

SENATE—Thursday, March 26, 1970

The Senate, in executive session, met at 10 o'clock a.m. and was called to order by Hon. WILLIAM B. SPONG, Jr., a Senator from the State of Virginia.

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

Almighty God, whose glory men beheld in the face of Jesus going about doing good, who came as a servant not to be ministered unto, but to minister, and in the end transformed a cross into an instrument of redemption, help us to understand the fellowship of suffering, that we may have His higher wisdom. Make us to know that resurrection is planted in the foundation of the universe. Keep alive in us the crucifying hope that it is only by losing life we find it again and that it is by dying we live. Be with us as we work this day, go with us when we part, stay with us when we worship, come with us when we return.

In the name of Him who is the Resurrection and the Life. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington D.C., March 26, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. WILLIAM B. SPONG, Jr., a Senator from the State of Virginia to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the order of yesterday, the Senator from Missouri (Mr. EAGLETON) is recognized.

Mr. MANSFIELD. Mr. President, with the consent of the distinguished Senator from Missouri, I ask unanimous consent to proceed for 15 minutes as in legislative session to attend to unanimous-consent business and to make a few remarks.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 25, 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 author-

ized to meet during the session of the Senate today.

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

ADJOURNMENT UNTIL TUESDAY, MARCH 31, 1970—CONCURRENT RESOLUTION

Mr. MANSFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read the resolution as follows:

S. CON. RES. 59

Resolved by the Senate, the House of Representatives concurring, that when the Senate adjourns on March 26, 1970, it stand in adjournment until 12 o'clock meridian, Tuesday, March 31, 1970.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the concurrent resolution (S. Con. Res. 59) was considered and agreed to.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 740, 741, 743, and 744.

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

AMENDING THE INTERNATIONAL TRAVEL ACT OF 1961

The Senate proceeded to consider the bill (S. 1289) 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, which had been reported from the Committee on Commerce with an amendment, strike out all after the enacting clause and insert:

That section 3(a) of the International Travel Act of 1961 (75 Stat. 129; 22 U.S.C. 2123 (a)) is amended—

(1) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon; and

(2) by inserting at the end thereof the following:

"(5) upon the application of any State or political subdivision or combination thereof, may make grants for projects designed to carry out the purposes of this Act if he finds that such projects will facilitate and encourage travel to any State or political subdivision, or combination thereof, by residents of foreign countries. No financial assistance shall be made available under this clause unless the Secretary determines that joint participation funds will be available from State or other non-Federal sources, and in no event shall the amount of any grant under this clause for any project exceed 75 per centum of the cost of such project;

"(6) may enter into contracts with private profit- or non-profit-making individuals, businesses, and organizations for projects

designed to carry out the purposes of this Act whenever he determines that such projects cannot be accomplished under the authority of clause (5) of this subsection; and

"(7) may make awards of merchandise manufactured and purchased in the United States to travel agents and tour operators in foreign countries as an incentive for their promotion of travel to the United States by residents of foreign countries.

Sec. 2. (a) Section 4 of such Act (22 U.S.C. 2124) is amended to read as follows:

"Sec. 4. There is established in the Department of Commerce a United States Travel Service which shall be headed by an Assistant Secretary of Commerce for Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. All the duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Commerce for Tourism. In addition, the Secretary shall designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism who shall be under the supervision of the Assistant Secretary of Commerce for Tourism."

(b) Clause (12) of section 5315 of title 5, United States Code (relating to level IV of the Executive Schedule), is amended by striking out "(5)" and inserting in lieu thereof "(6)"

Sec. 3. Such Act is amended—

(1) by striking out "Sec. 7" and inserting in lieu thereof "Sec. 9"; and

(2) by striking out section 6 and inserting in lieu thereof the following new sections:

"Sec. 6. (a) There is established a National Tourism Resources Review Commission (hereinafter referred to in this section as the 'Commission'). The Commission shall be composed of fifteen members appointed by the President from among persons in private life who are informed about, and concerned with, the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall appoint one of the members as Chairman. The Commission shall meet at the call of the Chairman.

"(b) The Commission shall make a full and complete study and investigation—

"(1) to determine the domestic travel needs of the people of the United States and of visitors from other lands through 1980;

"(2) to determine the travel resources of the United States available to satisfy such needs through 1980;

"(3) to determine policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

"(4) to determine a proposed program of Federal assistance to the States in promoting domestic travel and;

"(5) to recommend an existing department, agency, or instrumentality within the Government to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

"(c) The Commission shall report the results of such investigation and study to the President not later than two years after the first meeting of the Commission. The President shall submit such report, together with his recommendations, to the Congress. The Commission shall cease to exist thirty days after it has submitted its report to the President.

"(d) In order to carry out the provisions of this section, the Commission is authorized—

"(1) to make, promulgate, issue, rescind,

and amend rules and regulations governing the manner of the operations of the Commission;

"(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties; and

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

In addition, the Secretary shall make available to the Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Commerce as the Commission may require to carry out its functions.

"(e) Members of the Commission, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed \$100 each day, including traveltime and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"Sec. 7. (a) For the purposes of carrying out sections 1 through 5 of this Act, there are authorized to be appropriated not to exceed \$15,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. Funds appropriated under this section shall be available without regard to sections 501 and 3702 of title 44, United States Code. Funds appropriated under this section for the printing of travel promotion materials are available for the fiscal year for which appropriated and the succeeding fiscal year.

"(b) For the purposes of carrying out section 6 of this Act, there is authorized to be appropriated not to exceed \$2,500,000.

"Sec. 8. As used in this Act, the term 'United States' and the term 'State' are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INOUE. Mr. President, I am most heartened by the Senate passage of S. 1289, a bill to amend the International Travel Act of 1961 to enable us to expand and intensify our efforts to attract foreign visitors to the United States thereby reducing our huge travel deficit of \$1.877 billion in our 1968 balance of payments.

Last year the Senate Commerce Committee held hearings which I chaired on the present U.S. efforts to attract foreign visitors. The committee received extensive testimony from members of the U.S. Travel Service, the Department of Commerce, directors of State travel bureaus, and numerous witnesses from private industry. As a result of these hearings several broad areas of agreement emerged and this consensus is reflected in S. 1289, which was reported from the committee with amendments.

S. 1289 provided for a Federal grant program with States, cities, and regional groupings to increase our efforts to attract foreign visitors and improve U.S. host and reception facilities; elevates the Director of U.S. Travel Service to an Assistant Secretary of Commerce for Tourism; increases the authorization level from \$4.7 million to \$15 million per year for the next 3 fiscal years; extends our eligibility for our tourism development

program to all U.S. possessions and territories; and creates Tourism Resources Review Commission to study and make recommendations to the Congress and the President on the future travel needs of citizens of United States and visitors from foreign countries.

Federal efforts to attract foreign visitors began less than a decade ago. The recent hearings showed that intensified efforts are needed if we are to reduce our travel deficit and capitalize on the huge potential for growth of foreign tourism to the United States. S. 1289 will be of invaluable assistance in promoting these goals.

FEDERAL LOW-EMISSION VEHICLE PROCUREMENT ACT OF 1970

The Senate proceeded to consider the bill S. 3072 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, which had been reported from the Committee on Commerce, with amendments, on page 1, line 4, after the word "of," strike out "1969" and insert "1970"; on page 2, line 7, after the word "highways", strike out "principally for the transportation of passengers"; in line 19, after the word "designee," insert "the Chairman of the Council on Environmental Quality or his designee,"; in line 24, after the word "President," strike out "The Secretary of Transportation or his designee shall be the Chairman of the Board," and insert "The President shall designate one member of the Board as Chairman,"; on page 4, line 8, after the word "vehicles", strike out "presently" and insert "at that time"; in line 9, after the word "the", strike out "United States," and insert "Federal Government,"; in line 19, after the word "serviceability", strike out "and"; in line 20, after the word "availability", insert a semicolon and "and"; after line 20, insert "(6) its noise level,"; in line 23, after the word "of", where it appears the first time, strike out "two years" and insert "one year"; on page 5, line 9, after the word "investigation", insert "it determines is"; on page 6, after line 5, strike out:

SEC. 5. Certified low-emission vehicles shall be acquired by purchase by the Federal Government for use by the Federal Government in lieu of other vehicles if the General Services Administrator determines that such certified vehicles have procurement and maintenance costs which are no more than 125 per centum of the procurement and maintenance costs of the class or model of motor vehicles for which they are certified substitutes.

And, in lieu thereof, insert:

SEC. 5. (a) Certified low-emission vehicles shall be acquired by purchase by the Federal Government for use by the Federal Government in lieu of other vehicles if the General Services Administrator determines that such certified vehicles have procurement and projected maintenance costs (including any foreseeable emission control inspection costs) which are no more than 125 per centum of the average retail procurement and retail maintenance costs of the least expensive class or model of motor vehicles for which they are certified substitutes.

(b) In order to encourage innovative development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in subsection (a) of this section to 150 per centum of the average retail procurement and retail maintenance costs of any class or model of motor vehicles for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an innovative, inherently low-polluting propulsion system.

On page 7, after line 7, insert a new section, as follows:

PRIORITY OF PROCUREMENT

SEC. 6. The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible low-emission vehicles, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute.

At the beginning of line 22, change the section number from "6" to "7"; after the amendment just stated, strike out "For the purposes of this Act any statutory price limitations shall be waived, and the procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase before purchasing any other vehicles for which the low-emission vehicle is a certified substitute,"; and, in lieu thereof, insert "For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived,";

On page 8, after line 4, insert a new section, as follows:

COMPLIANCE TESTING

SEC. 8. The Secretary of Health, Education, and Welfare shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this Act was based, the Secretary shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

At the beginning of line 21, change the section number from "7" to "9"; after the amendment just above stated, strike out "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Congress hereby authorizes the expenditure of such sums as may be necessary to carry"; and, in lieu thereof, insert "There is authorized to be appropriated annually for the purposes of carrying out the provisions of this"; on page 9, line 1, after the word "this", strike out "Act:" and insert "Act"; after the amendment just above stated, strike out "Provided, That such expenditures shall" and insert "a sum not to exceed \$50,000,000,"; and after the

amendment just above stated, strike out "per year."; so as to make the bill read:

That this Act may be cited as the "Federal Low-Emission Vehicle Procurement Act of 1970".

DEFINITIONS

SEC. 2. For the purpose of this Act—
 (1) "Board" means the Low-Emission Vehicle Certification Board;
 (2) "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia;
 (3) "motor vehicle" means any vehicle, self-propelled or drawn by mechanical or electrical power, designed for use on the highways except any vehicle designed or used for military field training, combat, or tactical purposes;
 (4) "low-emission vehicle" means any motor vehicle which produces significantly less pollution than the class or model of vehicles for which the Board may certify it as a suitable substitute.

LOW-EMISSION VEHICLE CERTIFICATION BOARD

SEC. 3. (a) There is established a Low-Emission Vehicle Certification Board to be composed of the Secretary of Transportation or his designee, the Secretary of Health, Education, and Welfare or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of the General Services Administration, and one member appointed by the President. The President shall designate one member of the Board as Chairman.

(b) Any member of the Board not employed by the United States may receive compensation at the rate of \$125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(c) (1) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

(2) The Chairman may fix the time and place of such meetings as may be required.

(3) The Board is granted all other powers necessary for meeting its responsibilities under this Act.

CERTIFICATION

SEC. 4. (a) The Secretary of Health, Education, and Welfare shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this Act.

(b) The Board shall certify any class or model of motor vehicles—

(1) for which a certification application has been filed in accordance with subsection (d) of this section;

(2) which is a low-emission vehicle as determined by the Secretary of Health, Education, and Welfare; and

(3) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

- (1) the safety of the vehicle;
- (2) its performance characteristics;

- (3) its reliability potential;
 - (4) its serviceability;
 - (5) its fuel availability; and
 - (6) its noise level.
- (c) Certification under this section shall be effective for a period of one year from the date of issuance.

(d) (1) Any party seeking to have a class or model of vehicles certified under this Act shall file a certification application in accordance with rules established by the Board and published in the Federal Register.

(2) The Board shall publish a notice of each application received in the Federal Register.

(3) The Board shall determine whether or not the vehicle for which application has been properly made is a low-emission vehicle in accordance with procedures established by it and published in the Federal Register.

(4) The Board shall conduct whatever investigation it determines is necessary, including actual inspection of the vehicle at a place designated by the Board in the certification application rules established under this section.

(5) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

(6) Within ninety days after the receipt of a properly filed certification application, the Board shall reach a decision by majority vote as to whether such class or model of vehicle is a low-emission vehicle and is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

(7) The Board shall publish in the Federal Register, within ninety days after the receipt of a properly filed certification application, a report of its decision on such application which sets forth with particularity the reasons for granting or denying certification, together with dissenting views.

PROCUREMENT OF LOW-EMISSION VEHICLES

SEC. 5. (a) Certified low-emission vehicles shall be acquired by purchase by the Federal Government for use by the Federal Government in lieu of other vehicles if the General Services Administrator determines that such certified vehicles have procurement and projected maintenance costs (including any foreseeable emission control inspection costs) which are no more than 125 per centum of the average retail procurement and retail maintenance costs of the least expensive class or model of motor vehicles for which they are certified substitutes.

(b) In order to encourage innovative development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in subsection (a) of this section to 150 per centum of the average retail maintenance costs of any class or model of motor vehicles for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an innovative, inherently low-polluting propulsion system.

PRIORITY OF PROCUREMENT

SEC. 6. The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute.

WAIVER

SEC. 7. For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

COMPLIANCE TESTING

SEC. 8. The Secretary of Health, Education, and Welfare shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this Act was based, the Secretary shall notify the Board. Thereupon the Board shall give the supplier of such vehicle written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

APPROPRIATIONS AUTHORIZED

SEC. 9. There is authorized to be appropriated annually for the purposes of carrying out the provisions of this Act a sum not to exceed \$50,000,000.

EFFECTIVE DATE

SEC. 10. This Act shall take effect immediately upon signing by the President and the Board shall promulgate the procedures required to implement this Act within ninety days thereafter.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

**DISTRICT OF COLUMBIA
ANATOMICAL GIFT ACT**

The Senate proceeded to consider the bill S. 2999 to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes, which had been reported from the Committee on the District of Columbia, with amendments, on page 5, after line 14, strike out:

**ANATOMICAL DONOR CARD
of**

 print or type name of donor

In the hope that my gift may help others, I hereby make this anatomical gift to take effect upon my death. The words and marks below indicate my desires.

- I give: (a) any needed organs or parts
 (b) only the following organs or parts

 specify the organ(s) or part(s)
 (c) my entire body for anatomical study

For the purposes of transplantation, therapy, medical research or education

Limitations: -----
 specify limitations, if any

This is a legal document under the Uniform Anatomical Gift Act or similar law.

 (Other side of card)

Signed by the donor in the presence of the following two (2) witnesses:

 Witness Signature of donor

 Witness Date of birth

 Date signed

And, in lieu thereof, insert:

UNIFORM DONOR CARD
of

(Print or type name of donor)

In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

- I give: (a)—any needed organs or parts
(b)—only the following organs or parts

specify the organ(s) or part(s)

for the purposes of transplantation, therapy, medical research, or education;

- (c)—my body for anatomical study if needed.

Limitations or special wishes, if any:-----

(Other side of card)

Signed by the donor and the following two witnesses in the presence of each other:

Signature of donor Date of birth of donor

Date signed City and State

Witness Witness

This is a legal document under the District of Columbia Anatomical Gift Act or similar laws.

On page 11, after line 2, insert:

(b) Subsection (b) of section 4 of the District of Columbia Tissue Bank Act is amended by striking out "prescribing, without limitation," and inserting in lieu thereof "to carry out the purposes of this Act and the District of Columbia Anatomical Gift Act, including, without limitation, rules and regulations prescribing."

At the beginning of line 9, strike out "(b)" and insert "(c)"; at the beginning of line 11, strike out "(c)" and insert "(d)"; and at the beginning of line 21, strike out "(d)" and insert "(e)"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS; SHORT TITLE

SECTION 1. (a) As used in this Act, the term—

(1) "bank or storage facility" means a facility licensed, accredited, or approved under the laws of any State for storage of human bodies or parts thereof;

(2) "decendent" means a deceased individual and includes a stillborn infant or fetus;

(3) "donor" means an individual who makes a gift of all or part of his body;

(4) "hospital" means a hospital licensed, accredited, or approved under the laws of any State and includes a hospital operated by the United States Government, a State, or a subdivision thereof, although not required to be licensed under State laws;

(5) "part" includes organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of a human body, and "part" includes "parts";

(6) "person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity;

(7) "physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any State; and

(8) "State" includes any State, district, Commonwealth, territory, insular possession, the District of Columbia, and any other area subject to the legislative authority of the United States of America.

(b) Sections 1 through 8 of this Act shall be known as the "District of Columbia Anatomical Gift Act".

PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT

SEC. 2. (a) Any individual of sound mind and eighteen years of age or more may give all or any part of his body for any purposes specified in section 3, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in section 3:

- (1) the spouse,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of his death, or
- (6) any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after death or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d).

PERSONS WHO MAY BECOME DONEES, AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE

SEC. 3. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) any accredited medical or dental school, college, or university, for education, research, advancement of medical or dental science, or therapy; or

(3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) any specified individual for therapy or transplantation needed by him.

