact that the Federal judges of the fifth judicial circuit have elected him, and he has served for some years as a representative of the district judges in that whole circuit on the National Judicial Conference. And how a district judge who was not highly regarded could be elected to that position and could serve in it honorably for these years, unless he had shown real honor, real character, and real upstanding performance in his service, I do not see.

I call attention also to the letter from Judge Tuttle which appears in the RECORD. And it is rather clear that Judge Tuttle has changed his mind in some respects. But that letter written by him in longhand on the 22d of January and filed in the record of the hearings on the 27th of January shows clearly his conviction that Judge Carswell had served with distinction. It even speaks of his having served with distinction as an appellate judge, not just since he was appointed last year, but on various occasions before then.

I find that because of the high esteem in which he was held by the Circuit Court of Appeals for the Fifth Circuit, he was called upon frequently to sit with that court and participate in making important decisions.

Judge Tuttle's letter thus truthfully reflects the fact that Judge Carswell rendered such service as to impress himself upon the members of the circuit court of appeals to the degree that they called on him frequently to sit with them on appellate matters.

I am distressed to have an attack made against this man of the kind such as is evident from this despicable letter-writing campaign. None of us know how far it has reached. But obviously it has reached into many States.

None of us can hear from the radio, television, or other coverage of this matter anything about the very creditable record this man has made.

I have known him since his marriage. The family into which he married were longtime friends of ours. His wife was a friend and classmate of our oldest daughter.

We were frequently in the home of the Simmons in Florida. During the years I was in Tallahassee, 8 in the State Senate and 4 as Governor, I was frequently in their home. I knew that family well. They were our close friends.

So, I met this man very shortly after he came to Florida.

I have yet to receive one letter from Florida attorneys or judges except letters in complimentary terms of this nominee, letters urging his confirmation.

I placed in the RECORD the other day the communications I had received from the Governor and members of the cabinet of the State of Florida on that subject.

I placed in the RECORD letters from the entire membership of the district court of appeals for the entire northern district of Florida. That consists of five judges, I believe. That is our second highest court, just below the Supreme Court.

I placed in the RECORD some 20 wires I had received from circuit judges. They preside over nisi prius courts which are courts of general jurisdiction.

I have yet to hear anything but friendly comment about Judge Carswell from any judge of our State, and I think I am correct in saying I have heard from way over 100 reputable lawyers to the same effect.

In closing—and I apologize to the Senator from Nebraska from taking so long—I wish to present for the RECORD a letter addressed to me from the president of the Florida bar dated March 16, 1970. Mr. Mark Hulsey, Jr., wrote to me enclosing a copy of a telegram he sent that day to the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. TYDINGS). Since neither of these Senators has seen fit to have the telegram printed in the RECORD, I wish to do so.

Mr. Hulsey asks that I give publicity to his letter of February 17 to the Senator from Indiana (Mr. BAYH). He said he wrote a similar letter to the Senator from Maryland (Mr. TYDINGS) on that date.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter of February 17, 1970, addressed to the Senator from Indiana (Mr. BAYH) from the president of the Florida Bar, and the letter which Mr. Hulsey addressed to me under date of March 16, 1970, enclosing a copy of the telegram he sent to the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. TYDINGS).

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

THE FLORIDA BAR,
OFFICE OF THE PRESIDENT,
Jacksonville, Fla., February 17, 1970.

Re nomination of Judge G. Harrold Carswell for Associate Justice of the U.S. Supreme Court.

Hon. BIRCH BAYH,
U.S. Senator,
Washington, D.C.

DEAR BIRCH: I regret that an unexpected travel schedule has prevented an earlier reply to your letter of February 3, 1970.

You have asked for my rebuttal on the statement made on behalf of the National Conference of Black Lawyers and the testimony of Professor William Van Alstyne. While it is now probably moot, I hope it will give you cause to reflect again on the entire subject and vote to confirm Judge Carswell when the matter is considered by the full Senate.

As I indicated to you earlier, it is certainly ironic that Judge Carswell is charged with being a racist. My experience with him and his reputation in the Northern District of Florida are just to the contrary.

The statement made by the National Conference of Black Lawyers is replete with mistaken assumptions and premises. It argues rather than states facts. Understandably, the National Conference would have difficulty in being objective.

The testimony of Profesor Van Alstyne is a different matter. His credentials are impressive. Conspicuous by its absence is his lack of trial practice. Professors are qualified to critique Appellate decisions but it takes the trial lawyer to evaluate the trial Judge. Professor Van Alstyne expected your committee to give his criticism of Judge Carswell greater weight because he supported Judge Haynsworth. Apparently, he did not appreciate the difference between the atmosphere in the trial arena and the serene Appellate Court.

No useful purpose will be served by a complete rehash of the various cases cited. In passing, however, I will comment on them:

1. *Due v. Tallahassee.* The real issue in this case was when is a summary judgment proper and also what states grounds for relief under the Civil Rights Act.

2. *Singleton* v. *Board.* The mootness issue was scarcely raised below. The issue boiled down to credibility. A trial judge who saw the parties thought one way, the Appellate Court disagreed.

3. *Dawkins* v. *Green.* The District Court found there was no material issue of fact to be resolved and granted summary judgment. The Circuit Court disagreed.

4. *Steele* v. *Board.* This case was remanded because of a new decision, *U.S. and Linda Stout* v. *Jefferson County Board of Education,* rendered by the Fifth Circuit *after* the District Court Order.