MANNER OF EXECUTING ANATOMICAL GIFTS

SEC. 4. (a) A gift of all or part of the body under section 2(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) (1) A gift of all or part of the body under section 2(a) may also be made by document other than a will. The gift becomes effective upon death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(2) Any such document referred to in paragraph (1) of this subsection may be in the following form and contain the following information:

"UNIFORM DONOR CARD
"of

"print or type name of donor

"In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

"I give: (a)—any needed organs or parts
"(b)—only the following organs or parts

"specify the organ(s) or part(s)

"for the purposes of transplantation, therapy, medical research, or education;

"(c)—my body for anatomical study if needed.

"Limitations or special wishes, if any:-----
"(Other side of card)

"Signed by the donor and the following two witnesses in the presence of each other:

"Signature of donor

"Date signed

"Witness

"Date of birth of donor

"City and State

"Witness

"This is a legal document under the District of Columbia Anatomical Gift Act or similar laws."

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in section 2(b) shall be made by a document signed by him, or made by his telegraphic, recorded telephonic, or other recorded message.

DELIVERY OF DOCUMENT OF GIFT

SEC. 5. If the gift is made by the donor to a specified donee, the will, card, or other document, or any executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death, but delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts them for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

AMENDMENT OR REVOCATION OF THE GIFT

SEC. 6. (a) If the will, card, or other document of executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by—

(1) the execution and delivery to the donee of a signed statement, or

(2) an oral statement made in the presence of two persons and communicated to the donee, or

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or

(4) a signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

RIGHTS AND DUTIES AT DEATH

SEC. 7. (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. This physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this Act, or under the anatomical gift laws of another State is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Act are subject to the laws of the District of Columbia prescribing powers and duties with respect to autopsies.

UNIFORMITY OF INTERPRETATION

SEC. 8. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those States which enacted it.

SEC. 9 (a) That part of section 3 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2-252) which follows the definition of the term "Commissioners" is amended to read as follows:

"Donor" means any person who, in accordance with the provisions of the District of Columbia Anatomical Gift Act, bequeaths or donates his tissue for removal after death in furtherance of the purposes of such Act, and also means any deceased person whose tissue is donated or disposed of for the purposes of this Act, the District of Columbia Anatomical Gift Act, or sections 675, 676, and 683 of the Act of March 3, 1901, as amended (D.C. Code, sec. 27-119a and sec. 27-125).

"Tissue" means any body of a dead human or any portion thereof, including organs, tissues, eyes, bones, arteries, blood, and other fluids.

"Tissue bank" means a facility for procuring, removing, and disposing of tissue for the purposes set forth in the District of Columbia Anatomical Gift Act, and for the purposes of reconstructive medicine and surgery, and research and teaching in reconstructive medicine and surgery."

(b) Subsection (b) of section 4 of the District of Columbia Tissue Bank Act is amended by striking out "prescribing, without limitation," and inserting in lieu thereof "to carry out the purposes of this Act and the District of Columbia Anatomical Gift Act, including, without limitation, rules and regulations prescribing."

(c) Sections 6, 7, and 8 of the District of Columbia Tissue Bank Act are hereby repealed.

(d) Subsection (b) of section 9 of the District of Columbia Tissue Bank Act is amended to read as follows:

"(b) The Coroner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction, if such tissue removal shall not interfere with other functions of the Office of the Coroner, and the person who, in accordance with section 2(b) of the District of Columbia Anatomical Gift Act, is authorized to donate tissue therefrom, shall first authorize such tissue removal."

(e) Section 683 of the Act of March 8, 1901 (D.C. Code, sec. 27-125), is amended by deleting "may be removed by or under the supervision of a person licensed under the authority of section 4 of such Act for preservation in a tissue bank operating pursuant to such Act," and inserting in lieu thereof the following: "or the District of Columbia Anatomical Gift Act may be removed by or under the supervision of a person licensed under the authority of section 4 of the District of Columbia Tissue Bank Act for preservation in a tissue bank operating pursuant to such Act, or for use in accordance with the provisions of the District of Columbia Anatomical Gift Act."

(e) Sections 675 and 676 of the Act of March 3, 1901 (D.C. Code, sec. 27-119a), is amended by inserting immediately after "such Act" the following: "or the District of Columbia Anatomical Gift Act".

Mr. GOODELL. Mr. President, I am extremely pleased that unanimous consent was granted to permit consideration of the pending bill. I ask that it be passed.

On October 7, 1969, I introduced S. 2999, the District of Columbia Anatomical Gift Act, with the cosponsorship of all of the members of the Senate District Committee: Senators BIBLE, EAGLETON, MATHIAS, PROUTY, SPONG, and TYDINGS. On February 4, 1970, I was the chairman of full committee hearings at which a number of physicians and lawyers presented the committee with detailed statements supporting the bill and urging its expeditious passage.

Subsequent to the hearings, the committee received a considerable number of letters from national medical and legal organizations all endorsing the bill and calling for early passage. I am delighted that this legislation has received such prompt consideration by the Senate District Committee and the Senate.

The purpose of this bill is to provide in the District of Columbia a comprehensive and uniform legal framework for organ donation and transplantation consistent with the recommendations of the National Conference of Commissioners on Uniform State Laws made in 1968.

The committee report on S. 2999 has succinctly outlined the need for this legislation, as follows:

NEED FOR LEGISLATION

Laws relating to the disposition of a dead body and to the donation of organs for transplantation are under State jurisdiction, and in the District of Columbia they are enacted by Congress. Existing law on this subject in the District of Columbia is a confusing mixture of the common law—dating back to the 17th century—and numerous statutes governing autopsies, unclaimed bodies, and coroners.

With the success of corneal transplantation and improvements in kidney transplants in the 1950's, some 40 States and the District of Columbia were stimulated to enact some type of legislation giving an individual the authority to donate an organ for medical purposes upon his death. Four other States provided for the donation of eyes only. Nonethe-

less, it is generally recognized that these individual State statutes are somewhat inadequate and incomplete, and that there is a compelling need to have as much uniformity in the law as possible throughout the country.

With the development of revolutionary advances in the use of organ transplantation, it has become necessary to provide a uniform, favorable legal environment throughout the country for the donation and use of organs and tissue for medical research, education, and therapy.

Although the exact-effectiveness of some of the methods of treatment are not yet determined, there is no doubt that transplantation is one means of medical treatment whose potential has only begun to be explored. Vast experience is being accumulated in surgical techniques and great improvements have been made in tissue matching and the suppression of immune reactions.

Transplantation is now a recognized therapeutic procedure in treating kidney disease, and other tissues which have been successfully transplanted for varying lengths of time include skin, cartilage, bone tendon, nerve, artery heart valve, liver, and lung. Organ donation is not only used in transplantation. Human organs and tissue are required for research into such problems as the cause of cancer.

Nationwide uniformity of the laws governing organ transplantation is necessary in order to further medical advances in this area. The passage of the Uniform Act in 41 States in less than 2 years since the adoption by the National Conference of Commissioners on Uniform State Laws is compelling evidence of its need and importance.

Mr. President, Senators will be interested to note that as of March 19, 1970, the Uniform Anatomical Gift Act has been passed in the following States: Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming.

As the committee report points out, the objectives of S. 2999 are to provide—

A simple mechanism for executing the gift after death of the body or parts thereof by persons 18 years of age and older;

A declaration that the donor has absolute priority over anyone who may frustrate such desire following death;

A priority list establishing the line of authority following the decedent for making a donation if the decedent had not indicated his desire;

A protection from liability for medical technicians and surgeons who act in good faith in carrying out the provisions of the Uniform Anatomical Gift Act;

A listing of permissible donees, including only those persons or institutions licensed or authorized to practice medicine and to engage in tissue banking and related matters;

A method by which the next of kin may authorize a gift via a telephonic recorded message with the hospital, physician, or institution involved;

A method of revoking a gift should a donor decide to do so after previously having made a decision to donate; and

A reciprocity provision which honors the donation statute of other States.

Mr. President, organ donation and transplantation in the District of Columbia are now provided for by the District of Columbia Human Tissue Bank Act of 1962, as amended. Although comprehensive in certain respects, this statute does not cover many aspects of donation and transplantation which are provided for by the Uniform Act. A significant aspect of S. 2999 is that it contains a model donor card which can be considered a valid form of donation under the bill. This card can be carried by an individual, and will be a valuable means of facilitating the use of organs for transplantation.

This card is currently being distributed throughout the country by a number of medical organizations, including the Eye Banks Association of America, the Falconer Foundation, the Living Bank, Medic Alert, the National Kidney Foundations, National Pituitary Agency, the Tissue Bank of the U.S. Naval Medical School, National Naval Medical Center in Bethesda, Md., and the United Health Foundations.

Mr. President, there is tremendous public interest in the use of transplantation as a therapeutic device. With the passage of S. 2999, the residents of the District of Columbia will be covered by a comprehensive statute and the urgently needed nationwide uniformity of law in this area will be further enhanced. It is for these reasons that I ask its favorable passage by the Senate today.

The amendments were agreed to, en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AUTHORIZING EL PASO AND HUDSPETH COUNTIES, TEX., TO BE PLACED IN THE MOUNTAIN STANDARD TIME ZONE

The Senate proceeded to consider the bill (H.R. 14289) to permit El Paso and Hudspeth Counties, Tex., to be placed in the mountain standard time zone.

TEXAS' TWO WESTERNMOST COUNTIES SHOULD BE IN MOUNTAIN TIME ZONE

Mr. MANSFIELD. Mr. President, the senior Senator from Texas (Mr. YARBOROUGH) is necessarily absent today; however, he has a longstanding interest in H.R. 14289, a bill to place El Paso and Hudspeth Counties of Texas in the mountain time zone, and has a statement on the bill.

I ask unanimous consent that Senator YARBOROUGH'S statement be printed in the RECORD.

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

STATEMENT OF SENATOR YARBOROUGH

Mr. President, I support H.R. 14289 by the Honorable Richard White, a Member of Congress from the 16th District of Texas. The bill will authorize the Secretary of Transportation to place El Paso and Hudspeth Counties in Texas in the Mountain Time Zone upon written request of the county commissioners court of these two counties. For some years these counties have been informally observing mountain time. This bill provides a means by which these two counties can legally be included in this time zone.

El Paso and Hudspeth Counties, Texas, are the two westernmost counties of Texas. Both counties are west of Denver, Colorado, which is in the Mountain Time Zone, and they lie at least 200 miles west of the nearest large population center in Texas. Although all the rest of my State is in the Central Time Zone, I think that by virtue of their location, these two counties are certainly entitled to be placed in the Mountain Time Zone.

Representative White has long been interested in having this proposal enacted, and all of the local officials of these two counties enthusiastically support the measure. On February 18, 1970, I wrote the chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. Magnuson), urging the passage of the bill, and I do so again on the floor of the Senate.

Mr. President, I ask unanimous consent that my letter, to the chairman of the Committee on Commerce (Mr. Magnuson), be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD.

FEBRUARY 18, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
New Senate Office Building, Washington,
D.C.

DEAR MR. CHAIRMAN: There is pending before your Committee, a bill introduced by the Honorable Richard White of Texas, a member of Congress from the western part of my State, to place two westernmost counties permanently on the Mountain Time Zone.

The two counties affected are El Paso and Hudspeth Counties. El Paso County is 1054 square miles in area and had an estimated population of 365,412 in 1969. The largest city is El Paso. Hudspeth County is 4533 square miles in area and had an estimated population in 1969 of 2556.

These two counties are so far west that they fall south of the Mountain Time Zone even though Texas as a whole is a part of the Central Time Zone. The county officials and residents of these counties have annually requested that they be placed in the Mountain Time Zone for reasons of convenience. As I understand it, this bill would simply make this change permanent. In view of these facts, I feel that the change is both wise and warranted.

Because this matter is of great interest to my constituents in these two counties, and because of all I have been able to determine the vast majority of the residents of these counties prefer to be in the Mountain Time Zone, I respectfully request that this bill be considered as promptly as the schedule of your Committee permits.

With best wishes,

Sincerely,

RALPH W. YARBOROUGH.

The bill was ordered to a third reading, read the third time, and passed.

PRIVILEGE OF THE FLOOR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the administrative assistant of the Senator from Missouri (Mr. EAGLETON), Douglas Bennett, be entitled to the privilege of the floor today.

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

ORDER FOR RECOGNITION OF SENATOR MUSKIE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Maine (Mr. MUSKIE) be allowed to proceed for not

to exceed 10 minutes, after the remarks of the distinguished Senator from Vermont (Mr. AIKEN).

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

CLEANING UP THE ENVIRONMENT

Mr. SCOTT. Mr. President, today, more than ever, individual initiative and involvement are a must, if we are to tackle the problem of cleaning up our environment. Government alone cannot purify our streams, decontaminate our air, and reclaim our countryside without the active commitment of every American to join in the task.

I was, therefore, most pleased to receive a letter from a group of seventh graders from Fleetwood, Pa., expressing their desire to participate in a nationwide Clean-Up Day. I applaud and wholeheartedly support their interest and efforts. I ask unanimous consent to have their letter printed in the RECORD as an example for us all.

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

FLEETWOOD, PA.

DEAR SENATOR SCOTT: I am in 7th grade and truly concerned about the pollution in our country. I'd like to know if it would be at all possible to have a *National Clean-Up Day*? We could even have debates on TV and on radio. It would be worth it. Then, hopefully, more people would be concerned. All people should be, and hopefully, will be, warned about this awful problem. On *Clean-Up Day*, as well as every day, people should be asked to pick up every bit of litter they see and throw it away.

Sincerely,

KATHRYN F. WOLFORD.

Here are a few names of classmates who are also worried about this problem: Jerry Apgar, Sandy Manwiller, Tracy Seidel, David Johnson, Woodrow Sandey, Merrill Weldner, Carleton Goodheart, Tim Weiss, and John Hainly.

S. 3643—INTRODUCTION OF A BILL TO PRESENT TO CORETTA KING A GOLD MEDAL IN HONOR AND COMMEMORATION OF THE LIFE OF THE REVEREND DR. MARTIN LUTHER KING, JR.

Mr. SCOTT. Mr. President, I introduce for myself and Senator EDWARD BROOKE as principal cosponsor, Senators ALLOTT, BIBLE, BURDICK, CASE, COOPER, DODD, DOLE, GOODELL, GRAVEL, HARRIS, HARTKE, KENNEDY, McINTYRE, MUSKIE, NELSON, PACKWOOD, PELL, PERCY, RANDOLPH, SAXBE, SCHWEIKER, TYDINGS, WILLIAMS of New Jersey, a bill to authorize the President to present, to Coretta King, a gold medal in honor and commemoration of the life of Rev. Dr. Martin Luther King, Jr. My bill also authorizes the striking of duplicate medals in bronze to be furnished jointly to Morehouse College and the King Family Memorial Center. Each memorial fund will be able to sell quantities of the bronze medal to the public at large.

This legislation is also being introduced today in the House of Representatives by the Honorable MARGARET M. HECKLER of Massachusetts, and the Honorable JOHN CONYERS, Jr., as princi-

pal sponsors, with a bipartisan group of Representatives.

Although the medal has not been fully designed, Mrs. Coretta King has expressed her wish that Dr. King's profile and the dates "1929-1968" be placed on the face of the medal, and the words "I Have a Dream" and "Justice-Peace-Brotherhood" be placed on the reverse side.

Dr. King stood for the highest American ideals—equal job opportunity, equal housing, and education—and he worked hard in the interest of both black and white. Americans want to honor Dr. King's memory and want his life story, which is part of our contemporary history, to be preserved. Toward this goal, the bereaved King family established the Martin Luther King, Jr., Memorial Center to preserve memorabilia. Morehouse College, Dr. King's alma mater, established the Martin Luther King, Jr., memorial fund which will provide scholarships for needy students, among other things.

Passage of my bill will help to provide needed financial aid to these two memorials. I urge favorable and immediate action by Congress on this measure.

On Tuesday, March 24, 1970, in 1,000 theaters over the country, a film entitled "King—A Filmed Record From Montgomery to Memphis" was simultaneously shown. The purpose of the film was to help further the sacred memory of Martin Luther King, Jr. In this same spirit, I offer my bill.

The ACTING PRESIDENT pro tempore (Mr. SPONG). The bill will be received and appropriately referred.

The bill (S. 3643) to provide for the issuance of a gold medal to the widow of the Reverend Dr. Martin Luther King, Jr., and the furnishing of duplicate medals in bronze to the Martin Luther King, Jr. Memorial Fund at Morehouse College and the Martin Luther King, Jr. Memorial Center at Atlanta, Ga., introduced by Mr. SCOTT (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Banking and Currency.

EVENTS IN SOUTHEAST ASIA

Mr. MANSFIELD. Mr. President, in recent weeks, events in Southeast Asia have escalated to a point that, I think, calls for the continued attention of the Senate, as well as the administration.

We know that the Pathet Lao and the North Vietnamese in Laos number, according to the President's figures—and these are North Vietnamese—something on the order of 67,000. They have advanced into and beyond the Plaines des Jarres and are reportedly within 20 miles of the Royal Laotian capital of Luang Prabang.

We know also that as a result of the successes of the Pathet Lao and the North Vietnamese—they are primarily North Vietnamese successes—that an exchange of letters has occurred between Prince Souphanouvong, the leader of the Pathet Lao, and Prince Souvanna Phouma, Prime Minister of the Royal Laotian Government.

The letter sent by Prince Souphanouvong has been received by Prince Souvanna Phouma and, I dare say, that he and his cabinet are looking into the contents with great care at this time.

I assume, also, that what is contained in that letter has been brought to the attention of the U.S. Government and that it, likewise, is giving this matter careful attention.

I would hope, Mr. President, that the situation in Laos could be stabilized through a meeting between the two princes, who are half brothers, for a discussion of the contents of the letter. It is to be hoped that some sort of agreement might be reached which would bring a degree of peace to a very, very peaceful people.

In addition, perhaps the International Control Commission, which is still functioning in Laos, and does maintain contact between the Pathet Lao strongholds at Samneua and Phong Saly, as well as in the territory under the control of the Royal Laotian Government, might be beefed up, that their use as intermediaries would be furthered, and that whatever services they could offer, to bring an end to the difficult situation in Laos, would be forthcoming.

Furthermore, I join wholeheartedly in the plea of the President of the United States to the United Kingdom and the Soviet Union, the cochairmen of the Geneva conferees to reconvene that meeting—to me, it is immaterial whether it is the 1962 or the 1954 meeting—for the purpose of trying to bring about a guarantee of the neutrality of Laos which so many of us—14 nations, I believe—agreed to in 1962.

It is quite possible that the situation unless faced up to in this manner, or something approaching it, may well get out of hand.

I would point out to my colleagues that at the present time there is a Chinese-built road extending from Phong Saly, one of the Pathet Lao strongholds, in the northwestern part of Laos through Meng La, in Yunnan, a Chinese province, down to Muong Sai, which in looking at the map I would hazard a guess is probably 20 miles from the border of Burma.

There is another road from Meng La in Yunnan extending southward toward a town called Muong Lo, which would tie up with the road to Dienbienphu in Vietnam. In a southwesterly direction, the road extends from Muong Sai to Muong Houn, and it is within about 30 miles of the Thai border. According to my information, it is still being built.

It is estimated there are 8,000 to 10,000 Chinese along this road, mostly in labor battalions, but with a few anti-aircraft battalions as well, for the protection of the Chinese roadbuilders.

All of these factors should be taken into consideration in any discussion of Laos so that the American people will have the facts laid out before them and be aware of just what the potential and possibilities are in that country.

I commend the President for his showing of forbearance. But I disassociate the attacks on the Ho Chi Minh trail which are, in effect, troops of Vietnam and con-

nected with the war in the fighting in other areas of Laos where, I understand, although it cannot be proven, that Thai troops have been involved in seeking to block the extension of the power of the Pathet Lao and Vietnamese.

Then there is the question of Cambodia. Some people seem to be very happy that Prince Sihanouk has been overthrown and is now in Peking where statements attributed to him have been issued of late. It is my understanding that Prince Sihanouk has indicated that as long as he is out of Cambodia, he will divide his time between Peking and Moscow.

I regret to see this form of event, because in my opinion Sihanouk was a very shrewd political leader dedicated to keeping alive the neutrality and the entity of Cambodia. He was able to keep his country in relative peace and stability, as contrasted with the surrounding nations. He did so in most difficult circumstances because he was pressured from all borders, from the west by the Thais, and once in a while by red Khmer Serai units from the north, by the Vietcong and the North Vietnamese, who number something in the order of 45,000 to 50,000 in the northern province of Cambodia stretched out from the east border of Vietnam to the west border of Cambodia at Battambang, which borders on Thailand.

Now we have a deposed prince, living in Moscow, who has been accused of having great sums of money in Swiss banks but the fact is that he has authorized all Swiss banks to disclose the facts to prove or disprove this charge.

He has been accused of a number of other things, but he can never be accused of his lack of dedication to Cambodia and its preservation. Before there is too much rejoicing at his overthrow, it would be well to bear in mind that of all the countries in Indochina, Cambodia under Sihanouk is the only country into which we have not poured billions in aid in recent years and the only country where we have not had Americans fighting and dying during this tragic conflict. What are we to expect now? Aid programs for Cambodia? An extension of military operations into that country? What would this Nation gain from that course?

I am concerned because with the overthrow of Prince Sihanouk and his being established in Peking, a new situation has developed in Southeast Asia as far as Cambodia is concerned. I reiterate that it may well be that we were not too happy with Cambodia's neutrality at times. But it was an area in which a certain degree of stability had been achieved in Southeast Asia.

If events develop to an extent that the present situation brings about an expansion of the war or a civil war in Cambodia, I would hope most devoutly that this Nation would stay out of it and would not intervene in any way in the affairs of Cambodia. That we would not once again fall into the trap of extending aid to one faction and in that way taking the first step toward a new involvement. I would hope, rather, that this Nation would do all in its powers to keep the

war from spreading beyond its present limits and thereby prevent a situation which would require an increase in commitment of American forces rather than the phased withdrawal that the President has wisely put into effect up to this time.

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

Mr. MANSFIELD. I yield.

Mr. SCOTT. Mr. President, I thank the majority leader for yielding at this time.

I think this is the time to make it clear that, as far as I am concerned, I think the distinguished majority leader has correctly and accurately stated a point of view which Americans ought to listen to very carefully and with which I find myself in broad general agreement.

There has been, first of all, a tendency to regard Prince Sihanouk as something of a playboy. Yet, underneath that round exterior, there has proven to be a very shrewd manipulator of forces much larger than his own in offering a way to preserve this precarious neutrality for quite a long time.

There is also a tendency, I notice, in discussing the overthrow of Sihanouk to draw the assumption that because those who overthrew him appear to be oriented to the West, that this would necessarily be a good thing for the United States.

It is a broadening of the war and certainly would not be a good thing if it leads to a decision by Peking or Moscow to come into that country. The situation would be much worse, because no matter whether the power which overthrew Sihanouk proves to be oriented to the West or to the East, any power in Cambodia and indeed the whole nation can be overthrown in a matter of hours or days by anyone having the will to do so.

This was the nature of Sihanouk. It required a rather brilliant achievement. He was able to preserve this balance for so long a time. It is too bad that he decided to pack himself off to Peking and Moscow. That will let him in for a lot of travel and travail.

I agree that we were better off when we had him keeping Cambodia neutral.

In my judgment, there is no going to be any expeditionary force in Laos. Neither do I believe there will be any commitment of American ground forces in Cambodia.

I hope we will do nothing to risk the broadening of the war by actions which we take in regard to Cambodia.

I have seen no indication that we intend to run the further risk of broadening that war. I hope we will not. There are American forces close to that border in South Vietnam. They will have to be protected. The interdiction of the Ho Chi Minh Trail will presumably continue. But I do not believe that this administration has any more intention of bringing any ground combat forces into Cambodia than we do of sending them into Laos.

The sooner we get out of the whole embroiled peninsula, the better for all of us.

I am satisfied that the administration

is doing everything in its power to accomplish this objective which the American people want.

Mr. MANSFIELD. Mr. President, I agree wholeheartedly with what the distinguished minority leader has just said. I want to assure him that my purpose in speaking today is not to criticize the administration, but to try to be constructive and point out pitfalls and dangers which may arise. I am sure the administration is fully aware of them, but I assume that some comment from the Senate is welcomed.

I am heartened by what the minority leader said, because it indicates that so far as the joint leadership is concerned there is an identity of views. It is unfortunate that so many of our people have tended to look upon Prince Sihanouk as a playboy. He is a man of great ability and great capability, and great energy. He has had to perform a Machiavellian feat in keeping Cambodia independent and neutral since 1953, because Cambodia's independence was achieved even before the Geneva agreements of 1954.

So the purpose of this exchange as the distinguished minority leader pointed out by implication, is that we ought to be extremely careful. We should not be carried away by requests for this or that, not only as far as American personnel are concerned in both Laos and Cambodia, but also as far as American aid is concerned.

We should have learned our lesson and learned it well after what happened in Korea and what has been happening for all too long, for all too many years in South Vietnam. The figures there of what this war has cost us in manpower are appalling. The latest figures I have are as of March 19, less than 1 week ago and they indicate that as of then, last Thursday, 269,719 Americans were wounded in South Vietnam, 40,947 were killed in combat, and 7,627 were killed in non-combat capacities. The total casualties so far, and they are still increasing, amount to 318,293 as of 1 week ago.

This is a high price to pay for an area which is not vital to the security of this country and never was. This is a high price to pay for a war which was a mistake. This is a high price to pay for a war which is a continuing tragedy and affects all elements of our population. In my opinion, it has had a large role in the development of internal domestic difficulties in this country. It has taken well over \$100 billion of money to wage this war to which there really is no end in sight at the present time, money which in large part could better have been used to face up to problems of the ghettos, to meet the needs of our people, and in that way to be put to constructive use rather than destructive use.

I want to commend the administration for what it is doing in this respect, for the firmness it is showing against advice I am sure has been advanced that we get behind this government in Cambodia. We do not know what kind of a government it is and only time will tell. In any event, I hope the administration will show a forbearance in line with con-

gressional amendments that there be no use of U.S. ground combat troops in Laos or Cambodia.

I want to assure the administration, in my capacity as a Senator from Montana and as majority leader, that I will continue to do my very best to support the administration in carrying out the Nixon policy, which I approve 100 percent, of keeping a low profile in our relations with nations not only in Southeast Asia but throughout the world, and in keeping to the phased withdrawals of our troops from Vietnam; and hopefully, if the opportunity arises, Cambodia and Laos notwithstanding, that that phased withdrawal can be increased considerably.

The President has tried through the Geneva accords, through the International Control Commission, and through private channels, with all means available at his command to bring about a lifting of this shadow which overhangs all of our lives, to the end that we can withdraw, lock, stock, and barrel, from all Southeast Asia. It is my hope that his efforts will bear fruit and that there will come a reconvening of the Geneva Conference; and out of that an ironclad guarantee to which all Geneva nations would give assent, which would insure the neutrality of all Southeast Asia. In this way perhaps peace can be achieved.

If we do not keep our feet on the path toward this objective, then I can see only increased costs, increased casualties, and I think we have had enough of both.

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

Mr. MANSFIELD. I am delighted to yield.

Mr. SCOTT. Mr. President, I do not want to prolong this discussion at all, other than once more to say that the distinguished majority leader has shown his judgment and his patriotism move hand in hand, as he indicates his support for the efforts of the administration. He and I both did our very best with previous administrations and with the problems that were presented in foreign policy, to give support. We jointly are now doing it again.

I would add only one very small comment which in no way changes anything the majority leader said, and that is I often notice headlines to the effect that we are in a new war in Laos. Mr. President, there is no new war in Laos. The commitment of Americans in Laos on the ground, and outside of the air interdiction, has varied in the last several years between only 1,000 and 1,040 personnel, about one-half of which are civilians. Since January 20, 1969, deaths in Laos on the ground have amounted to seven, one military and six civilian. This does not look like a new war.

I say this only to make the point that we must not have even that many casualties in Cambodia. We must have no casualties whatever in Cambodia if we can avoid it, and the way to avoid it is to have no commitment in Cambodia, as the majority leader outlined, and that is the effort through many nations to preserve the neutrality of that troubled state.

I thank the Senator.

Mr. MANSFIELD. Mr. President, I thank the distinguished minority leader for his remarks. I must reiterate that what we are both trying to do is to be constructive with an administration which did not start the war, but which was saddled, in effect, with a number of problems connected with it, and a war which seems awfully difficult to disengage from at this time.

I thank the distinguished minority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Chair now recognizes for a period not to exceed 45 minutes, the Senator from Missouri (Mr. EAGLETON).

MENINGITIS OUTBREAK AT FORT LEONARD WOOD, MO.

Mr. EAGLETON. Mr. President, I would like to speak this morning on the meningitis outbreak at Fort Leonard Wood, Mo., and submit to the Senate my report and my findings in connection therewith.

I ask unanimous consent that, at the conclusion of my remarks, the full text of my report be printed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. EAGLETON. I also ask unanimous consent, Mr. President, that following the printing of the text, various appendices and related documents be printed in the CONGRESSIONAL RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

SUMMARY: INVESTIGATION, FINDINGS AND CONCLUSIONS INVESTIGATION

Mr. EAGLETON. Fort Leonard Wood, Mo., one of the larger military installations in our Nation, has experienced in recent months an exceptionally severe outbreak of meningitis. It dates back as far as October of 1969, and is an ongoing, continuing and currently existing crisis.

The carrier rate, according to the most recent survey, has reached 68 percent in some basic training units and 80 percent in some advanced individual training units. There have been 51 active cases of type C meningococcal disease, as compared with 15 last year. Thus far, there have been four deaths of military personnel on the base, and one additional death causally connected with the base, a young girl, age 16, Kathy Osier, of Kansas City, Mo., who died last week in a Kansas City hospital of meningococcal disease.

Meningitis is a well-known phenomenon in Army training centers, and the Army has established a number of procedures for dealing with it. In the context of the extraordinary number of cases at Fort Leonard Wood this year, however, my office has received a great many allegations of improper or imprudent training procedures and inadequate medical care.

I have, therefore, through the dedicated efforts of some very fine staff people, conducted an extensive investigation of the Fort Leonard Wood situation over the past 20 days. I add parenthetically at this point, which every Senator knows, that a Senator's capability to function, insofar as that which he can seek to do, is directly proportional to the quality of his staff work; and in this instance two of my staff members have been singularly industrious, and I would like to commend them and have their names appear in the RECORD for their loyal efforts over and beyond the call of duty: Mr. Stephen Vossmeier and Mr. Edward Filippine. These two men, along with others, have devoted over 600 man-hours to accumulating a massive amount of information from personal interviews, telephone interviews, written information, official replies to specific inquiries, and 2 long, long days of personal investigation at Fort Leonard Wood itself. Recruits, trainees, parents, doctors, and Army personnel of all ranks have been contacted and interviewed, both on the base at Fort Leonard Wood and outside the confines of the base at Fort Leonard Wood.

The information obtained is synthesized into the following report.

I recognize that this endeavor, despite our efforts, must of necessity be limited in scope. Obviously some points will not be covered as fully as others. Some points may not be covered at all.

I hope, nevertheless, that the following findings and recommendations will be helpful to the Army in completing its own investigation and in combating future outbreaks, and to the interested and concerned public, whose right to know must not be denied.

I would now like to summarize some of the major factual findings and some of our major conclusions.

MAJOR FACTUAL FINDINGS

A. Training procedures:

First. The relationship between the general physical condition of recruits and the incidence of meningitis is not definitely established to a medico-scientific certainty. However, specific procedures established by the Surgeon General of the United States and the Army itself require that overly exhaustive training routines should be eliminated when meningitis breaks out.

Second. These procedures recommended by the Army to halt the spread of meningitis were often violated at Fort Leonard Wood until after the meningitis reached epidemic proportions.

In fact, our investigation reveals that the first day on which Army procedures for safeguarding the health of the trainees and recruits at Fort Leonard Wood were fully complied with was, interestingly enough, 2 days before three Missouri Congressmen visited the base at Fort Leonard Wood. The visitation had previously been announced, and the base had suddenly, instantly, but tragically belatedly, shaped up for this visitation of Representatives ICHORD, RANDALL, and HALL.

B. Medical care:

First. Medical care for meningitis which was administered to the recruits

once they entered the base hospital was excellent within the limitations of the available facilities.

Second. Procedures in some companies discouraged recruits from reporting for medical care, and these procedures continued for a substantial period of time after the outbreak reached epidemic proportions.

Third. A vaccine which, though still classified as experimental, had proven its value through widespread inoculation of 20,000 trainees was unavailable at Fort Leonard Wood until February 11, and then became available only in limited quantities, on a 1-in-5 basis. By some magical means, the doctors selected one out of every five recruits to perhaps survive. The others were to do it on their own, as best they could.

I have reached the following major conclusions relating to training procedures:

First. Had the authorities at Fort Leonard Wood followed from the outset the procedures prescribed by the Surgeon General and by the Army, the meningitis outbreak may well not have reached such serious proportions.

Second. The overly exhausting training routine, the lack of adequate sleep, et cetera, caused many recruits to be in a state of serious fatigue.

I believe that the overly exhausting training routine and the lack of adequate sleep—all of which are specified in the Surgeon General's regulations as prohibited especially during a meningitis crisis—caused many recruits to be in a state of serious fatigue. We have testimony that one of the leading doctors at Fort Leonard Wood talked to the parents of one of the diseased recruits and confided that after examining many young men in the hospital they "were not really sick in an identifiable disease sense, but rather they are suffering from exhaustion."

Groups at this base, Mr. President, were exhausted and fatigued, and you do not have to be a doctor, you do not have to be an epidemiologist, to know that any individual in a state of fatigue or exhaustion is susceptible to the contraction of illness.

Therefore, in my judgment, had such a condition of fatigue been avoided by following the Surgeon General's and the Army's own procedures, rules, and regulations, the epidemic proportions of the meningitis could well have been less severe.

My conclusions on medical care are as follows:

Once recruits were diagnosed as having meningitis, they received excellent medical care. Most doctors at the base should be commended for their dedication and their industry in this matter. Many of them stayed up night after night with some of these boys. Fortunately, many of these patients survived. Unfortunately, four of them died.

I also conclude that recruits in some units were both directly and indirectly discouraged from going on "sick call." Such discouragement in my judgment is unwise under even normal circumstances

and is fatally dangerous when an epidemic is in the making.

One of the officers at Fort Leonard Wood, after the meningitis epidemic at Fort Wood had been brought out in public, appeared on television in my home city of St. Louis and pointed out that "The good guys don't go on sick call. The good guys don't complain. The good guys take it like a man." And if he had completed his statement, he might have added that the good guys die in their bunks.

I should like at this point, to describe one of the most tragic cases, Mr. President.

This boy, Pvt. Larry Breeling, did not die of meningococcal meningitis; he died of pneumococcal pneumonia.

Larry Breeling was admitted to the hospital on Friday, February 13, with an upper respiratory infection. He was discharged from the hospital on Sunday, February 15, 2 days later. At that time, all symptoms were classified as normal.