5. *Augustus* v. *Board.* The Fifth Circuit Court of Appeals held it was error to grant a motion to strike the allegations relating to the assignment of teachers, principals and other school personnel because this was not a matter that had "no possible relation to the controversy". The Circuit Court also stated that:

"In the exercise of its discretion, however, the district court may well decide to postpone the consideration and determination of that question until the desegregation of the pupils has either been accomplished or has made substantial progress."

Thus, it appears that the Circuit Court recognized that the issue of assignment of school personnel was not one that must be decided immediately, it was only an issue that must not be disposed of by a motion to strike.

Professor Van Alstyne did mention the *Brooks* and *Pinkney* cases as being favorable to civil rights plaintiffs. Other civil rights cases where the Judge's action was sustained include:

Robinson v. Coopwood, 415 F. 2d 1377 (1969).

Baxter v. Parker, 281 F. Supp. (1968).

Steele v. Taft (July 19, 1965).

Ball v. Yarborough, 281 F. 2d 789.

Knowles v. Board of Instruction of Leon County, 405 F. 2d 1206.

Presley v. City of Monticello, 395 F. 2d 675.

Professor Van Alstyne said he did not know Judge Carswell. Perhaps if he had known him in Tallahassee, had heard him cursed, had listened to the harassing telephone calls and practiced law in his Court, he would not have been so quick to condemn him.

I appreciate very much your asking for my comment. Please call on me again if I may be of service to you.

Sincerely yours,

MARK HULSEY, Jr.

THE FLORIDA BAR,
OFFICE OF PRESIDENT,
JACKSONVILLE, FLA., *March 16, 1970.*

Re Judge G. Harrold Carswell.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HOLLAND: I enclose copy of telegram which I have today sent to Senators Birch Bayh and Joe Tydings. Please circulate copies of this telegram as you think appropriate. Also enclosed is a copy of a letter that I wrote to Birch Bayh in February which I am certain you will find of interest.

Please let me know if you think The Florida Bar can be of any further service in connection with the successful confirmation of Judge Carswell.

Sincerely yours,

MARK HULSEY, Jr.

MARCH 16, 1970.

Hon. BIRCH BAYH,
U.S. Senator,
Washington, D.C.

The 10-month vacancy on the United States Supreme Court and the passage of two months since the nomination of G. Harrold Carswell to that court makes it imperative for the Senate to act as soon as possible on his confirmation. Prolonged controversy will seriously erode public respect for the Supreme Court and our judicial system generally.

We respect your right to criticize Judge Carswell and oppose his confirmation, but excessive and extended criticism without developing new facts can become destructive to the court you seek to protect.

Tactics designed to delay a vote can only be characterized as fillibustering, a procedure we are certain you oppose. Unnecessary delay will diminish Judge Carswell's effectiveness and lastingly damage the public image of the Supreme Court.

Lawyers who have never met Judge Carswell, have never appeared before him, and know of him only from biased sources have signed and publicized petitions against him.

The lawyers of Florida actually know Judge Carswell best. The Florida Bar is the sixth largest organized Bar in America, with almost 12,000 members. Many of these lawyers have met Judge Carswell, have appeared before him, and know him and his record personally.

As President of The Florida Bar, I have been instructed by a unanimous vote of the Board of Governors to strongly endorse his confirmation.

I urge you to use your best efforts to cause an early Senate vote.

MARK HULSEY, Jr.,
President, the Florida Bar.

Mr. HOLLAND. I thank the Senator from Nebraska for his patience.

Mr. HRUSKA. I thank the Senator from Florida for his contribution. I am grateful to him for having included in the RECORD samples of the letters and postcards. I wish to join him in the belief and the statement that it would be unthinkable, and I am confident it is not so, that any of our colleagues in the Senate either knew about it or had any advanced information about this practice which has been described.

I yield to the Senator from Tennessee subject to the same stipulations heretofore stated.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I shall not take the time of the Senate for very long. I wish to speak briefly on the same issue which has been brought to the attention of the Senate by the distinguished Senator from Nebraska and the distinguished senior Senator from Florida.

The article which the senior Senator from Florida placed in the RECORD from the Florida newspaper, I believe, referred to mailings to Tennessee of these cards and letters. I can personally vouch for that.

It is interesting, or at least it is interesting to the junior Senator from Tennessee, that so far I have received about 270 letters in my office relating to Judge Carswell; and that approximately 200 of them were mailed in bulk to me by the postmaster in Knoxville, Tenn., by parcel post with a letter dated March 5, 1970. The letter is from our distinguished Postmaster C. Edwin Graves, who pointed out in his letter to me as follows:

U.S. POST OFFICE,
Knoxville, Tenn., March 5, 1970.

Hon. HOWARD BAKER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The enclosed were received at this office to be cancelled and placed in the mails.

I thought you should be informed that these were originally sent from the State of California. They are not from residents of this great State of Tennessee.

If we can be of further service, please let us know.

Sincerely yours,

C. EDWIN GRAVES,
Postmaster.

Mr. President, every constituent has the right to write to his Member of Congress in the House and in the Senate. I believe I speak for every Member of this body when I say we read and pay special attention to the sentiment, the drift of the sentiment, and the changing of opinions reflected in letters.

For that reason I am not sure I agree with my distinguished colleagues that this is free of any taint because a fraud has been perpetrated or an attempted fraud has been perpetrated on Members of the Senate on the theory that constituents of theirs expressed opinions one way or another on a principal issue and they want us to react to a fraudulent situation they created knowingly.

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

Mr. BAKER. I yield to the Senator, if I may.

Mr. HRUSKA. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I agree with the distinguished Senator. A fraud was attempted to be perpetrated. My statement was that after seeking legal counsel I was sorry I had been advised that under the postal laws they had to deliver those letters without opening them and they doubted any fraud charge could be made. I have not had a chance myself to research the postal laws.

Mr. BAKER. I am not sure the postal laws are all the laws that would apply in this case. I think that if any private citizen attempts to create a situation which misleads another person, public officials in this case, the statutory law might be applicable as the basis for an action and I suggest to the Department of Justice it might be looked into on that basis.

All of these letters I have just opened—they were not opened by my staff—are in the same size envelopes. They are all, with one exception, addressed in longhand; they are all in the same color ink with one or two exceptions; and most of them are on the same type paper. The post cards are all the same size. They are handwritten.

I will not detain the Senate long enough to read all the names, but it seems to me that the combination of the facts that they were forwarded from California, that they are all on the same material, and that we have here 200 names, should be enough for someone to seek to determine where they came from. I hope the postal authorities and the Department of Justice will do so because there is enough lawyer left in me, even after 3 years in the Senate, to find out who is trying to create a situation to make it appear that citizens of the State of Tennessee are writing to their Senators to suggest a position on an important matter, when they admit in this letter they are not citizens of Tennessee, that they are flying under false colors, and they parcel posted these communications to Tennessee by mail.

My father had recommended Eddy Graves for the position of postmaster in Knoxville. I am glad that Mr. Graves wrote me this letter. He points out that the communications did not come from Tennesseeans.

I will take them into account but I will also take into account the obvious lack of sensitivity of those who set up this effort to deceive this Member of the Senate on the matter of the nomination of Judge Carswell.

I intend to vote for the confirmation of Judge Carswell and from now on I intend to be on the lookout in my mail for any manufactured or contrived documents, contrived on the part of a few from whatever part of the country, to deceive elected officials. I think it is despicable. It is remarkable that about 70 percent of the communications on this subject received thus far in my office came by parcel post from California with a covering letter admitting the fraud.

Mr. HRUSKA. I thank the Senator for his contribution.

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

Mr. HRUSKA. I yield to the Senator from Montana with the stipulations earlier stated.

Mr. MANSFIELD. Mr. President, until this afternoon I felt I was a prisoner in an isolated booth as far as a certain type of communication was concerned. I had not heard of any other Senator receiving the same kind of mail until I listened to the debate today. I became so concerned that on March 5 I made a statement on the floor of the Senate in which I stated as follows:

RETURN ADDRESSES, PLEASE

Mr. MANSFIELD. Mr. President, one of the basic duties of a congressional office is the receipt of and response to constituent mail. This is one way in which we can keep in touch with the people we represent and it is a reasonably good indication as to how they may feel on a particular issue.

Last week I received many letters and cards from what I assume are residents of Missoula, Mont., expressing their views on a variety of legislative matters. There were approximately 150 communications, all signed and postmarked Missoula, Mont., but not one single return address. They definitely were not form letters because they commented on issues such as the voting rights legislation, the Carswell Supreme Court nomination, taxes, integration, Vietnam, and extension of the Office of Economic Opportunity programs. Because these matters are very current, I would like to be able to respond to these letters, but it is impossible to do so under these circumstances. I checked very carefully to see if there might be one address, but I could not find one. The only indication was one reference to the views being expressed by an organization of some 600 people.

I am taking this means of stating to these people in Missoula, as well as to any of my constituents, that I welcome their comments and recommendations and welcome an opportunity to respond. However, in this case, it is impossible.

Since that time I have received in excess of 50 more post cards and letters, none of them, even yet, with an address.

It appears to me that this is an unorthodox way—to put it as mildly as possible—to try to exert pressure on a Senator or a Member of Congress. To me this type of mail could well be counterproductive. I think that is obvious. I do not approve of it. And I certainly am curious as to its source.

I am always delighted to hear from my own constituents. I am very happy to answer their questions, to the best of my ability. But I must say this is a new way to reach a Member of the Senate, and one which I do not approve of. I like to know who writes in. They know who I am. I like to know who they are so I can answer their questions, as I said, to the best of my ability.

I do not know what can be done about mail of this kind. I have received an education this afternoon in listening to various Senators expound their views on this question and also to find out that it goes far beyond the confines of the State of Montana and far beyond the confines of the city of Missoula, Mont.

If my mail originates as described in the remarks I have just heard, then I do not know what can be done. But I do know that, as far as I am concerned, I will make up my own mind, give due attention to all communications which I receive, pro and con, on any matter, and in that way try to face up to my responsibility, and not do it behind the dodge of not leaving an address.

I thank the Senator for yielding to me.

Mr. HRUSKA. Mr. President, I am pleased that the Senator from Montana has addressed himself to this question. It came to my attention that on either March 4 or 5, he made some comments on this matter. After discussing it in my office, we felt it would be better to refer it to the Post Office Department and have the postal inspector check into it so we would have a real basis. I think the basis, the pattern, the grand design of this public relations scheme has been unfolded this afternoon in the colloquy engaged in by several Senators.

Mr. President, I yield the floor.

COMPREHENSIVE DISASTER ASSISTANCE—REFERRAL OF BILL—ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Indiana (Mr. BAYH) having to do with relief of disasters be referred to the Committee on Public Works.

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

Mr. MANSFIELD. Mr. President, it is my understanding that after that committee has had the opportunity to study the proposal by the Senator from Indiana, it will be referred to other committees as well.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. Monday next.

Mr. HRUSKA. Mr. President, reserving the right to object—the ruling has not been made yet—is that a bill having to do with insurance or allowing insurance companies to work together for the purpose of issuing coverage against certain natural disasters?