On Tuesday, February 17, he was required to make up a physical proficiency test that he had missed—a rather rigorous test. He had completed 4 of the 5 parts of the test when he told his drill instructor that he was sick, and asked if he could be excused from taking the last part—the mile run. Although he already had compiled enough points to pass, the sergeant reportedly explained that failure to complete the entire test would require retaking it. Apparently this is one Army regulation that is stringently enforced.

He ran it—or, more properly, he walked it. He then "double timed it" back to the barracks.

At 5:30 p.m., he went to his barracks, throwing up, with severe headaches, and he became delirious, talking of "getting" the sergeant who made him run back to the barracks.

At 6:15, one of the other recruits in the barracks—they have, Mr. President, what is known as the buddy system where the recruits are supposed to help each other—had found a sergeant who came to Breeling's room.

The sergeant did so, and upon leaving the room he is reported to have commented that, "If he is not careful, he's going to talk himself into a court-martial."

Despite more vomiting, difficult breathing, and complaints of pain, no further action was taken. Despite numerous pleas by several roommates that he go to the hospital, and despite having many of the symptoms of meningitis when the sergeant came in, Breeling remained in the barracks without medication.

There he died, some time before 3:45 a.m. the next morning, of pneumococcal pneumonia which develops in several days and has a 30-percent mortality rate if untreated. A delirious 19-year-old in obvious distress with serious symptoms was not sent to the base hospital simply because he indicated that he did not want to go and no one in authority sent him.

That is the story of Larry Breeling, who was a good guy. Good guys do not go on sick call, Mr. President.

A final medical observation: The U.S. Army prides itself on supplying its men with the best of training, the best of weapons, presumably the best of everything. Why did the U.S. Army not take the necessary steps to supply its men with necessary vaccine, which had been successfully tested 19,999 out of 20,000 times, and which was then available but unpackaged in a drug manufacturer's factory? Why did it take until February 11 to start utilizing this vaccine on a 1-in-5 basis? The crisis had started in October, grew in November, expanded in December, continued unabated in January.

It seems to me that almost raises the same question which some doctors have raised with respect to heart transplants: Who is to decide who has the right to live, or the duty to die? Who is to decide, of all the trainees at Fort Leonard Wood, who is to get a chance to have the inoculation, and which four unlucky ones do not?

The Army's attitude throughout this investigation has been a curious one. There have been one or two rather informative letters from Secretary Resor, which give the appearance of cooperation, but never a complete answer. To this very minute, at 10 minutes to 11, certain requests for specific information that we have submitted over a month ago to Secretary Resor have not been answered. When it became known that I would speak on this subject at 10 o'clock this morning, I was informed that further information would be made available at 11, after my report was filed and after the presentation has been made.

What is it about the Army that makes them take such fiendish delight in playing hide-and-go-seek with public information? We know that some of the information was prepared at least 12 days ago at Fort Leonard Wood. We know it because somebody at Fort Leonard Wood allowed us to see it. We have seen an advance copy—an incorrect advanced copy, I might add, because there were factual errors in it. But it was there.

My office will get it some time today, or tomorrow, or next week, or next month, or next year.

I do not know why the U.S. Army believes that it has been anointed to exercise some kind of mandate to operate in secrecy.

We ask for the names and addresses of young recruits in various units over 3 weeks ago. What is so complicated about that? Most of the units that we were interested in interviewing have now graduated and scattered from Fort Leonard Wood.

That is as good a reason as I know of not to give us the list, because now we would have to run all over the country, wherever they have been transferred after their recruit training, to interview them. I guess that is a darn good reason for the Army not to give us the information.

So I resent—and I resent very bitterly—the fact that the Army has been less than totally candid in its divulgence of facts, statistics, and information that is easily ascertainable to them and, which would have been useful in our investigation.

I find another attitude of the Army in this matter serious.

Time and again, we are told meningitis outbreaks occur all the time. This year at Fort Leonard Wood; last year at Fort Lewis, Wash.; the year before at Fort Ord. Next year, fort what? Next year, what State, what base, what group of recruits is going to be hit with this because the Army does not even comply with its own procedures, or provide an adequate amount of vaccine. I do not know what fort, Mr. President. I do not know what training base. I do not know what group of recruits. But it will happen. It will happen again next year somewhere, unless the Army changes its attitude and changes its procedures and changes its benign acceptance of death at military installations.

So what will come of this, Mr. President? What will come of this 40-page report? What will come of the experience that has been gained by the people at Fort Leonard Wood in dealing with meningitis. I ask that as a rhetorical question, and I am uncertain of the answer.

Human nature is a funny thing. As an ex-prosecutor I have seen many instances where an aroused public could force immediate reforms. However, I also know that reforms often die out as fast as public interest does.

After the furor dies down, after the fine light of public opinion is redirected away from Fort Leonard Wood, after the questions I have raised have been ducked, and with the passage of time, will the Army revert to its old ways? Will the Army say, "Well, this crisis is over; EAGLETON has had his say; but now the heat is off and we will go back to business as usual"? If that be the Army attitude, I can predict that more young men will die next year when the weather turns again, because their procedures and their practices and their operations are such as to create an atmosphere inescapably conducive to the outbreak of meningococcal meningitis.

So I close, Mr. President, with the personal hope that perhaps the Army in this instance will say now is enough; that enough boys have died; that the procedures the Surgeon General spelled out were put on the books for a purpose; that they should be utilized; that inoculant vaccine should be where the crisis is and not in a factory; and that it is just as important to have medicine available on a base as it is to give Chiang Kai-shek bombers or jet fighters.

We can make such cumbersome overseas deliveries, and in the name of health and humanity, one would think we could take care of medical deliveries inside the United States.

I hope they have learned, and my hope is shared by others. I know that my hope is shared by Mr. Iglauer, who lost his only son. He is the one who originally contacted me over a month ago about this matter. He knows there is nothing I can do, or the Army can do, that will restore to life his dead son, but he does believe that his son's death should not be in vain or coldly forgotten. He hopes that if enough facts are known about his son's death and procedures at Fort Wood others in the future will not die.

I know that my hope is shared by the

In addition to meningococcal disease, admissions to the hospital for upper respiratory infection this year are nearly triple those of the same period last year according to the Army. Approximately 900 cases of upper respiratory infection were admitted during February 1969. In February this year, nearly 2,500 admissions for upper respiratory infection were recorded. Most of these were among basic trainees. One died of pneumonia.

On February 23, in response to these reports of exhaustive duty, extensive harassment and inadequate medical assistance at the base, I asked Secretary Resor to make an investigation into the situation at Fort Leonard Wood. I renewed that request on February 27 and March 2. I urged it again in a speech on the Senate floor on March 3. The speech and the letters to Secretary Resor can be found in Appendix I.

On March 6, 1970, Secretary Resor partially answered my initial request. He discussed the nature of meningitis and the procedures used to combat it at Fort Leonard Wood. He stated in part (emphasis added):

"I fully share your concern for the health and welfare of our soldiers at Fort Leonard Wood as expressed in your recent letters. I am closely following the meningitis outbreak at Fort Leonard Wood. The Surgeon General and the Command Surgeons of Fifth Army and CONARC have been in close contact with post authorities and their representatives have visited Fort Leonard Wood this week to insure that all appropriate measures are being taken and to provide necessary assistance.

"The meningococcus, causative agent of meningococcal meningitis, is transmitted as a respiratory disease. Most individuals who contract infection with this organism do not become ill, but "carry" it at no harm to themselves. During the peak of the respiratory disease season, about 20 percent of newly-arrived recruits will be found to carry the meningococcus. Bringing these young men, from varied backgrounds, and with varied past disease experience, together into the military setting with close contact and increased physical activity fosters the transmission of the meningococcus as well as other respiratory agents.

"Until vaccines become generally available against this disease, only non-specific preventive measures are applicable. These include measures to prevent or to slow the transmission of respiratory agents and to improve individual resistance. Examples of such measures which are undertaken at all basic training posts, including Fort Leonard Wood, are: training in personal hygiene, prevention of mixing of personnel from various units, provision of adequate barracks' space, control of post population density, and provision of adequate nutrition, rest and ventilation.

"Some of the actions that the Army has taken at Fort Leonard Wood as part of the 'preventive medicine' program are: early morning runs in BCT have been eliminated; men are excused from morning training the day following guard duty or K.P.; guard duty has been shifted from the third and fourth week of BCT to the eighth week, when the schedule is less strenuous; company officers inspect barracks at "lights out" and thirty minutes before reveille to insure that all trainees are in bed; and duty personnel check the barracks throughout the night to insure that the ventilation is adequate."

Also on March 6, Congressman Ichord, Randall, and Hall began and completed an investigation of the situation at Fort Leonard Wood for the House Armed Services Committee. Congressman Ichord found the situation was "under control." He further stated that it would take five or six days to separate fact from fiction and would require a "different method of approach." However, he did not feel such an additional investi-

gation was necessary. The transcript of the Ichord, Hall, and Randall press conference is found in Appendix 2.

Not satisfied that fact could not be separated from fiction, I announced on March 7 that "my office will continue to conduct its own examination of the Fort Leonard Wood matter . . . The focus of my examination will be on these basic questions:

"1. Were overly exhausting training practices at Fort Leonard Wood contributory to the spinal meningitis?

"2. Once meningitis cases began to develop, did the base promptly take the necessary precautions, including changes in training schedule, to control the spread of meningitis?

"3. Were procedures for necessary medical assistance readily available without any harassment and without any penalty to the trainee if he sought such medical assistance?

"4. Was the medical assistance itself adequate?"

Allegations which prompt these questions and my findings are set out in the following sections.

III. ALLEGATIONS

In recent weeks our office has received many allegations by letter, telegram and telephone regarding training and hospital procedures at Fort Leonard Wood.

In order to separate fact from fiction it was decided to interview those who had contacted our office. Information obtained from these people led to other contacts and further interviews. As much information as possible was sought in an effort to be comprehensive and unbiased.

Obviously, complaints are not conclusive in themselves. Some were unwarranted, others reflected isolated incidents and experiences, but many reflected unacceptable conditions.

Fatigue, lack of sleep time, extra duty details, overexertion, general training procedures, medical treatment and its accessibility through sick call, are the most common complaints, but not the only ones.

The subject matter of these complaints is overlapping. For example, lack of sleep is often related to the lack of compensatory time off for necessary night details as well as early morning running. Obviously these are all related to fatigue, as are other training procedures.

The following analysis covers the broad range of complaints in an attempt to indicate the starting point for our inquiry.

Sleep

Private Henry Iglauer, (Co. C, 5th Bn, 2nd BCT Bde), who died of meningitis, stated in several letters that he was getting only six hours sleep. On one occasion he complained of being up until 2 A.M. preparing for inspection, only to be roused at 4 A.M. to start the day with only two hours sleep time. Just two days before his death he referred to a "persistent lack of sleep."

On February 6, Private David Mack, (Co. B, 4th Bn, 2nd BCT Bde), also one of the meningitis fatalities, wrote that he had only one and one half hours of sleep after GI'ing his barracks, then pulling fire guard at 3 A.M., then getting up when his company got up at 4 A.M. He was hospitalized five days later.

Private Stephen Lagermann, (Co. C, 5th Bn, 2nd BCT Bde), a third fatality, told of getting up at 3:30 A.M. On February 11, 1970, he stated: "We have been getting at the most four hours of sleep at night." In fairness, in a letter dated February 15, 1970 he noted a change, stating that C-5-2 was allowed to sleep until 5:00 A.M., as required by regulations.

These complaints about lack of sleep are not isolated; they are widespread. Other trainees making such complaints asked that their names be withheld for fear of retaliation.

Although "lights out" was at 9:00 P.M., many trainees indicated that it was impossible to go to bed then and still do all that was required to prepare for the next day. Others chose to do personal letter writing after 9:00 P.M.

Some of the companies and platoons were required to get up between 4:00 and 4:30 A.M. Others were allowed to sleep until 5:00 A.M. Some companies received the required 8 hours rest regularly. Others clearly did not.

Reasons for this varied. Often work or night duties cut into rest time. Certainly running before breakfast did. Some trainees chose to get up early to prepare their barracks. Others were roused by zealous platoon guides for the same reason.

Interviews indicated that the Third Brigade usually received 8 hours sleep even before Col. Reberry assumed command on January 22, 1970.

Being tired after less than eight hours sleep was a general complaint in the 2nd Brigade until several policies were changed.

Running

Col. Greer, the 2nd Brigade Commanding Officer, stated that he encouraged pre-breakfast running.

Private Iglauer related that C-5-2 ran between two and four miles. If the company didn't sound off loudly they went from double-time to full sprints and were required to run an extra distance. Pvt. Lagermann, also of C-5-2, indicated that runs of two and one half miles before breakfast were increased within a few days to four miles.

Obviously running before breakfast required getting up before 5:00 A.M., unless the breakfast hour were to be changed. Such runs had an effect on both sleep and fatigue.

Some companies in the 2nd Brigade did not run, but C-5-2 was by no means the only company in the 2nd Brigade to engage in pre-breakfast runs.

All running was discontinued in mid-February.

Training procedures

General training procedures were also criticized.

In the Second Brigade, Pvt. Lagermann complained of being hot and sweaty after a three mile run and then taking an hour of outside physical training and of forced marches from the rifle range followed by an hour of physical training. Overheating from not being able to remove or unzip jackets in the mess hall was also mentioned.

Members of the 3rd Brigade told of marching as many as 8 or 9 miles to a bivouac area and then being given Physical Combat Proficiency Tests.

Base procedure for infiltration course training was also criticized. Department of Army regulations require that the course be run once in daylight without live fire and again after dark with live ammunition. The course was usually extremely wet and men were required to wait hours while wet and muddy for the second run.

Sick call policies

Certain sick call policies and practices in a number of companies in the 2nd Brigade were criticized, especially requirements that the sick man pack all his gear and haul it to supply before going to sick call. In fact for about 10 days in February, with URI and meningitis outbreaks at their peak, one company, E-4-2, instituted the cleaning of rifles as an additional pre-requisite before going on sick call.

One report indicates that one 2nd Brigade trainee was forced to crawl the length of the barracks and back before being allowed to go on sick call, but this is judged to be an isolated instance of harassment.

A 3rd Brigade trainee was forced to do push-ups before going. This, too, appears not to be a common practice.

Others indicated that the attitude and

tone of some Drill Instructors and sergeants was intimidating, especially to the younger men.

Quality of medical care and treatment in hospital

The quality of medical treatment has also been criticized. Pvt. Lagermann wrote that unless one had a 104° temperature or better, one got two aspirins from the hospital and was sent back into the field.

This appears to be a misunderstanding. The evidence strongly indicates that anyone with a temperature of 101° or more was and is automatically admitted to the hospital and those with less are admitted upon the judgment of the doctors.

Patients complained about orderly duty in the hospital, especially in the old hospital. Patients were assigned to clean floors, latrines and shower stalls. Others complained of being forced to lie on the covers of their hospital beds all day after making them. Conditions in the old hospital were often criticized.

Other complaints

Other complaints regarding the length of sick call lines seem to be understandable since in January and February there were many upper respiratory infection (URI) cases in addition to other diseases and ailments.

Some men complained of poor sanitary conditions, for instance doing the low crawl or other training exercises that require becoming wet and muddy and then not being allowed to wash up for mess.

The lack of sneeze sheets was also mentioned. However, they are now up.

Isolated complaints about temperatures of 46°, 52° and 58° in the barracks were heard, especially in January.

IV. FINDINGS

Were overly exhaustive training practices contributory to the outbreak of spinal meningitis?

No one can definitely say with medicoscientific certitude. There is no medical evidence to prove whether over-exertion, exhaustion, physical fatigue, prolonged exposure to inclement weather, inadequate sleep, and a myriad of other strenuous practices are in themselves contributory to spinal meningitis.

However, measures which are effective against the spread of disease which is transmitted via the respiratory route, as spinal meningitis is, have been recommended by the Surgeon General, the Continental Army Command (CONARC), the 5th Army, and the medical personnel at Fort Leonard Wood. These recommendations do deal with overly exhaustive training procedures.

The Department of the Army Technical Bulletin, TB MED 274, on meningococcal disease prescribes that "an integral portion of environmental control is related to protecting the resistance of the individual by eliminating unnecessary fatigue, maintaining nutrition, and reducing environmental exposure to chilling and overheating." It further recommends that "a minimum of 8 hours of rest or sleep including compensatory time for night exercises or duty should be observed," and the "fitting of physical training and exertion to the capabilities of the individual to prevent unnecessary fatigue."

These rules were not rigorously followed at Fort Leonard Wood until recently. Less than 8 hours of sleep was common. Compensatory time off for night duty did not become policy in the 2nd Brigade until after the beginning of March. Extra physical training was not curtailed until half way through February. And concern over environmental exposure did not extend to one of the most rigorous exercises, the running of the infiltration course, until early March.

No one can say that if these rules were followed and enforced that the incidences of upper respiratory infection and meningitis

would have been prevented or even substantially curtailed. But the fact remains that they were not followed, and this is discussed in more detail under the following heading.

Once meningitis cases began to develop, did the base promptly take the necessary precautions, including changes in training schedule, to control the spread of meningitis?

The Army prescribes procedures for dealing with the outbreak of meningitis. According to the Surgeon General's Office, these should be in effect throughout the upper respiratory infection and meningitis season.

The Department of the Army Technical Bulletin, TB MED 274, on Meningococcal disease prescribes the following measures:

"b. Environmental measures. These measures are effective against spread of disease transmitted via the respiratory route. The purpose of environmental control is to reduce to the minimum the droplet spread of infection by decreasing group intermingling and density of the individuals making up the group. An integral portion of environmental control is related to protecting the resistance of the individual by eliminating unnecessary fatigue, maintaining nutrition, and reducing environmental exposure to chilling and overheating.