Mr. MANSFIELD. Mr. President, I have not the slightest idea. I was requested to do so by the Senator from Indiana, and it is on that basis that I have made the request, which I understand the Chair has granted.

Mr. HRUSKA. If it is the type of bill of which I have some recollection, it is my understanding that it is a bill which would carve an exception out of the antitrust laws and permit companies to get together for the purpose of writing insurance against risks in certain national coverages. If so, it would be a bill that inherently would go to the Judiciary Committee on two counts: One is the antitrust laws and the other is that it has to do with a situation which is embraced in the McCarran-Ferguson Act of 1946.

Mr. MANSFIELD. I am informed it creates an agency under the aegis of the President. That same legislative proposal has been considered by the Public Works Committee previously, and, so far as I know, it is in accord with what has been done before in this body.

Mr. HRUSKA. I do not know what other legislation there is. I know there is a bill by the administration also pending in one House or the other which has the same general subject matter. It is that which caused me to perk up my ears here. If it is in that same field, then it gets into the antitrust law amendments and into the McCarran-Ferguson Act.

Mr. MANSFIELD. As the Senator knows, any Senator has a right to introduce a bill and have it referred. This bill will go to a number of committees, but the request made on behalf of the Senator from Indiana and which was granted by the Chair, was to refer it to the Committee on Public Works.

Mr. HRUSKA. May I suggest to the majority leader that, in due time, and if the nature of the proposed legislation is such that it would involve the antitrust laws or the McCarran-Ferguson Act, it would be in order that we ask, at a later

time, upon proper showing, that there be a reference to the Judiciary Committee for the purpose of its scrutinizing the legislation and then reporting back to the Public Works Committee if that is indicated.

Mr. MANSFIELD. Any Senator can make that request at any time on any bill. I would not want to go any further than I have. It will be referred to the Committee on Public Works, as I understand and it is my belief it will be referred to other committees as well.

Mr. HRUSKA. I asked for no stipulation. I asked if it would be in order to do that if circumstances warranted it.

Mr. MANSFIELD. I ask that the Senator confer with the Senator from Indiana. I am certain his doubts will be dispelled.

Mr. HRUSKA. I am grateful to the Senator.

Mr. MANSFIELD. Mr. President, I do not want to make the request for Monday that I just did. I understand the request to speak for one-half hour has been withdrawn for that time, but still is in effect for Tuesday.

ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY, MARCH 24, 1970, AT 9:30 A.M.

Mr. MANSFIELD. I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment, as in legislative session, until 9:30 Tuesday morning.

The PRESIDING OFFICER. The Chair will rule that without objection it is so ordered, but the Chair might suggest to the Senator from Montana that we have not disposed of the time for convening on Monday next.

Mr. MANSFIELD. It was already done. I withdrew my request. My understanding is that we are going to come in at 11 o'clock Monday morning as in legislative session.

ORDER FOR RECOGNITION OF SENATOR MURPHY ON TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer on Tuesday, the distinguished Senator from California (Mr. MURPHY) be recognized for not to exceed one-half hour.

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

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, reserving the right to object, I did not quite catch what the distinguished majority leader said. Did he say that from Monday to Tuesday we would recess or adjourn the Senate?

Mr. MANSFIELD. Adjourn.

Mr. GRIFFIN. I wonder if the distinguished majority leader would consider the possibility that perhaps we should not adjourn the Senate and consider the possibility of recessing.

Mr. MANSFIELD. I would be delighted. I will change that from adjournment to recess, at the conclusion of business on Monday.

Mr. GRIFFIN. I thank the distinguished majority leader. Nothing has been said on this side yet charging or suggesting that there is any such thing as a filibuster going on. I am sure that there is not; I hope that there is not, and that we will be voting soon on this very important nomination. But, speaking from this side, I hope we can get to that vote next week.

Mr. MANSFIELD. I would hope so, but it is an impossibility, as I see it, on the basis of conversations which I have had. What I wanted to announce was that at the conclusion of the remarks of the distinguished Senator from California (Mr. MURPHY) on Tuesday, at approximately 10 o'clock the Senate will take up the conference report on the Elementary-Secondary Education Act.

We have no choice in the matter. It is a privileged matter. It was thought it could be brought up Monday. I asked that it be postponed until Tuesday, for good and sufficient reasons.

That may well take all day, if not longer; so this is the reason for the early session on that date.

Mr. GRIFFIN. Mr. President, I came in late, and I suppose I did not understand that. Has that unanimous-consent request been agreed to?

Mr. MANSFIELD. Not for Tuesday, but if it is not, and we come in later, it still is privileged, and we will just take up that much more time.

We do not need a unanimous-consent agreement, because we have the agreement to come in at 9:30 on Tuesday. We have a half-hour up until 10 o'clock for the Senator from California (Mr. MURPHY), and then, as a matter of procedure and priority, any conference report comes down automatically.

Mr. GRIFFIN. That would not be true if we were in executive session, would it?

Mr. MANSFIELD. Yes; it would be true in executive or legislative session, as I understand it. That would be subject, of course, to the ruling of the Chair. If that is not correct, Mr. President, I would, as a matter of honor on my part, have to move on Monday next, if I cannot obtain the agreement today, that we stand in adjournment, because I feel I have made a commitment which I must honor.

Mr. GRIFFIN. I do not know, of course, what the response would be from this side. I would like to consult with the distinguished minority leader, perhaps we will have no choice in the matter. As far as I am concerned, I believe we should stick with the nomination that is pending, and get to a vote on that. I do not believe it should be put aside for some other business, particularly something that might take a long period of time. If it were a matter of putting the nomination aside for a half-hour or so to take up another measure, that would be one thing; but we are conscious of the fact that the conference report on the education bill is very controversial, and discussion about it may well go on for a considerable period of time.