"c. Control Plan. The following points contain elements of those measures which can be incorporated into preventive medicine plans for command execution:

"(1) Plans should be flexible, provide minimum interference with the military mission and maximum safeguards to the health of the command.

"(a) Phased control measures to progressively provide increased protection by restricting group and individual mixing as the potential incidence of disease increases are recommended.

"(b) Thorough dissemination of the plan and orientation of unit leaders and individual personnel on the basic philosophy behind the plan is absolutely necessary to insure success. The basic trainee, for example, will forego many recreational and off duty activities if he understands that restrictions are in effect to protect his health in order that he may complete his training in the shortest time with his basic training unit.

"(2) Specific control measures applicable to Military Training Centers:

"(a) The company or platoon system should be strictly applied. This system forms incoming personnel into self-contained units which vary in size according to the requirements of troop housing. Platoon sized units are preferable. The integrity of the unit must be maintained to the maximum extent possible at all times. Where possible, the unit should be formed at the reception station and be kept intact during the entire training period so that during all processing, training, housing, messing, and recreational activities minimum contact occurs between units. The ideal situation would be to isolate units and thus limit exposures to respiratory disease agents to those already present in the unit.

"(b) Basic trainees will be provided 72 square feet of sleeping space per bed. All other personnel require not less than 55 square feet of sleeping space per bed. Provision of less space in personnel housing carries the danger of increasing respiratory disease spread. Commanders who are forced to accommodate personnel in housing with less than 55 square feet of sleeping space must be willing to accept increased incidence of all respiratory disease including meningococcal infections.

"(c) Plans to control population density in facilities which require use by more than one unit must be formulated and enforced. This includes placing limits on numbers of personnel from the same unit in a given area, at any one time. Common use facilities include latrines, messes, dispensaries, post exchanges, snack bars; rooms in service clubs,

classrooms, theaters, chapels, and bowling alleys. Mobile P-s, 16 mm. commercial movies (paid attendance), unit area chapel services, scheduled sick calls, and other measures may be necessary to reduce unit contact during periods of high disease incidence.

"(d) Prevention of back-to-back training cycles to permit maintenance and airing of individual barracks is encouraged.

"(3) Other measures:

"(a) A minimum of 8 hours of rest or sleep including compensatory time for night exercises or duty should be observed.

"(b) Fitting physical training and exertion to the capabilities of the individual to prevent unnecessary fatigue. Extra periods of physical exercise for individuals or groups as a disciplinary measure are not recommended.

"(c) Supervision of the proper use of clothing and equipment to avoid overheating and, particularly, chilling is very important.

"(d) Encouraging and supervising personal hygiene is necessary. Covering the mouth and nose when coughing and sneezing reduces infective droplets in the air. Spitting should be avoided. Mouth and teeth cleansing reduce bacterial flora in the oropharynx.

"(e) Adequate ventilation, tempered by the ambient temperature and wind conditions, dilute infective organisms in the atmosphere of closed areas. Baffle boards on window reduce discomfort from drafts and encourage adequate ventilation. Opening bottom and top windows 2 inches in most barracks provides approximately 600 cubic foot per minute air exchange and is sufficient for control purposes.

"(f) The extension of the "buddy system," which is used to prevent heat and cold injuries and detect attached ticks in some training areas, can be extended to assist in early recognition of meningococcal infections. Buddies are responsible for getting each other to report to sick call at the earliest symptom of severe respiratory infection. This aids in preventing the highly motivated trainee from endangering his life by not reporting respiratory disease and meningococcal infection for the early diagnosis and treatment which is so essential.

"(g) Other measures which have been effective in reducing respiratory and droplet-spread diseases are wet mopping, airing of bedding, "sneeze sheets" between beds, head-to-foot arrangement of beds, complete airing of barracks during periods of non-occupancy, maintaining barracks temperature between 68° and 72° F. during occupancy and maintaining relative humidity between 50 and 60 percent."

Medical and command personnel stressed that all cadre should learn to observe trainees for symptoms of any illness. In October, two-hour classes on meningitis and upper respiratory infections were held. A one-hour examination was given on these classes. Also, new Drill Instructors and personnel were reportedly informed.

The Commander of the 4th Battalion indicated that permanent party personnel were instructed in URI and meningitis symptoms at least three times.

The "buddy system," under which trainees observe one another and report any signs of illness to an officer or non-commissioned officer was stressed.

The Breeling Case: A Break Down in the Prevention system. On many occasions the "budding system" worked well, and officers exercised good judgment. However, this system is only as good as the cadre and on occasion it tragically broke down. One such breakdown came when Pvt. Larry Breeling, a member of Company E, 4th Battalion, 2nd BCT Brigade, died in his barracks of pneumococcal pneumonia.

Private Breeling was admitted to the hos-

pital on Friday, February 13, 1970 with 101.2° temperature and diagnosed as having an upper respiratory infection. There he received salt water gargle, aspirins, cough syrup and forced fluids. When discharged on Sunday, 15 February 1970, his urine analysis, blood count, throat culture and temperature were normal and his chest was clear, so he was not given a "medical profile" restricting him to light duty.

A make-up Physical Combat Proficiency Test was given on Tuesday afternoon, February 17 for everyone who missed the original on Saturday. Since Pvt. Breeling did not have a light duty profile and did not ask to be excused from the test, he began to take it.

After completing four of the five training exercises, he complained to the sergeant that he was not feeling well, and asked to be excused from the fifth part of the test, the mile run. Although he already had enough points to pass, the sergeant reportedly explained that failure to complete the entire test would require retaking it in its entirety.

Private Breeling then "ran" the mile in 20 minutes and upon completion double-timed back to his barracks, a distance of several blocks.

The Battalion commander said the supervising sergeant did not order Breeling to run back to his barracks although Breeling told a roommate that he had.

Breeling got to his room about 5:30 P.M. complaining of pains in his legs. Several roommates tried to help by rubbing his legs. He began to complain of a headache and his roommates indicated that he was hot, feverish and breathing hard. He later vomited several times.

At this point the "buddy system" worked: one of his roommates went to find the Charge of Quarters. Although unable to find the CQ he did find another sergeant who came to Breeling's room about 6:15 P.M.

Breeling was described as being incoherent and talking about getting even with the sergeant who made him run back from the PT test—an unusual thing to do in front of another sergeant. Upon leaving the room without taking any action the sergeant is reported to have said something to the effect: "If he's not careful, he's going to talk himself into a court-martial."

Despite more vomiting, difficult breathing and complaints of pain, no further action was taken. Despite numerous pleas by several roommates that he go to the hospital, and despite having many of the symptoms of meningitis when the sergeant came in, Breeling remained in the barracks without medication.

There he died, sometime before 3:45 AM the next morning, of pneumococcal pneumonia which develops in several days and has a 30% mortality rate if untreated. A delirious 19 year old in obvious distress with serious symptoms was not sent to the base hospital simply because he indicated that he did not want to go and no one in authority sent him.

A copy of the military police report of this case, dated 20 February, 1970 is attached hereto as Appendix 3.

Human judgments were involved in the Breeling case and they were tragically wrong. It is understandable that courses, lesson plans and memorandum cannot prevent a tragic mistake in human judgment.

But certain aspects of lesson plans, memorandum, recommendations and regulations are simple to interpret and easy to follow, and they were not implemented early or uniformly at Fort Leonard Wood despite the meningitis outbreak.

Environmental controls Sleeping Space

Control Plan C, (2)(b) provides for 72 square feet of sleeping space for trainees. Stress is placed on the maintaining of adequate ventilation and heating.

Apparently this standard is being met at Fort Leonard Wood. Two types of two-man rooms are found in the basic training barracks, one with 174 square feet, the other with 199 square feet. One-man rooms contain 117 sq. feet and the NCO lounge, sometimes used when barracks are full contains 243 sq. feet for three people. All these rooms meet the standard.

Most of the rooms in the new barracks where trainees are roomed were originally designed for 8 people. However, one of the beds has been removed in order to meet the 72 sq. foot standard. Since at least last August, only 7 trainees have occupied these 517 sq. foot rooms, an average of approximately 74 sq. feet per trainee. However, 8 large wall lockers take up considerable space which may bring the average below 72 sq. feet. Also, the distribution of men on each side of a half-wall divide, three men on one side and 4 on the other, causes further doubts about the actual space available per man.

If this standard is critical to health, then these factors should be checked further.

Quonset huts contain 2,096.1 square feet and are occupied by a maximum of 28 men. This appears to be adequate.

Temperature control between 68 and 72 degrees is recommended for the barracks. Water cans are used to maintain the recommended humidity between 50 and 60 percent. Humidity control presents a real problem.

When checked on March 18 the barracks temperature was approximately 68 degrees. However, some 3rd Brigade trainees indicated that during January, barracks thermostats dropped as low as 46, 52, and 58.

Recommendation: include the use of baffle boards to improve ventilation while reducing the discomfort from draft. However, baffle boards are apparently not used.

Further, trainees indicated that windows were not weather-stripped, causing an influx of cold air around the windows.

SNEEZE SHEETS

Sec. C(2)(g) recommends that "sneeze sheets" be used to minimize the spread of respiratory diseases by droplet. Apparently they are presently used in all companies of both brigades. The 3rd Brigade has had them up, as Brigade policy, since last October. They were incorporated as 2nd Brigade policy sometime between mid-February and early March.

However, in fairness to the 2nd Brigade, there was a minor medical controversy at Ft. Leonard Wood over whether "sneeze sheets" did more good by minimizing droplet spread, or harm by interfering with ventilation.

This controversy was settled in February, as URI and meningitis increased, and a recheck of TB Med 274, Department of Army Technical Bulletin, on meningococcal disease indicated that "sneeze sheets" should be used. On February 12, a letter was sent to all commands, down to the company level, requiring "sneeze sheets" between beds. However, interviews indicated that "sneeze sheets" were not up in many companies of the 2nd Brigade until early March.

Individual protective measures

Adequate Sleep

Directives require a minimum of 8 hours of rest or sleep throughout the URI season, including compensatory time for night exercises or duty. Apparently these directives were followed with few exceptions in the 3rd Brigade. In the 2nd Brigade, however, they were not followed rigorously until recently.

The directives were clear: On October 6, 1969, on page two, Paragraph g(3), "adequate rest providing 8 hours of sleep per day per trainee;" on December 20, 1969, p. 2, Paragraph d, "Sleep. (1) assure recipients and trainees an opportunity for a minimum of 8 hours sleep nightly;" on February 12, 1970, Subject: Prevention and Control of Respiratory Infection, Par. E, Individual Protective

Measures: "(1) avoid unnecessary fatigue. Provide 8 hours of sleep, including compensatory time for night exercises or duty;" in Sec. (3) (a) of the Department of the Army Technical Bulletin, TB MED 274, on meningococcal disease, it states "A minimum of 8 hours of rest or sleep including compensatory time for night exercises or duty should be observed." (See Appendix 4)

Nothing could be clearer. However notwithstanding all these directives, 8 hours sleep time including compensatory time for night duties, was not enforced uniformly in the 2nd Brigade. Companies were roused before 5:00 until February 13. Compensatory time was not Brigade policy until March 2.

Although lights out was at 9:00 PM, many trainees found it impossible to retire and still be adequately prepared for the next day. Others, anxious to write home, could only find time after 9:00 PM.

Extensive interviews indicate that many trainees in 2nd Brigade companies arose anywhere between 4:00 and 4:30 AM until mid-February. A few indicated on some occasions they got up before 4:00.

In his letter of February 15, 1970, Private Lagermann mentioned the mid-February change and noted trainees were allowed to sleep until 5:00 a.m.

This change which partially complies with provisions for 8 hours sleep came only after 26 meningitis cases were diagnosed and even then it was only in partial fulfillment of the recommendations.

In the 2nd Brigade prior to March 2, no compensatory time for sleep was given for night exercises or duty. Fireguard duty in the permanent buildings was required about once every five days, and in the quonset huts once every three days. KP and guard duty also took sleep time.

On March 2, compensatory time was given for all three activities, finally bringing procedures into compliance with directives. In addition, the 2nd Brigade procedure for fireguard was changed. Previously 8 men would take one hour shifts. Now two men work the entire night, two hours on and two hours off with compensatory sleep time given until noon the next morning.

Colonel Greer expressed concern that compensatory time would hinder the training mission since trainees on fireguard duty now miss training until noon the following day. However, upon questioning he admitted that procedures were available for making up any missed instruction by taking training with another company and, if necessary, another Brigade. It appears that granting compensatory time creates more of an administrative nuisance than a hazard to full and complete training.

The 3rd Brigade still runs guard duty on one hour shifts, but gives compensatory sleep time to insure eight hours sleep.

Guard duty also has been changed in both Brigades. It is now scheduled only in the 7th and 8th weeks when the schedule is less strenuous.

Early Morning Running

Brigade policies on early morning running also differed. In the 3rd Brigade the policy was that there would be no morning runs in the winter months. Colonel Greer, the 2nd Brigade CO, encouraged running.

Colonel Greer expressed concern that physical training (PT) was not adequate. He stated that many trainees told him upon the completion of their training that PT was not rough enough. He therefore said that he encouraged running, which actually is double time, and the Air Borne shuffle, as an addition to physical conditioning. The breakfast schedule interfered with the time available for some companies to run. He further pointed out that the men ran without heavy jackets to avoid becoming overheated. The running was stopped around February 13 after a phone call from Colonel Miller, the head of the base hospital, who expressed his

concern over the apparent fatigue in many of the men reporting to the hospital.

Colonel Greer indicated he would like his Brigade to run again after the URI season.

The distance is not known, but where it did occur, sleep time was affected. Colonel Petersen, CO of the 5th Battalion indicated the maximum run was about 2.2 miles at a cadence of 180 steps per minute. This took at least a half hour.

Private Steven Lagermann of the 5th Battalion wrote that they ran about two and one-half miles before breakfast and within a few days were running about four miles.

The commander of the 4th Battalion indicated that it was based on an exercise period of 15 minutes.

Chills

Directives indicate that overheating and chilling should be avoided. Some trainees complained that they become overheated because they were required to stand in the mess line with their jackets on and zipped. However, this was not Brigade policy and around mid-February was specifically prohibited.

Other trainees complained of sustained periods of vigorous outside exercise followed by sustained periods of outside instruction causing chills. For instance, Private Lagermann complained on February 11 that a march of six and one-half miles was followed by an hour of physical training outside without coats.

This and other similar allegations were neither proved or disproved but some improvements in basic training conditions were evident.

The infiltration course serves as an excellent example. On March 18, during a visit to the infiltration course heavy equipment was present, moving dirt and gravel in an attempt to dry it off.

The sergeant in charge indicated that the course had been reconstructed last October and this was the first attempt to dry it out. Originally it was constructed so the high point was in the middle allowing the course to drain. However, after thousands of men ran, or more precisely, crawled the course, ruts would retain water and the course usually remained extremely wet. In an attempt to correct this, the heavy equipment was brought out for the first time on March 18.

Procedure for training at the course was also changed. Prior to early March, trainees came to the infiltration course in the late afternoon, drew their helmets, and were instructed in how to run the course. After one runthrough in the daylight without live fire they were usually wet and muddy. They ate on the site in that condition and then were instructed on safety measures. Then they waited for dark to run it a second time with live ammunition. This procedure required wet and muddy trainees to eat, be instructed, and wait to run it again in the cold.

This procedure was change during the first week of March. Now after arriving at the course, trainees draw helmets, are instructed in both running the course and safety procedures, etc., and then when it is almost dark they run it for the first time. It is almost dark when they complete the first run, and they then turn around and run it a second time. The reconstruction of the course will lessen the trainees' chance of getting extremely wet and the change in procedure minimize the wet time spent outside.

Simple common-sense changes like this were long overdue. Without jeopardizing the maximum amount of training exposure to conditions that can lead to disease has been minimized.

Change such as this is commendable. But it came late. And, in fact, that is the story of our findings at Fort Wood. The 2nd Bri-

gade, especially, waited until forced to institute uniformly the procedures that should have been instituted immediately. This policy of gradual tightening up is not acceptable. It is not up to a Brigade commander to second guess medical authorities or attempt to read medical statistics and decide medical policy.

In summary, after much delay, training conditions at Fort Wood today appear to be adequate. However, only strict and continued enforcement and vigilance can keep them that way.

Were procedures for necessary medical assistance readily available without harassment and without penalty to the trainee if he sought such medical assistance?

According to members of the command and medical staffs at Fort Leonard Wood, sick call is encouraged.

However, during the URI and meningitis season at Fort Leonard Wood, a policy of requiring the trainee to pack and transport all his gear to the supply room before reporting on sick call retarded this laudable objective.

Although the Commanding Officer of the 2nd Brigade, Colonel Greer, does not favor such a policy during basic training, it was nonetheless used in the 2nd Brigade, apparently at the discretion of company commanders.

It is my belief that this policy has no place in the fight against URI and meningitis. It is distressing that this policy runs counter to the wishes of the Brigade Commander, and that it apparently was instituted and followed without his knowledge. In some instances it was even pursued without the Battalion Commander's knowledge. (See Appendix 5)

For instance, Col. Greer, by letter dated March 10, 1970, to the Commanding General at Fort Leonard Wood, reiterated that this policy was not the policy of the 2nd Brigade and that only one company, C-5-2, was found to be using it—it was stopped.

However, after extensive investigation, it was learned that in the 2nd Brigade at least 6 of the 10 companies in the 4th and 5th Battalions had used this policy. Limitation of time and manpower precluded more extensive investigation into the policies of the 1st, 2nd or 3rd Battalion of the 2nd Brigade.