Mr. MANSFIELD. It could. If the Senator will yield, no one has been more anxious that the Senator from Montana to bring the Carswell nomination to a head and to have the vote taken. However, as the distinguished acting minority leader should know, the leadership at times is placed in a position which could be embarrassing.

I can state that, to the best of my knowledge—and I think this is a true statement of the fact—it will be an impossibility to get the Carswell nomination to a vote before the Easter recess. I am hopeful we can get it to a vote on the following Tuesday, or at the latest on the following Wednesday. If we can do that, in view of the circumstances which have arisen and the extension of debate which has occurred over the past week or so, I think we will have achieved something in the nature of a minor victory.

But I would hope that the Senator would allow us to take up this conference report without attempting to block this commitment of the leadership on a privileged matter. I would tell him, in all candor, that the motion to go into legislative session is not debatable, that I would be compelled to move, and the conference report would be taken up on that basis. I might point out that I have accommodated the Senator by changing the order from adjournment as in legislative session to recess. I would hope that he could similarly accommodate the leadership. Otherwise, I suppose a new motion to so adjourn would have to be offered next Monday and the Senate could then decide.

I hope the acting minority leader will realize the position the leadership is in, because he could well be in the same position at some future time.

Mr. GRIFFIN. I appreciate that the majority leader feels a sense of obligation; and the fact that he has advised the Senate helpful. I simply feel that I am not in a position, and would not want, to agree to such a procedure without at least consulting with the minority leader; and I am sure the Senator can understand that. Perhaps, there can be an agreement at a later point.

Mr. MANSFIELD. Yes; that is perfectly all right, because we still have plenty of time. We have the adjournment from tonight until Monday, and the recess, as of the present time, from Monday until Tuesday. The recess entered by me out of consideration for the wishes and views of the Senate.

Mr. GRIFFIN. It would be my observation that we have heard, I believe, from all of those who wish to speak or wish to make statements in favor of the nomination. We have heard from a great many speakers from the other side who are opposing the nomination. I do not know how many more speakers there will be. I would assume it would not be too difficult to ascertain; and, if necessary, we could continue Monday night on into the evening, in order to make sure that everyone had an opportunity to speak on the nomination. Unless there is a filibuster of some kind underway, I do not understand why we should not be able to get to a vote.

Mr. MANSFIELD. I have tried to explain in part why, with this very impor-

tant conference report coming up, which personally I would have liked to have seen go over until after the recess, and that we are up against a series of facts which I would think would be impossible to overcome at the present time.

I am prepared to continue to come in early and to stay in late. I am not prepared, and never have been, to stay in all-night sessions.

I do not think there is much more that can be added to the debate. I think most Senators have, by and large, made up their minds, or are on the verge of so doing, and it would be my hope that we would be able to dispose of the conference report next week—it may take more than a day. I hope some agreement can be reached—either at the end of next week before we go out, or on the day we come back—as to when we could vote at a time certain on the pending nomination.

I assure the distinguished acting minority leader again that if the Senator from Montana had his way, we would vote on the Carswell nomination next week.

Mr. GRIFFIN. I thank the distinguished majority leader. He has been most cooperative and helpful at all times.

Mr. MANSFIELD. I thank the Senator from New York for yielding, and apologize for the delay.

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. GOODELL. Mr. President, on February 5 of this year, I announced my decision to vote against the nomination of Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court.

I do not oppose him because he comes from the South, or because he may be considered to be a strict constructionist of the Constitution, whatever one's individual definition of that term may be I enthusiastically supported the nomination of Chief Justice Burger, who was also characterized by the President as a strict constructionist. I voted for the confirmation of Judge Burger because he was, in my judgment, eminently qualified.

The President has a right to nominate to the Supreme Court any man of his own choice, of any judicial philosophy, from any region of the country. The Senate has its own duty under the Constitution. Each Member of the Senate must exercise his individual judgment, and base his decision on the most careful scrutiny of the qualifications of the nominee, with a searching mind as to whether the best interests of the Nation will be served by confirmation.

The issue of consent in the case of a Supreme Court nominee is clearly distinguishable from that issue in the question of the confirmation of other presidential nominees.

For instance, the function of a Cabinet officer is to carry out and administer the President's policy. His term of office expires with that of the President. The Supreme Court, on the other hand, has a constitutional function which is clearly separate and distinct from those of its two coequal branches of the Government. Also, appointment to the Court is for life.

The President should be given great latitude in obtaining confirmation of his choices for positions in the executive branch; but, because of the unique constitutional role which the Supreme Court plays in American life, every Senator has a special duty in casting his vote on a confirmation issue involving a Supreme Court nominee.

He should ask himself, "What is my obligation, as an individual U.S. Senator, on an issue such as this?" It is not our function to demand that a Supreme Court nominee agree with us on all the issues and in all the cases he may have decided in the past; but there are certain issues that are so basic to our country that its very survival is tied to them.

One of these is civil rights. I oppose Judge Carswell because, as a member of the Federal judiciary, he has failed to heed the civil rights revolution of the past decade. He has demonstrated a basic insensitivity to fundamental civil rights issues—issues which are essential to our survival as one indivisible Nation.

In my view, any man proposed for a place on the Supreme Court must understand the meaning and the dimensions of that civil rights revolution. No matter what his other qualifications and virtues, if he fails to comprehend its meaning, he should not be confirmed. My opposition to Judge Haynsworth was predicated upon the same ground.