At a briefing on March 18, 1970, Col. Greer stated that he had determined a second company in the 5th Battalion also had used this policy.

Later that morning at a meeting in the 2nd Brigade Headquarters with the commanding officers of the 4th and 5th Battalions it was learned that 4 of the 5 companies in the 5th Battalion had used this policy. It was further learned that A-5-2 had discontinued it on January 21, after 3 meningitis cases in A Company; B-5-2 ended it on the 2nd of March; C-5-2 ended it on February 1 after two cases of meningitis; and Company D-5-2 reportedly ended it on February 10 after 2 cases of meningitis, although some evidence indicated it was not discontinued until several weeks later.

Further, at the same meeting the commander of the 4th Battalion denied that this practice had ever existed there. However, evidence has been accumulated that this policy had indeed been practiced in at least two companies of the 4th Battalion, B and E, and that in E-4-2 it had been instituted during the height of the URI and meningitis outbreak.

After inquiring during the day, Col. Greer conceded that this practice had been used in E Company of the 4th Battalion from approximately 16 February through 19 February. It was, we were told, instituted in preparation for a Command Maintenance and Management Inspection (CMMI). Further assurance had been offered Col. Greer by the Company Commander that the reason for the procedure was clearly explained

to the men and that although gear was to be packed it was only to be taken to the day room in the barracks and not to the supply room several blocks away.

This simply was not substantiated by information previously obtained.

Col. Greer suggested that the matter be cleared up by interviewing a randomly selected sample of 16 members of E-4-2. This interview took place on the evening of March 18. It was determined from this interview, (and Colonel Greer and later the Commanding Officers of the 4th Battalion and E Company were present) that the practices had been instituted on February 9 and were continued for about 10 days. None of the trainees had heard of the CMMI inspection, and they were under the impression the gear was to be carried to the supply room. In addition they were required to clean their rifles.

One of the trainees volunteered the quite obvious fact that this procedure had discouraged other trainees from going on sick call. Equally distressing however, is that this procedure was in fact instituted in some companies during the URI and meningitis outbreak, and according to some sources, with a specific admonition to trainees that sick call was too high.

This procedure is sometimes rationalized as necessary to fulfill Paragraph 6-3, AR 700-84, which requires that "clothing and equipment of hospitalized personnel be immediately secured in the unit supply room." However, the 3rd Brigade apparently complies with all inventory requirements without using this procedure as do many 2nd Brigade Companies.

Clearly, communications had broken down. The Brigade Commander was unaware that this policy was being practiced, and Battalion Commanders were only partially aware of it. Had it been known, it apparently would have been stopped. No one in the command structure bothered to check closely. Even a company commander who ordered it did not check to see that the policy and the reason for its implementation was fully explained.

If it was implemented for the reasons and the manner stated by the company commander, it should have been so explained to the trainees. If it was intended to cut down on sick call, it is to be deplored. In fact, regardless of the reason for implementation, this policy is unacceptable.

Although isolated cases of individual harassment for going on sick call were reported (See Allegations above) in the 2nd and 3rd Brigades, they apparently are exceptions rather than the rule.

Information indicated that younger trainees were sometimes intimidated by the attitude and tone of certain Drill Instructors and Sergeants. On occasions they were reminded that certain mandatory training exercises were coming up and that recycling was mandatory if they didn't keep up.

However, I did not find evidence that anyone was ever directly refused access to sick call. In fact, many statements indicate that Drill Instructors sincerely sought men who might be ill and even took some to the hospital in their own cars. One commander became so concerned that he brought his entire company to the hospital to be checked.

There are several psychological deterrents which work against reporting to sick call.

Many men fear recycling. Recycling is mandatory if a trainee misses five consecutive days of training. It extends basic training and requires that the trainee adjust to a new unit and new personnel.

There is some question whether recycling is adequately explained. It involved placing a trainee at the same stage in training as he was before becoming ill. If by any chance this process is unclear, it should be thoroughly re-explained to all recruits.

I am still awaiting information regarding

actual recycling at Fort Wood which will be analyzed.

Other trainees seem to feel that reporting to sick call indicates a lack of manhood. In such cases it may be necessary to literally compel the trainee to go to sick call.

Finally, the language in a letter from Fort Leonard Wood headquarters, dated February 12, gives the impression that there may have been a negative stigma attached to a company if too many trainees report to sick call. The letter states in Par. 3b (2), "(2) Disciplinary measures for individuals seeking medical care are only conducive to increased hospitalization rate and, therefore, not recommended. Sick call and admission rates should not be used to compare units or as an index of efficiency."

Avoidance of sick call should not be a matter of company honor. If it has been one, it should be discouraged. Both Colonel Greer and Colonel Reberry stated that the number of sick calls has no bearing on company competition.

In summary, constant care and effort is required to assure that no procedural or personal obstacles are placed between individual trainees and sick call. In fact, in some instances where the trainee himself resists, his superior may have to compel him.

Was the medical assistance adequate?

The adequacy of medical assistance must be judged by several standards. By most standards, it has been good.

Meningococcal disease is neither a new or unusual disease on Army bases. The Army is aware of the problem as indicated by the Bulletin on Data Pertaining to Upper Respiratory Infections and Meningococcal Disease which states:

"The occurrence of meningococcal disease in our training centers is a well known and established phenomenon. It is here that young men coming from all parts of the country are brought into an environment of close interpersonal relationship, affording an ideal situation for the development and transmission of this disease."

The preventive measures against meningococcal infections can be grouped into two categories: A) chemoprophylactic measures, and B) environmental measures.

Chemoprophylactic measures

A number of investigators early in World War II discovered that the administration of sulfadiazide to a total closed population would stop meningococcal infections. With the administration of only two grams a day or two consecutive days, carrier rates immediately dropped to near zero levels, as did actual cases. This procedure was so effective that it rapidly became routine to administer it to closed populations in the Army as well as to the families of patients.

There was great optimism that meningococcal infections would never again present a problem of any magnitude. Although it was recognized that some strains were less sensitive to this immunization process, the general consensus was that they presented no significant problem.

Beginning in 1963, after sulfadiazine had proved to be a model prophylactic drug for suppressing meningococcal disease via the eradication of meningococci from the throats of asymptomatic carriers for many years, this method became ineffective because of the increased prevalence of sulfa-resistant strains of meningococci. With the emergence of a sulfadiazine resistant meningococci, this time honored method was rendered totally ineffective and no longer practical.

In 1969, the Army began testing a new vaccine against type C meningococcal disease, producing and testing on a smaller scale a type A vaccine, and developing a vaccine against type B.

The meningococcal group C poly-saccharide vaccine, which combats type C, the only kind reported so far at Fort Leonard Wood, has been tested by approximately 20,000

trainees on six installations throughout the country. Only one has since come down with type C meningitis. In a nationwide test last year of 50,000 non-vaccinated trainees, 38 cases of type C were reported.

In essence, type C vaccine is the only preventive medical measure that can be taken against type C meningococcal disease.

The head of the Preventive Medicine Division at Fort Leonard Wood, Col. Varela, became concerned about the possibility of a meningitis epidemic in early December, and inquired by phone about the use of type C vaccine.

On December 17, Malcolm S. Arntstein, M.D., the Chief of the Department of Bacterial Diseases, sent a letter to Col. Louis B. Edelman of the 5th Army outlining the required procedures for the use of the vaccine at Fort Leonard Wood.

Those procedures were:

"If a program of vaccination were to be undertaken at Fort Leonard Wood it would be done in a similar fashion. I might explain to you the mechanism for obtaining informed consent. The meningococcal vaccine is given during reception period when flu and polio vaccines are administered. Every fifth man (as listed on the roster) is called aside; the vaccine program is explained (by means of a printed poster); vaccine is administered to those who do not refuse it; all men return to the routine immunization lines."

When asked why only one out of five recipients were given the vaccine, Colonels Miller, Varela, and Mosebar pointed to certain problems. In descending order of importance they were:

(1) The vaccine was not available in the quantity necessary to inoculate more than 1 out of 5.

(2) The experimental medical protocol referred to above contained specific procedures.

(3) There was a likelihood that if everyone received type C inoculations, type B would become the prevalent strain. In fact, at Fort Wood one unit with a carrier rate of 80%, had 20% type B strain. Presently there is no effective vaccine against type B. However, the treatment for type B varies little from type C; and therefore would not present any new treatment problems.

Colonels Miller, Varela, and Mosebar expressed their anticipation that if more vaccine had been available as many as 50 to 60 percent of the incoming trainees could be inoculated.

After another call to Walter Reed Hospital from Colonel Varela in late January, it was arranged for the inoculation program to begin on February 11. Two medical specialists came to Fort Wood to assist in the program. Since then some 1,000 trainees have been inoculated on a one out of every five trainees basis and none have contracted meningococcal disease.

In a later telephone conversation, Dr. Malcolm S. Arntstein confirmed that the vaccine was in short supply, with only 6,000 to 7,000 individual doses for the next several months to continue similar inoculation programs at Fort Ord, California and Fort Lewis, Washington.

If more vaccine were available, a modification in the experimental protocol to allow more inoculations at Fort Wood could have been considered, since the Army Investigational Drug Review Board can approve and alter the protocols unilaterally. Protocols are then cleared through the Continental Army Command (CONARC), the 5th Army, and individual post commanders where it would be tested.

Dr. Arntstein noted, in fact, that discussions last fall covered possible expansion of the immunized test group, but that realities of supply made such an expansion impossible.

The short supply of type C vaccine is particularly important, since it is presently the

only preventive chemoprophylactic measure that can be taken.

This vaccine was contracted to Squibb Company by Walter Reed Army Hospital so that after the testing is complete, mass production could begin immediately. However, Squibb has decided not to mass produce type C vaccine after the original contract is fulfilled.

Approximately half a million individual doses were called for in the original contract. Delivery was scheduled for the end of 1969. Dr. Arntstein stated that as of March 20, 1970, only about 10% had been delivered. According to Dr. Arntstein, about 450,000 individual doses are presently at the Squibb plant in New Brunswick, New Jersey and have been there for several months. No final delivery date has yet been set.

In summary, the chemoprophylactic measures taken at Fort Leonard Wood appear to have been adequate.

The seriousness of the problem was recognized early and steps were taken. Inoculation began as soon as the vaccine was available and was limited by a lack of vaccine nationally and not a lack of concern by medical personnel at Fort Wood.

The critical need for an effective vaccine to combat spinal meningitis is not limited to the requirements of the Armed Forces. Young children are especially vulnerable to the disease. One-half of the cases occurring in the United States in 1968 (the most recent year for which figures are available) were found in children under age fourteen. Although death rates by age are not available, the mortality rate in 1968 for all persons contracting meningococcal infections was approximately 25%.

The Vaccine Development Advisory Committee for the National Institute of Allergy and Infectious Disease (NIAID) has just this week recommended that NIAID proceed with studies to determine the efficacy for use in children of the vaccine developed by the Army at Walter Reed. It was this Advisory Committee that provided the main stimulus for development of a vaccine against rubella, now widely used.

I urge NIAID to respond positively to the Advisory Committee's recommendation and to attach a high priority to programs that will determine whether these vaccines are suitable for use in children. If the vaccines developed by the Army, or modifications thereof, are suitable for civilian use NIAID should exert every effort to promote their commercial production so that there will be ample supplies available to halt outbreaks of meningococcal infections in the future.

Unfortunately, the Squibb Company, which has acquired a great amount of expertise in the production of this vaccine by reason of its contract with the Army, has rejected the opportunity to undertake its commercial production. Partially through the investment of government funds, this company now has a clearly demonstrated capability to produce Type A and Type C vaccine through large-scale, automated production processes. Because of the delicate fermentation process involved and the careful environmental controls required during production, Squibb's expertise could not be duplicated without a substantial additional investment of time and money. Indeed, I have been informed by authorities in this field that there is perhaps only one pharmaceutical company in the country other than Squibb that has the resident technical staff capable of producing these vaccines on a large scale.

I think it is deplorable that Squibb has seen fit to abandon this extremely promising program at such a critical stage. There has been a great deal of testimony presented to Congress in recent years attesting to the inordinately high prices charged by drug companies for preparations which are vital to the health of many people. It seems to me that this is an opportunity for

one of those companies to demonstrate civic responsibility and to make a contribution to the health of America's children and our servicemen by continuing with the development and production of meningococcal vaccines.

Medical supervision of environmental measures

The lack of chemoprophylactic preventive measures makes all the more important the environmental measures stressed throughout this report. The medical team on the base, for instance, recommends that until a vaccine is available, the only preventive measures available are those general measures which prevent or slow down the transmission of respiratory diseases and those general measures which keep up the individual's general resistance to disease."

Implementation of these measures is not and should not be, a primary responsibility of the Fort Leonard Wood medical team. *Medical personnel can warn and prescribe what army regulations require, but only individual commanding officers in individual training units can see that regulations are carried out.*

Personnel from the Preventive Medicine Division occasionally ran random checks on some companies, but such measures are clearly inadequate to insure strict compliance.

Further and personal action was taken by the head of the Fort Wood Hospital, Colonel Miller, on or about February 13.

During the height of the URI epidemic, top medical personnel reported to Col. Miller that many of the night emergency cases appeared to be exhausted and fatigued. This judgment was confirmed by Col. Miller's own observations of both day and night reportees and discussed among Colonels Miller, Mosebar and Varela. After consultation, Colonel Miller personally called the Brigade Commanders and relayed his observations and expressed his concern.

In a later interview, Colonel Greer, Commanding Officer of the 2nd Brigade stated that after this call extra P.T. and running were discontinued in the 2nd Brigade as a matter of Brigade policy. It should be noted, as stated previously, that this discontinuation came after 26 cases of meningitis were reported at the Fort and one death had occurred.

In summary, the medical team made information or preventive environmental measures available to the training cadre and continued to stress awareness. However, medical staffing was clearly inadequate to check whether these measures were being fully implemented, although some attempts were made. Further, it is not a medical responsibility to enforce such measures and it probably should not be.

Generally, the preventive medical assistance must be judged to be adequate.

Attitude

A great deal of concern was evident among the top hospital personnel. Personal calls to the Brigade Commanders regarding apparent fatigue is a notable example.

The new policy that every trainee reporting to sick call be seen by a doctor, as strongly expounded on by Colonel Mosebar is another. Until late February trainees reporting to dispensaries for regular sick call were seen only by medical aides, unless febrile, in which case they were sent to the hospital to see a doctor. Now one doctor remains at one dispensary after regular sick call hours to insure that everyone reporting, regardless of time or temperature, is seen by a doctor. This change in policy is good and should be retained year-round.

The dispensaries are staffed by young doctors, two to each dispensary during the regular morning sick call. At a staff meeting these doctors indicated that during late January

and throughout February the flow of trainees to dispensaries increased. One staff member indicated that at the peak of the URI season 300 to 400 trainees would be seen by doctors at each of the three trainee dispensaries each day. During this period sick call would often run from 6:30 A.M. to 1:00 P.M. Although policy required that the sickest be taken first, this determination is often difficult to make. Several doctors noted that the number of trainees actually ordered to report for sick call also increased during February.

One doctor suggested that a de-emphasis on recycling and discontinuation of the practice that required gear to be packed and stored before reporting on sick call, would contribute to the general health situation.

However, many of his young colleagues differed with him. Generally they felt that the practice of packing and storing gear was only dissuasive to chronic complainers. They saw nothing wrong with making it just a little bit harder to go to sick call and noted although only 5 to 10 percent were "gold bricking," as many as two-thirds of trainees they saw would not come in to see a doctor in civilian life. They noted that they get tired of looking down normal or only slightly aggravated throats and reading normal or slightly elevated temperatures.

The civilian analogy seems less than perceptive. For while civilians can decide their own schedule—whether or not to stay home, keep warm and drink lots of liquids—there is no such freedom of choice in the service. Without a "medical profile" a trainee participates in usually rigorous outside training.

And while there is no evidence to indicate this attitude in and of itself is dissuasive to reporting on sick call it nonetheless is distressing, especially when the Surgeon General states of meningococcal disease "early diagnosis and treatment are the only means to minimize mortality," and Fort Leonard Wood policy states "individuals with early signs and symptoms of disease will be referred to the nearest dispensary. Delayed referral of a sick individual may endanger his life."

General medical treatment

The medical care was judged on the whole to be better than adequate after a full day of investigation at both the new General Leonard Wood Hospital and the so called "old hospital"—a barracks that serves as an annex to the GLWA Hospital. This examination included visits to the various wards, discussions with patients and staff, and questions on procedures and treatment propounded by a noted epidemiologist from the faculty of Washington University School of Medicine.

Everyone entering either the old or new hospitals, receives a chest x-ray, a complete blood count, and a urine analysis as standard procedure. URI patients during the URI season are also given a throat culture. This is good operating procedure according to competent medical authorities.

Any trainee with over a 101 degree fever is also admitted automatically. Admissions for trainees with under 101 degrees is left to the discretion of each doctor.

However, some improvements can be made. The new hospital is overcrowded. The old hospital is inadequate. And both hospitals are often understaffed.

The old hospital

The Old Hospital is used to hold and observe URI cases. Some wards have only one dirty shower for 35 patients. Heat and humidity are hard to control. Ventilation is bad. There is some question whether there is adequate space. And although one ward had been waxed and buffed twice on the day it was visited (the usual procedure is once a week), the sanitary facilities still left much to be desired.

It was determined, after interviews with patients there, that most had URI symptoms for several days before reporting to sick call.

The old hospital facilities could be one reason for the delay.