Mr. President, there are a series of cases that have been cited with reference to the judicial record of Judge Carswell. I shall mention only a few here today. And I might say, with reference to this debate, that I do not believe that all Senators have made up their minds. From my discussions with my colleagues, I think there are a great many who are uncertain, and they are listening carefully to the evidence being presented on both sides, and are particularly alert to any new evidence which comes to light.

I think this extended debate thus far has been of great utility to those Senators who are undecided. It also is of great usefulness in enlightening the American public as to this issue, so that citizens can have the opportunity to convey to their elected representatives their own inclination with reference to the approval of Judge Carswell.

President Nixon has indicated that he wanted a young man—one of his qualifications—in appointing a Supreme Court Justice. The reason for this, apparently, is that he wants someone who will remain on the Court for an extended period of time. Judge Carswell is 50 years of age. With even normal service on the Court, we are talking about 15 or 20 years of Judge Carswell sitting on the highest court of this land. With the longevity of Supreme Court Justices—the historical record—and their disinclination to retire, we may be talking about a considerably longer period of time in which this nominee will serve on the Court. He could well be serving on the Court 30 years from now, in the year 2000 with all the changes we can anticipate in this country in the last third of this century.

Mr. President, in that context, I think it is important that the U.S. Senate review the abilities and the disabilities of the Carswell nomination.

Much has been made during the last weeks debate of the fact that the American Bar Association's judiciary committee had rated Judge Carswell as "qualified" to sit on the Supreme Court. The Attorney General of the United States has, in fact, stated publicly that Judge Carswell was "highly recommended by the American Bar Association."

Forgotten has been the fact that the committee chose, for the first time in the history of its evaluation of Supreme Court nominees not to rate Judge Carswell on the comparative scale of "not qualified" or "highly acceptable from the viewpoint of professional qualifications." It would seem that the committee, therefore, did not consider Judge Carswell as "highly acceptable from the viewpoint of professional qualifications," and that by rating him on merely the new criterion of "qualified" the committee members were telling the Senate as much by their damnation with faint praise of the judge as they could have by rejecting him.

Forgotten has been the fact that the committee generally will rate a judge qualified for appointment if he displays even marginal professional qualifications coupled with an absence of gross ethical impropriety in his record. Shall this Senate confirm, for a seat upon the highest court of our land, one whom the ABA's judiciary committee has refused to rate as even marginally qualified according to its former standards of "highly acceptable."

Forgotten, finally, has been the fact that the committee chose not to reserve judgment until all of the evidence was in, but to render an opinion expeditiously. In doing so, it committed itself to an opinion before a report was released by the Ripon Society, an exhaustive statistical report completed by a number of law students, and lawyers, demonstrating that Judge Carswell is, on the basis of several criteria, an exceptionally inadequate Federal judge.

Mr. President, eight distinguished members of the American Bar Association opposed to the confirmation of Judge Carswell have sent a telegram of protest to Bernard Segal, president of the American Bar Association, and Lawrence Walsh, chairman of the ABA's judiciary committee, urging them to reconvene the committee in order to rate Judge Carswell on the established comparative scale used to rate nominees for the Federal judiciary. I would like, at this point, to read that telegram of protest into the RECORD.

It is addressed to Mr. Bernard Segal, president of the ABA and Mr. Lawrence E. Walsh, chairman of ABA judiciary committee.

We are members of the American Bar Association who do not believe that Judge Carswell meets the minimum requirements

of professional ability and judicial temperament to sit on the Supreme Court of the United States. Even if he meets the minimum requirements, we do not believe that a man with minimum qualifications should be confirmed by the Senate as a Justice of our highest Court.

It is our understanding that while the Committee on the Federal Judiciary ranks appointees to the lower federal courts on a comparative scale that covers the entire ranges from "not qualified" to "qualified," "well qualified" and "exceptionally well qualified," it rates appointees to the Supreme Court only as "not qualified" or "qualified." We further understand that this is a recent departure from earlier practice. Initially the same comparative scale was used for all courts, and thereafter until the Carswell appointment, Supreme Court appointees were rated either "not qualified" or "highly acceptable from the viewpoint of professional qualifications."

The action of the Committee on the Federal Judiciary in rating Judge Carswell as "qualified" has been used widely as an endorsement of Judge Carswell's nomination to the Supreme Court by those who support him. The Attorney General of the United States has stated publicly that Judge Carswell was "highly recommended by the American Bar Association."

We believe that the new "pass-fail" system of rating appointees to the Supreme Court deprives the Senate of information that is vital to the proper performance of its duty to advise and consent. For those Senators who may agree with us that their consent to the appointment of a man with minimum qualifications should be declined, it is vital to know whether the bar rates an appointee as barely "qualified," "well qualified" or "exceptionally well qualified." It is highly incongruous to continue supplying such information to the Senate for appointees to the lower federal courts and to withhold it when the Senate performs the vastly more important function of considering appointees to the Supreme Court.

We therefore respectfully request that the Committee meet again to rate Judge Carswell on the established comparative scale still used for the lower courts and that we be given an opportunity to present our views to that meeting. We urge that such a meeting be set as promptly as possible so that the Senate will know precisely where the Committee rates Judge Carswell before it completes its deliberations on his nomination.

We further request that the comparative scale be utilized in the Committee's rating of all future nominees to the Supreme Court.