Clean up duties fall to patients with under a 99 degree temperature and those who are about to leave the hospital that day according to hospital spokesmen. However, numerous reports indicate that on many occasions this "maximum temperature" mark has been considerably escalated. The 6:00 A.M. temperature reading is usually used to determine the "clean up" detail, even though most doctors agree that early morning readings are usually lower and therefore not the best reflection of general health.

The old hospital is used extensively. In 1968-69 it was open from October until mid-June. This year it opened in October.

Although the old facility is inadequate, by using it to hold and observe URI patients and by sending those with worsening symptoms to the new hospital, it is administered in the most effective way possible. During their stay there, all URI patients receive a cold pack. Aspirin is given upon request if temperatures are under 101 degrees and prescribed if over that.

In summary, although the best is being made of a bad situation, the old hospital is outmoded and should be replaced by an addition to the new hospital.

The new hospital

All the meningitis patients and the more serious URI cases are treated at the new General Leonard Wood Army Hospital. It is an excellent medical facility.

An inspection was made of the emergency room, the lab facilities and the meningitis ward. Ten of the twelve meningitis patients were interviewed. Later in the day the records of two of the meningitis fatalities and one of the other meningitis patients were examined by a faculty member of the Washington University School of Medicine. He was satisfied that everything that could have been done, was done. In fact, it should be noted that the fatality rate for meningitis patients at Fort Wood is less than 8%, far below the national average.

There was consensus reached among meningitis patients and their parents that the treatment in the hospital was good to excellent, with one exception. The parents of Private David Mack, one of the meningitis fatalities, felt that equipment and personnel in the intensive care units were less than adequate. These allegations are attached in Appendix 6 and should be pursued further by the Army.

The intensive care units were also visited. They are located in a small room with four beds and special equipment. The doctors noted that the room was too small, especially when geared to intensive care for all four beds. About \$20,000 is required to make improvements that have been under discussion for quite some time. It is an investment well worth making and I intend to suggest it to the Armed Services Committee.

Despite generally excellent facilities and good personnel, the new hospital is overcrowded. It was built for 300 beds with an expansion capability to 391. Presently there are 483.

The previously recommended addition is needed not only because the old hospital is inadequate, but because the new hospital is far too overcrowded.

And both hospitals are often understaffed. The staffing of both hospitals is adequate to handle 500 patients. Yet during the 442 day period from January 1, 1969 through March 8, 1970, the hospital averaged 568.40 occupied beds per day. Over 500 beds were occupied for 380 days. Over 600 beds were occupied for 142 days. And over 700 beds have been occupied for 48 days. Even though some of these beds are occupied by minimal care patients, some returning from Vietnam, more staffing is necessary and should be authorized.

[From the CONGRESSIONAL RECORD,
March 3, 1970]

METHODS OF ARMY TRAINING IN VIOLATION OF ARMY REGULATIONS

Mr. EAGLETON. Mr. President, yesterday I sent the Secretary of the Army a letter regarding the situation at Fort Leonard Wood in Missouri. It was the third communication I had sent him on this subject in a week. It urged, in the strongest terms, that the Secretary look into allegations "that methods of training are being used that may well be in violation of Army regulations—and that these methods have caused such a general state of low resistance in the trainees as to make them highly susceptible to such contagious diseases as spinal meningitis and pneumonia."

During the past month 18 soldiers at Fort Leonard Wood have contracted spinal meningitis. Three have died of it. One other boy has died of pneumonia. This is a tragedy. Maj. Gen. W. T. Bradley, commanding officer of Fort Leonard Wood, has stated:

"The occurrence of meningococcal disease in our training centers is a well-known and established phenomenon."

All right. Yet reports from soldiers and their parents indicate that the Army has been lax in dealing with this meningitis crisis. These reports allege that base officials—through at best unthinking and insensitive action and through at worst unconscionable and perhaps illegal action—have increased the likelihood that upper respiratory diseases, often a forerunner of meningitis and pneumonia, would spread, and they have.

I do not make this statement lightly. I have asked three times in 1 week that the Secretary of the Army give his immediate attention to seeing that proper preventive action is taken to stop this mounting death toll and that he investigate the entire situation at Fort Leonard Wood.

The seriousness of the situation goes to the very heart of this Government's responsibilities to our servicemen as they fulfill their responsibilities to the Nation.

In the past 2 weeks, reports of exhausting duty, extensive harassment, and inadequate medical assistance at Fort Leonard Wood have come to my office. As I stated in a letter to the Secretary of the Army on February 23:

"I have received some mail concerning conditions at Fort Leonard Wood. The mail not only deals with the meningitis cases at Fort Leonard Wood, but also, and just as importantly, the overly exhaustive routine which the trainees are required to perform which weakens their physical condition to the point that they are susceptible to serious illness. These letters indicate that the men are often awakened at 4:00 a.m. and do not return to their barracks until 9:00 p.m. at which time they are then obliged to do all of the bunk details, shoe shining, cleaning up, etc. One letter indicates a situation where a trainee had an 18 hour K.P. duty and then on successive nights guard duty and fire watch duty."

There have also been disturbing reports about the adequacy of medical assistance, harassment of soldiers who go to the hospital, and of alleged intimidation of soldiers from going on sick call.

It was only yesterday that I learned about the trainee at Fort Leonard Wood who died February 17 of pneumonia. The St. Louis Globe Democrat interviewed Pvt. Burman Dyer, whose wife is critically ill with meningitis after visiting him at the base February 22. Private Dyer told of the circumstances surrounding the death from pneumonia of Pvt. Larry Breeling, a 4-year enlistee and a member of his company.

According to Dyer, Breeling became ill in early February and was sent to the base hos-

pital where his condition was diagnosed as pneumonia. Dyer said of Breeling:

"They gave him penicillin and sent him back on duty within 24 hours. He could not take his physical training test when he came back. He was still too sick."

Dyer stated that 2 nights later he and some members of his company discovered Breeling apparently delirious in his bed. Once again I quote:

"He was screaming and shouting and yelling for them to leave him alone. A sergeant who was in charge of our building that night told us to quiet him down or else he was asking for a court martial."

The next morning Breeling was discovered dead in his bed.

This is not an isolated instance.

Pvt. Steven G. Lagermann died of meningitis on February 24. In the last letter he wrote to his parents before his death he stated:

"Mom, is there any possible way you could get me some of those penicillin pills? I found out that at least one guy died here because his resistance was so low . . . so to save our lives we need the medication . . . you go to the hospital and they give you two aspirins and send you back into the field . . . there were only 125 in the field today out of 220 . . . rest are sick."

Lagermann's father said that in a telephone conversation with his son, Steven stated:

"You have to have at least a 104 degree temperature before they would pay any attention to you."

The St. Louis Post Dispatch stated that about 400 trainees a day are being treated for respiratory ailments. Spokesmen for the Army at Fort Leonard Wood acknowledged that hospital admissions for upper respiratory infections—running 100-150 a day in mid-February—have been reduced. However, from most accounts, many are inadequately treated and others fear harassment in the hospital if they go on sick calls.

The father of Pvt. Henry Iglauer, who died on February 11 of meningitis, wrote me on February 17:

"Henry died last week, and I am enclosing a clipping from the St. Louis Post Dispatch, of some of the details. I am writing you, however, because in all our grief and in our loss of our only son, we would like to do something about protecting the rest of the men at Ft. Leonard Wood.

"In the last week we have had ample opportunity to talk to enlisted men, junior and senior officers alike, and the stories we can piece together from their comments are unbelievable in the 1970's. The treatment of these young men—the youth of our country—is actually inhuman. Neither did my son have, nor do we have any objection to physical fitness. My son enjoyed the rigors of creating and keeping a healthy body. But the Army is tearing down step by step, day by day, the physical being of the men under their command. The biggest complaint of everyone there is the lack of sleep which these men suffer.

"Men are being scared not to go on sick call because 'if they miss 5 days of duty they will be re-cycled and have to start all over again.' Men are told in the very beginning that if they go on sick call they have to pack up all their belongings and return them to the supply depot first, before they can go on sick call. This is a chore when you are well. Much more so when you are sick."

Mr. Iglauer also told me that one of his son's friends told him of a soldier in the hospital with measles and 101 degree fever. On the second day he was told to mop the floors in the hospital. I have been told of similar situations by other reliable sources.

The situation at Fort Leonard Wood necessitates an immediate and full investigation. After three letters I have still not re-

ceived the courtesy of a reply from the Secretary of the Army or from anyone on his staff. However, I am not concerned with courtesy or governmental amenities, but rather with action.

I want to know if the accepted procedures in dealing with an outbreak of meningitis, as described by the Office of the Surgeon General, were followed. These procedures call for the hospitalization of those with a fever of over 99.6 degrees. They call for an evaluation by the post surgeon and a reduction of the total number of hours of training. They call for an increase in hot meals. Were these procedures followed? If not, why not?

I want to know if Army regulations have been broken. Have these men been denied adequate rest? Has medical attention been adequate? Was a man suffering from pneumonia released from the hospital? Why was not a man suffering from a delirium brought in? Does harassment occur in the hospital or retaliation occur upon leaving?

In the last 4 days I have received many letters and phone calls from parents of inductees and reservists and the men themselves, asking if they should report to Fort Leonard Wood. They ask me, "What should I do?" How can a public official with serious doubts about the situation at Fort Leonard Wood answer such a question? I honestly do not know.

These and other questions must be answered, and answered fully, completely and promptly.

Mr. President, I ask unanimous consent to have printed at this point in the Record my correspondence with Secretary of the Army Resor, including my letter to him dated February 23, 1970, my telegram to him of February 27, 1970, and my letter to him of March 2, 1970.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. SENATE,

Washington, D.C., February 23, 1970.

HON. STANLEY R. RESOR,
The Pentagon,
Arlington, Va.

DEAR MR. SECRETARY: Enclosed you will find a Xerox copy of a news article from the February 13, 1970 issue of the *St. Louis Post Dispatch*.

I have received some mail concerning conditions at Fort Leonard Wood. The mail not only deals with the meningitis cases at Fort Leonard Wood, but also, and just as importantly, the overly exhaustive routine which the trainees are required to perform which weakens their physical condition to the point that they are susceptible to serious illness.

These letters indicate that the men are often awakened at 4:00 a.m. and do not return to their barracks until 9:00 p.m. at which time they are then obliged to do all of the bunk details, shoe shining, cleaning up, etc. One letter indicates a situation where a trainee had an 18 hour K.P. duty and then on successive nights guard duty and fire watch duty.

Mr. Secretary, I was an enlisted man in the U.S. Navy and I realize that there is always some gripping by recruits, etc. I personally used to "gripe like hell."

However, the tone and tenor of the mail to which I have referred, in my judgment, transcends the routine or expected gripe. In my judgment, it indicates the possibility of some substantial problems at Fort Leonard Wood which need attention and improvement.

I respectfully ask that with all due haste you examine both the health status and the physically exhausting training rigors as they have existed or do continue to exist at Fort Leonard Wood.

Yours very truly,

THOMAS F. EAGLETON,
U.S. Senator.

HON. STANLEY R. RESOR,
Secretary, U.S. Department of the Army, The
Pentagon, Arlington, Va.

MR. SECRETARY: I have just received a report of the third death this month of a recruit at Fort Leonard Wood, Missouri, from spinal meningitis. Fourteen other cases have been reported this month, and there were nine cases in January.

In light of the obvious crisis that exists, I urgently request that preventive action be taken immediately to avert the possibility of any further deaths, and I further request that an immediate investigation be ordered by your office of conditions at the base, including methods of training, as I requested in my letter to you February 23, to which I have not yet received a reply.

This investigation must be made with all possible speed to determine whether conditions at the base contributed to the current health situation and whether changes and improvements must be made.

THOMAS F. EAGLETON,
U.S. Senator.

U.S. SENATE,
Washington, D.C., March 2, 1970.

HON. STANLEY R. RESOR,
Secretary, U.S. Department of the Army, The
Pentagon, Arlington, Va.

DEAR MR. SECRETARY: Since my telegram to you last Friday it has been revealed in the press that another trainee at Fort Leonard Wood died in February—this time of pneumonia—bringing the total number of deaths at the base last month to four, three of them from spinal meningitis.

It was also disclosed this morning in a St. Louis newspaper that the wife of another trainee is in critical condition with spinal meningitis apparently contracted after a visit February 22 at Fort Leonard Wood with her husband, who is in basic training there.

This woman is a teacher at a high school with more than 4,100 students and taught for four days after visiting her husband before becoming visibly ill. School officials are now worried she may have infected some of the students.

It is my information that hundreds of cases of respiratory infections are now being treated daily at Fort Leonard Wood. Base spokesmen continually are quoted as saying that nothing unusual is occurring. I don't think they can be believed.

For a week now I have been getting an increasing number of letters and phone calls from the parents of boys now undergoing basic training at Fort Leonard Wood. These letters and phone calls consistently allege that methods of training are being used that may well be in violation of Army regulations—and that these methods have caused such a general state of low resistance in the trainees as to make them highly susceptible to such contagious diseases as spinal meningitis and pneumonia. I outlined some of these to you in a previous letter.

Letters written home before their deaths by two of the meningitis victims are revealing—and they should not go unheeded.

I have received calls from parents whose sons told them as recently as yesterday that trainees are still being intimidated from going on sick call—and this with more than 25 cases of spinal meningitis reported in the last two months, with four young men dead, with base officials admitting they have a high incidence of respiratory disease among trainees.

Even sick call may not be of much help. The young man who died of pneumonia was allowed a very short stay at the base hospital and then was sent back to his barracks—where he died within two days.

The facts are serious. So are the reports I have received from the worried parents of trainees about the type of training their sons have been forced to undergo. In light of the facts, these allegations warrant an immediate and extensive investigation, and I again

request that you order that an investigation be made.

Yours very truly,
THOMAS F. EAGLETON,
U.S. Senator.

Mr. SYMINGTON subsequently said: Mr. President, earlier this morning I was at a meeting of the Committee on Armed Services, which heard for the first time the distinguished Secretary of the Army and Chief of Staff, General Westmoreland. Therefore, it was not possible for me to be in the Chamber when my distinguished colleague, Senator EAGLETON, delivered a short address with respect to the problems we now face at the Army encampment at Fort Leonard Wood in Missouri.

I want to commend my colleague for his logical and constructive interest in this matter. We have had an epidemic of meningitis there, and four tragic deaths.

What the Senator has done guarantees that the matter will be looked into by the Army; and I have already requested, as a member of armed services, that they do so.

APPENDIX 2

A VERBATIM ACCOUNT OF THE NEWS CONFERENCE HELD BY REPRESENTATIVES RICHARD ICHORD, DURWARD G. HALL, AND WILLIAM J. RANDALL AT FORT LEONARD WOOD, MO., MARCH 6, 1970

ICHORD. I would like to make an opening statement. Then I will yield to the ranking minority member, Doctor Hall and to my colleague, Mr. Randall, on my right.

The recent meningitis cases here at Fort Leonard Wood with the attendant national publicity has prompted the chairman of the full committee of the House Armed Services Committee to appoint a subcommittee to look into the situation, thus our visit here today. I was designated as chairman. My colleague from Missouri, Bill Randall, and Dr. Hall on my right were appointed members. All three of us, of course, are very much concerned because each of us have constituents here at Fort Leonard Wood. I am particularly grateful that my colleague Bill Randall and Dr. Hall would choose to serve on this subcommittee. Of course, Fort Leonard Wood is in my own congressional district and I, for that reason, would have more concern than most members of Congress. I am particularly obligated to Dr. Hall because I know he had other plans made and he did consent to come down here to look into this very important problem. We brought with us from Washington today Dr. Winter from the Office of the Surgeon General. There are also preventive medical people from Fifth Army Headquarters here at the post today. We have been briefed. We have subjected the authorities here at Fort Leonard Wood to very close questioning, including the medical authority, and I have been assured by them and am convinced that everything possible is being done to bring meningitis under control. All standard procedures have been invoked and I am very happy to find that these procedures were invoked before we arrived. With that opening statement I will yield to my colleague, Dr. Hall.

HALL. Well, thank you Mr. Chairman. First of all, I think in proper context we must realize that meningococcus meningitis is one of the regular recurring diseases that breaks out in a skin rash. In the profession, we call it one of the eczematous. The principal sign and the first recognizable sign outside of the vague headaches and aches and pains, is a skin rash. There are many fulminating types of this contagious meningitis. Some of it comes and goes, but worst of all, in different years it is more virulent than in others. Further complicating the factor is the usual miracle drugs which we referred to so proudly in the 50's, the germs, the meningococcus, in this case, have developed an attenuation for and are resistant to the drugs and we can not give mass medication and prevent

it in a place where men are brought together as they are in a training camp. There are certain prophylactic measures that we know that can be exercised and brought into play, including: additional rest, more airtation, certain prophylaxis with the onset of colds, not bringing people together and all of these things that are difficult in a training camp where you have an input of maybe 1,100 or more new recruits or receptees in our training system a week. This is quite different from the advent of college one time a year, in the fall, where they all develop their immunities at the same time together even though it is a new group of people. I certainly join with the chairman in being pleased to find first of all on arrival that for the past two or three days there have been people here from the epidemiological board, from the Fifth Army, from the Office of the Surgeon General and elsewhere who are specialists in preventive medicine and these techniques I am even more pleased to find that even before that, General Bradley, your own staff had instituted the regular standard operating procedures. Now, this is a bad disease and it is bad to have to bring people together in time of war, undeclared or otherwise, for the purpose of training. But, everyone including the public whom I think has been over messaged and exercised and riled up by unfortunate questions and statements before people even determined whether all the standard operating procedures had been placed in effect or not were beneficial and had been adopted. I think they have been. I think we may have some more lumps as this respiratory disease season passes out. I hope and pray that we have no more losses but it is better to train and it is better to institute these procedures and continue than it is to turn out troops who are not trained in a manner so that they can defend themselves or so that indeed they will be enured against infection when they reach their theatres of combat. So, I have optimism, I give thanks and appreciation. I certainly have the hope and faith and belief that the worst of this is over and that we have done everything that is known in the present state of human science to help each other and I hope that the epidemic is waning. There are other epidemics in other camps, in other stations. They, too, are being handled well. This will be beneficial and who knows but out of it may come the discovery that will prevent this eczematous from recurring when we bring men together for training in the future. I think that is all I would have to say, Mr. Chairman, until time for questions and answers.