SAMUEL I. ROSENMAN,
Judge, former president of the New York City Bar Association.
FRANCIS T. P. PLIMPTON,
President of the New York City bar Association.
DEREK BOK,
Dean of Harvard Law School.
LOUIS POLLAK,
Dean of Yale Law School.
BERNARD WOLFMAN,
Dean of the University of Pennsylvania Law School.
MURRAY SCHWARTZ,
Dean of the UCLA Law School.
NEAL RUTLEDGE,
Miami attorney, son of former Supreme Court Justice Wiley Rutledge and former law clerk to Justice Black.
WARREN CHRISTOPHER,
Partner in O'Melvany and Myers of Los Angeles, former Deputy Attorney General of the United States.

I am joining with several other Senators today in sending a telegram to Mr. Segal and Mr. Walsh affirming my agreement with the sentiments expressed by those legal scholars who signed the telegram of March 11, and requesting that the ABA committee indeed reconvene to reconsider its statement on Judge Carswell. It is clear that that statement has been flawed by its use of a new ambiguous criterion to rate Judge Carswell and by the fact that it was made before all of the evidence on the judge was in. For those reasons, no one can claim that statement to be an unqualified endorsement of Judge Carswell, and for those reasons, the committee should meet again to consider new evidence and to make an unambiguous statement on its opinion of the judge.

Mr. President, Attorney General Mitchell has also faulted the Ripon Society report; and I will make further reference to that study at a later time.

I might assure my colleagues present that that probably will not be tonight. But the Ripon Society study was a thorough study and examination of the record of Judge Carswell, comparing it to the record of other Federal judges in the fifth circuit.

The Attorney General asserted that only Judge Carswell's reported decisions were cited and, therefore, the preponderance of his decisions have not been analyzed. If the Attorney General has such faith that the unrecorded decisions will demonstrate the competence of Judge Carswell, why has he not released those decisions, which his Department surely has examined and filed in disappointment? Why did he not refute the Ripon study by forwarding to the Senate Judiciary Committee the file of those unreported decisions? I challenge the Department of Justice, if it is so convinced of Judge Carswell's juridical skill, to make public the evidence upon which their assertion rests, to present to this Senate the evidence which it needs to make an informed decision upon that judge.

Let me suggest, in the absence of that evidence, that the statistical techniques used in the Ripon study, and attacked by the Attorney General, have just been validated in the annual report of the Administrative Office of the U.S. Courts. The Director of that Office, in table B–1 of the report, presents statistics which nearly exactly replicate the figures of the Ripon Society on the rate of reversal in all Federal courts—20.2 percent—in 1969, and in all fifth circuit courts—24 percent. It is clear, since the Administrative Office has validated the reversal figures reached by the Ripon lawyers and law students, that the statistical techniques on the basis of which they came to their conclusion are valid, and that Judge Carswell is indeed juridically incompetent to sit upon the Nation's highest court.

If the Attorney General should say that the unreported decisions have still not been taken into account, then I say to him that such a study is now being made, by the same group of Columbia students and New York lawyers which authored the report put out by the Ripon Society. They are examining 7,000 unreported opinions, all of those appealed to the fifth circuit appellate bench since 1958, to measure Judge Carswell's record against that of each of the other trial judges in that circuit.

This comprehensive examination will come to us certified under oath from those lawyers signing it, and they will be affixing their professional reputations to that oath. The comprehensive study will end, once and for all, the speculation about whether Judge Carswell is impeached by his unreported cases as well as by his reported ones.

I challenge the Attorney General, since it is he who has implied that the record of unreported cases will be determinative, publicly to define the standard of competence by which he will judge a Supreme Court nominee. Let him define the term "competence," however he will, and I assure this Senate that Carswell will not meet it. It is the Attorney General, and those Senators who have supported the judge, who have stated that the unreported cases would be determinative. Fine. Let them now back up their words with a commitment, with a willingness to say "if he goes beyond this threshold, he would be unacceptable."

Should they refuse to do it, they demonstrate to the Senate and to the American public that they, indeed, fear the nominee to be unqualified by an objective standard, and that they are unwilling to define "competence" for fear that their man will be found wanting.

Let them set the standard, and then let us see whether the definitive study of 7,000 fifth circuit cases shows them that their man ought to sit upon the highest court of the land.

Mr. President (Mr. BAYH), there are many factors in the record of Judge Carswell which should be carefully considered by the Senate.

Judge Carswell has been, for a brief period, a trial judge in a rural district. No one can assert that he has been consistently exposed to well-briefed cases and sophisticated oral argument. It is clear that he has been consistently rude to lawyers, white and black, appearing before his court. He has had a disdain for the writ of habeas corpus which displays an insensitivity to civil liberties not often noted in this country in these times.

Are we not entitled, Senators, to ask for a nominee for the Supreme Court not merely that he be competent, but that there be an x factor of judicial prudence, of sensitivity, of intellectual capacity for all those who sit upon the Supreme Court?

In this year of 1970, after the Supreme Court's image has been tarnished by the Fortas and the Haynsworth brouhahas, when law students across the country have begun to look upon the Court's decisions with increasing skepticism and even contempt, when more and more citizens unversed in the law have begun to suspect the impartiality, the wisdom, the values of the members of the Court, can we afford to confirm a justice whose presence on the Court can only exacerbate these trends.

If this Senate has any concern whatsoever with insuring that the Supreme Court and its decisions be respected across the land, can we place George Harrold Carswell on that Court?

Is there a man among us who can say that Judge Carswell has that x factor which ought to be the unique possession

of the nine most important jurists in the country? Is there a man among us who can say that he is impressed with Judge Carswell's prudence, his sensitivity, his intellectual capacity?

Mr. President, there have been many things said about the record of Judge Carswell. I would cite only one more, a specific item that I think is of interest. The hour is getting late.

Mr. President, in this morning's newspaper, I read a reference to a memorandum that had been submitted to some Republican Senators last fall. I would like to expand a little bit on that memorandum, because now that it has been revealed, I believe that its full import should be understood.

Mr. President, the President of the United States, in my opinion, has been poorly served by those in the Justice Department particularly in the office of the Counsel to the Department, who were to do the investigatory staff work on prospective nominees for the Supreme Court. Those staff members failed to disclose to the President the total Haynsworth record, and their negligence has now once again resulted in his being caught by surprise on the Carswell segregationist speech, the golf course incident, and the restrictive covenant on his house—and others, factual details in the background of Judge Carswell that are distinctly relevant to his qualifications to be one of the Supreme Court Justices.

As far back as November 1969, Mr. President, some Republican Senators were fearful that the President would not be fully informed of the background of his next nominee to the Supreme Court. Our forebodings, unfortunately, proved all too accurate. I would like to read to you from a memorandum prepared for some Republican Senators last November, dated November 5, 1969. It is labeled "Southern Judgeships" and reads as follows:

As moderate Republicans appointed by Eisenhower retire from the Fifth Circuit and as Haynsworth prepares to leave the Fourth, the Nixon Administration is choosing segregationist Democrats or Dixicans to replace them. Since these judges are being named by Mitchell and approved in a perfunctory way, Nixon may well not be fully aware of their record or probable impact.

The most recent appointee, pushed through the Senate Judiciary Committee and confirmed on the floor on Moratorium Day, is Charles Clark, a leading strategist in Mississippi's resistance to desegregation and close associate of William Harold Cox, segregationist District Court judge.

Clark defended Mississippi's segregated jury system at the time of the Philadelphia Klan murder trial; he proposed indictment of James Meredith in order that the University could exclude him as a criminal; he was the chief legal adviser in the challenge to unseat the first black elected to the Mississippi legislature in recent times. A Democrat, he is described by Jack Greenberg of the Legal Defense Fund as a "young, smart, effective lawyer, who has devoted his entire career to the segregationist cause." He joins the court at a time when Emmett Tuttle and other pro-civil rights Eisenhower appointees are retiring.

Nixon's other recent appointee to this crucial court, George Harrold Carswell of Florida, is described by Southern lawyers as an even more unfortunate choice than Clark, since Carswell is older, less intelligent and more set in his ways. As a district judge, he has been repeatedly reversed and reproached by the Fifth Circuit for his rulings in cases involving desegregation of everything from reform schools to theaters. But his chief technique, say civil rights lawyers, is prolonged temporization.

Mr. President, these are all new contributions to the debate which is arising over this important nomination. I am confident there will be more revelations as this debate progresses. And I intend to participate further in this debate in the hope that we can convince the Senators who are now uncertain and who have not fully made up their minds that it is in the best interests of the United States that the Senate reject the nomination of Judge Carswell.

I believe it is critical that my Republican colleagues view this issue in perspective and recognize its full import for our country.

This is not a matter of party loyalty. This cannot be a matter of partisanship. Each Senator should look to his own conscience and should not vote on the basis of who made the nomination and what party he belongs to.

The Supreme Court is an independent branch of Government. Every judge, once he is placed on the bench, becomes immune from politics. It is not significant whether a Justice of the Supreme Court is a Republican or Democrat. He is past party affiliation.

It is significant that a Justice of the Supreme Court in 1970, in the last one-third of this century, should be a man of wisdom, sensitivity, intelligence, and a man who understands the importance of the basic issues that face this country.

I do not believe on those standards that Judge Carswell qualifies, and I urge my colleagues to reject the nomination.

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

The PRESIDING OFFICER (Mr. COOK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO MARCH 23, 1970, AT 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 o'clock Monday morning.

The motion was agreed to; and (at 5 o'clock and 15 minutes p.m.) the Senate adjourned, as in legislative session, until Monday, March 23, 1970, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, March 20, 1970:

DEPARTMENT OF TRANSPORTATION

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

DIRECTOR OF SELECTIVE SERVICE

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

IN THE COAST GUARD

The nominations beginning Michael Ray Adams, to be ensign, and ending Merle L. Cochran, to be chief warrant officer (W–4), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 18, 1970.

EXTENSIONS OF REMARKS

ADDRESS BY HEW SECRETARY FINCH BEFORE THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, on February 7 HEW Secretary Robert H. Finch addressed the National Association of Secondary School Principals. The Secretary emphasized two challenges which face our secondary schools: student unrest and effective education. While realizing that to a certain degree student unrest reflects the tensions within our society as a whole, Secretary Finch rightly pointed out that the educational process has often failed the student and that the Nixon administration is committed to learning much more about education techniques and the development of cognitive skills. Part of this challenge lies with developing an awareness and concern for our environment. "And in this battle," the Secretary states, "there is no weapon more critical than education."

I think my colleagues will find the Secretary's remarks of interest. The complete text follows:

ADDRESS BY THE HONORABLE ROBERT H. FINCH

As my own first item of business, let me convey to you, at his personal request, President Nixon's greetings. Even though the press of business has prevented his personal attendance, he asked me to express his concern and close attention to your endeavors.

Your convention theme, "What's Right With American Education", provides a healthy concern with the positive. I don't think by that focus that you are ignoring the problems and tensions which secondary schools are experiencing. Since you are at the eye of the storm, you obviously know that there are no rugs big enough to have some of your problems swept under.

It is in that same spirit of the positive that our own efforts are proceeding. And when we look at what is wrong with education, we do it in the sure knowledge that self-examination is the indispensible first step toward the achieving of the quality education Americans have always expected.

But to assess both what is wrong and what is right with American education—to es-