ICHORD. Congressman Randall.

RANDALL. Mr. Chairman, at the very beginning, well, first I would like to say that I concur generally with my two colleagues but, before we go into any further discussion I want to express the gratitude of the subcommittee to General Bradley and all of the other military personnel here today. They have been very cooperative. They have taken us all to the area we needed to see. We have been to the hospital. We have been to all the barracks. We have been to the field, the bivouac areas. We have had a full day here. I have talked to several of our own constituents, the troop personnel and I get the report from them that they are not fearful of the infection. They realize it is here, they suggest that they are going ahead and training just as they have been. I have the feeling that the maximum is being done to get on top of this. I believe our colleagues may have mentioned that the Army has been on top of this before we got here—both the Surgeon General of the Army and also Fifth Army. One of the principal witnesses before us today pointed out that in spite of the worried parents, the servicemen themselves have a fine esprit de corps, that they are particularly dedicated young men. I was very much impressed with one of the statistics of the trainees here on the base. A high percentage

of them are college graduates, about 25 percent. They understand why they are being trained and they have pride in their units. As we looked about on the base today we found such slogans as, "We're Second to None," and "We Strive for Perfection." I was convinced that the medical staff is dedicated. There is no doubt about that. They are hard working. They are working in good faith—and that applies to the medical staff and non-medical people who are working with a hard problem. This is a very hard problem. We are wrestling with a disease that we really do not know all about yet. It is a seasonal matter. It is a matter, as Dr. Hall suggested, that is drug resistant. Now, all the standard procedures are being followed. The Army was, as I said, working before we get here and we are glad to hear that. I hope that the epidemic has reached its peak and we believe that with the passage of this month that the worst may be over. I would hope that the command would keep a careful surveillance over the lower echelons to be sure that the eight hours sleep is observed. Now, I know that is the order, they get eight hours sleep. But, there may be some instances where some acting MCOs get overzealous and want to shave that off a little bit. I would hope that would be carefully carried out—that order which has been issued by the higher command. I would also hope that there would be surveillance to try to screen out those who are really sick and need treatment because of the nature of the malady we are wrestling with, and those who may simply want to go on sick call to avoid strenuous physical training. Mr. Chairman, I concur generally with the findings of the Chairman and Dr. Hall.

ICHORD. Thank you Mr. Randall. Gentlemen, we would be happy to answer any questions that you might have. When you direct your questions please mention the name of the gentleman to whom you direct the question, including General Bradley.

QUESTION. Mr. Ichord, what did your committee see today?

ANSWER, ICHORD. We have met with General Bradley, briefed first of all by General Bradley. We have met with the chief medical officer of Fort Leonard Wood, Colonel Miller. We have been briefed by the brigade commander, Colonel Greer, of the Company C, where the two deaths occurred. We subjected them to intensive questioning. We have visited Company C. We talked to the company commander. We have talked to the men of Company C. We have also been to the hospital and talked to Colonel Miller and his staff and subjected various questions that we had to those individuals.

QUESTION. Mr. Ichord, did you feel that one day is enough time to investigate fully?

ANSWER, ICHORD. Well, of course, if you are asking whether or not we would attempt to separate all of the facts from the fiction that is surrounding this whole matter, no, it would be impossible for me to do that in a one day period of time.

QUESTION. I would like to question Dr. Hall, please. Senator Eagleton suggested that the health techniques here left something to be desired. Did you find this to be the case in your visit to the medical facilities today?

ANSWER, HALL. Well now, if you can figure out what Senator Eagleton had in mind when he said any health facility left something to be desired then maybe I could answer your question. I certainly do not know and I think there has been too much flag waving and spring board of publicity seeking by non-technical people about a very technical matter, the techniques of which I am thoroughly satisfied with within the present state of the art including epidemiology and immunology. I do not know what the junior Senator based his speech or his claims on. I understand he was personally impressed, but we have looked at the records. I have been on the intensive care ward. I have been on

the less intensive care wards. I know the time that has been spent, the priorities and emphasis that are being given, the techniques that are being used and they are a maximum exercise not only of the state of the art but of the state of the science in prevention and certainly in treatment. I did not talk to a single ill soldier or his parent who was not satisfied that they are receiving the maximum benefit of the most skilled and available care that they could. Does that answer your question?

QUESTION. I would like to direct this question to Dr. Hall. There has been a number of allegations that trainees are not allowed to seek medical attention here through one means or another. There has been a charge made that you have to have a 104 degree temperature before you can get on sick call and that sort of thing. Are you satisfied, Dr. Hall, as a medical doctor, that there is no hitch in a soldier seeking medical attention and receiving it?

ANSWER, HALL. First of all, I used to hear these things when I was a company training commander myself. That was some 20 . . . well, it is longer ago than I like to think about and I might have been outdated, so this entire committee went particularly into this question, both with the command and with the troops. In fact, I went up and down the list of those waiting in the dispensaries that were still operating today when we reached there and furthermore, at the hospital. I broke away from the rest of the group and went with friends of mine in the profession up and down the aisle of those waiting to see how long they had waited, whether they had had trouble getting by their "Top Kick" in order to go to the dispensary and get on the sick list in the first place or not, how long they had had to wait, whether they were getting good service and I did not find any instances of displeasure or regret. I can say categorically that in this dispensary set-up I feel it is adequate for the battalions, for the brigade training centers, and that the rule is not that you have a temperature of 104 to be admitted to the hospital, but that if the temperature is above 100 it is almost an automatic ticket for admission and this was in effect starting last October with increased personnel and increased precaution. Head to feet sleeping in the same room, increased aeration space, reducing those in squad rooms from eight to seven to get the required cubic footage of air and all of these other precautions which are all we know about how to prevent this disease. I think there has not been unusual exercise of duress in training. Quite the contrary, I believe the command function of maintaining the health of the troops has been out ahead of this epidemic. But, we are up against a tough one which is developing some fulminating cases that no one knows how to treat.

QUESTION. Dr. Hall, did you find that the men in your opinion are receiving the proper amount of sleep and receiving all the major personal hygiene measures necessary to prevent upper respiratory infection?

ANSWER, HALL. I think within the command decision of balancing off the need for training before these men are committed for their future involvements with the necessity of sleep and the necessity of actual extra rest, including compensatory time when, because of their training, they do miss a night's sleep that I am satisfied about this.

RANDALL. I just want to supplement that point. We are all, I am sure I speak for the chairman, Mr. Ichord, and I know for myself, that we are very fortunate to have with us a colleague who is both a member of the House Armed Services Committee and also a former practicing physician. I might add in connection with our visit to the hospital, the doctor was on one part, some of us in another. We personally questioned each one of those who were in a room waiting to be treated at

the hospital and we found that about half of them had not come through their dispensary, but had come direct. So, there is certainly no one barring them from coming to the hospital.

HALL. May I add one other sentence, Mr. Chairman, in that regard. That is, I want to assure the people that we have reviewed the individual cases including the hospital records, the dispensary records and the company rosters of these whom we have unfortunately lost with the dread disease. They were more than adequately cared for and we still lost.

QUESTION. Mr. Chairman, I would like to direct this question to Congressman Randall. Congressman Randall, do you feel that the Army reacted soon enough with these extraordinary measures?

RANDALL. Well, of course, we did not have knowledge of what they had been doing except when we got into this the first of the week. I certainly could find no evidence here today. This is a seasonal matter and we had testimony that they started conferences way back in October with these provisions for reduction in the extent of physical training and insistence upon eight hours of sleep. That was our testimony. We feel that they recognized that it is not a question of January and February, it is also December and they were taking some of these steps in December.

ICHORD. I would add to that by saying that the authorities did institute an instructional program down to the company level as far back as October, which is the beginning of the meningitis season. Also, an immunization program was early instituted. As I stated before, I am firmly convinced that everything is being done that is possible and should be done to bring this matter under control.

QUESTION. I would like to direct my question to General Bradley. General, the committee seems in agreement that there is an epidemic condition existing on the base. Shouldn't, in the best public interest, we seriously consider placing the base off limits to visitors until this problem has peaked, as Mr. Randall states it?

BRADLEY. No, sir, I think not. We must, and have, considered various measures of quarantining or isolating various elements at every stage. And, it has been our considered judgment that this is not necessary. There was one isolation of one company for a five-day period shortly after they had five cases of meningitis occur in their company. Since then, we have not had any concentration such as that.

QUESTION. I am referring, General, to this woman from the St. Louis area who visited the base and then became ill with meningitis shortly after. Can't we expect that this may happen again?

ICHORD. I might add there, General, and I do not want to underestimate the seriousness of the situation. There are some serious meningitis cases in the hospital at the present time, but I would concur with Dr. Hall's opinion that this matter has been blown completely out of proportion in my opinion. For example, my wife almost imposed a wifely quarantine on me if I came down to Fort Leonard Wood. That was before she studied a little bit about meningitis and I think I will be able to get into the house when I return to Washington. Dr. Hall, did you have something to add?

HALL. Let me answer that question by saying that we have reviewed the case of the lady in question and I am sure that a post quarantine would not only have kept the press off this afternoon if it had been imposed, which I think you would have objected to violently, but this lady does not have epidemic meningitis or even a meningococcal infection. She has the hemophilic influenza type of meningitis which is quite different. It is not associated with, is not contagious and so forth. Now, this is where one can get into trouble by assuming without knowing technically the difference. We could give you

other cases that have allegedly been caught at Fort Wood, but are not even meningitis and which in no way could be associated with epidemic meningococcus infection let alone meningococcus meningitis.

QUESTION. This is a question for Dr. Hall. Doctor, you mentioned going to the hospital and talking with men and their families and none of them were dissatisfied with the care that they are having. I would like to ask, did you talk with any of the men who had meningitis or with any of their families?

HALL. Yes, these were the ones I was specifically referring to on the intensive care ward as late as this afternoon, including some of those who had to hold their fingers in their tracheotomy tube in order to talk and answer and express their thankfulness for many things, and indeed, those people should be thankful because they have had a very close shave. This is a very fulminating type of this particular recurrent seasonal epidemic.

QUESTION. I would like to direct this question to General Bradley. At any time during this discussion, General Bradley, has Senator Eagleton been in contact with the command at Fort Leonard Wood. Has he verified any of the allegations made in letters that he released on the Senate floor?

BRADLEY. Not in recent dates.

QUESTION. What do you mean, General, by "in recent dates?"

BRADLEY. Subsequent to my understanding that he has asked that this matter be looked into, I have not corresponded with him or heard from him directly.

QUESTION. Congressman Ichord, did you discuss the case of Private Larry Breeling?

ICHORD. Yes, that was discussed. However, on all of these things, I am not going to, as I stated before, to attempt to separate fact from fiction and to go into all of the rumors with just one day's investigation. If I were to do that I would require five or perhaps six days and certainly choose a different way of proceeding than we have today. But, I have heard all kinds of rumors on this matter. As a matter of fact, I was advised before I left Washington that the little 11-year-old girl from Centralis had died of meningitis who had visited relatives here on post. I have ascertained today that she actually died from viral encephalitis, I believe. So, we have asked questions about many of these rumors, many of these allegations, all of them that were brought to our attention. But, I'm not going to attempt to make any conclusive finding in regards to any of these things today and I think I have adequately explained the reason why.

QUESTION. Congressman Ichord, did you find any evidence that fear or threat of recycling was keeping the man from going on sick call?

ICHORD. Actually, I questioned at least six men from Company C in that regard. They related to me that they were very much concerned during the first cases, now they have been informed about meningitis and I would point out that we have an educational television system here and just a few minutes ago information went out to the troops themselves. I did not find that they were concerned. Now, of course, you would have to get into the individual cases. They do have a policy of if you miss five days, I am sure this is not a hard and fast rule, that would be five consecutive days, that you may have to be recycled. Some of the individual troops, I think, would be concerned about that and others might not. You have to look into the individual himself.

RANDALL. I would like to supplement that by saying that we talked to the same six and four of those six had been in the hospital. I talked to a boy from Colorado and he said yes, several months ago that fear did exist, but word is now among the troops that it does not make such difference, you are going to start right in another class. We do not re-

gard that as saying you are going to be recycled would dissuade us from going to the hospital.

HALL. Of course, they recycle automatically also if they do not shoot 30 the first day they are on the target range.

QUESTION. Congressman Ichord, what will be your subcommittee's recommendation to Congressman Rivers' committee?

Answer, ICHORD. We will report to congressman Rivers substantially what we have related here today. We will tell him in the report that we think everything possible is being done to bring this matter under control. As far as anything additional, I have no specific recommendations in mind at this time. I would also like to point out that we were advised that the physical training requirements have been released since the outbreak of meningitis, which I think was a good policy because of the association of fatigue with this particular disease.

RANDALL. Couldn't we add to this report that we commended both the command the dedicated medical people that have worked on holiday schedule, 12 to 14 hours a day or around the clock when necessary. And, I'm now speaking especially of the nurses, corpsmen and all who have helped in the hospital and in the dispensaries in order to try to alleviate this epidemic. I think we can certainly add that. And, I would like to add a word for the non-medical people who have realized all along the seriousness of the problem they are facing here—the command and the different echelons of the command.

QUESTION. What would you say to concerned parents, in a word or two?

Answer, ICHORD. Well, I would not underestimate or understate the seriousness of the situation, but I think that they can rest assured that the authorities here at Fort Leonard Wood, the medical authorities here at Fort Leonard Wood, are doing everything possible to control this outbreak of meningitis and I would point out that only a few small percentage, less than one half of one percent, of the 30,000 troop compliment here have been infected with anything resembling this disease.

RANDALL. Actually, the figure, I recall is 2/10ths of one percent.

ICHORD. It would be less than one half. Yes, it would be 2/10ths. There have been 29 cases since the first of January. There have been 40 cases since the beginning of the season, which began last October.

Thank you, gentlemen.

VISIT OF HOUSE ARMED SERVICES SUBCOMMITTEE, MARCH 6, 1970

1. This directive announces the itinerary and establishes responsibilities for the visit of House Armed Services Subcommittee headed by Congressman Richard H. Ichord, on 6 March 1970.

2. Commanders and officers concerned are responsible for their portion of the itinerary, and will be prepared at times indicated to conduct the briefings and/or visits outlined in the itinerary.

For the Commander:

B. H. KERR,
Colonel, GS, Chief of Staff.

ITINERARY FOR CONGRESSIONAL COMMITTEE

Action Agency: Chief of Staff.
Escort Officer: MG W. T. Bradley.

TIME, FUNCTION, PLACE, AND RESPONSIBILITY
Friday, 6 March 1970

0845: Arrival, Forney Army Airfield; MG Bradley.

0845-0900: Travel to Post Headquarters, En route, MG Bradley.

0900-1000: Briefing, Conference Room, Building 401, CG.

1000-1005: Travel to General Leonard Wood Army Hospital, En route, CG.

1005-1120: Visit General Leonard Wood Army Hospital, GLWAH, Col. Miller.

1120-1130: Travel to B-1-5 Messhall, En route, CG.

1130-1230: Lunch, Building 1231, CO, 5th CST Bde.

1230-1240: Travel to 2d BCT Brigade Headquarters, En route, CG.

1240-1520: Visit 2d BCT Brigade (to include Barracks, Dispensary, Messhall, Troops), 2d BCT Bde Area, Col. Greer.

1520-1645: As Desired.

1645: Press Conference, Conference Room, Building 401, Congressman Ichord.

Completion of above, Travel to Forney Army Airfield and Departure, Forney Army Airfield, CG.

APPENDIX 3

MILITARY POLICE REPORT

From: Provost Marshal, Fort Leonard Wood, Mo., 20 Feb. 70.

Subject: Breeling, Larry W., [redacted], E-4-2FLW.

COMP stated that he tried to wake VIC up. COMP noticed that VICT was not breathing. COMP checked pulse and found out that VIC didn't have any. COMP notified Drill Sergeant who in turn notified the Military Police. VICT was conveyed to GLWAH where he was pronounced dead by Maj. Harman Urbano. At 0840 hours, 19 Feb. 70, Maj. Leslea Torgenson, [redacted], Pathologist.

General Leonard Wood, Army Hospital, was contacted in reference the autopsy of SUBJ. Maj. Torgenson stated that autopsy revealed that SUBJ died from pneumonia, and at the present time they had two cultures growing from the samples taken from the lungs to determine the severity of the pneumonia.

Witnesses to the death are:

- Alsough, James R., [redacted]
- Downes, Charles, Jr., [redacted]
- English, Don W., [redacted]
- Dolton, Stephen W., [redacted]
- Cockrell, Randall S., [redacted]
- Christiansen, Robert D., [redacted]
- Burris, Robert W., [redacted]
- Childress, Gerald R., [redacted]
- Carter, John Alden, Jr., [redacted]

WITNESS STATEMENT OF DOWNES, CHARLES, JR.

Mr. Breeling was breathing hard and having pains at 9:00 p.m. last nite, 2-17-70. When we got up this morning, I was about the first one up. I noticed Mr. Breeling was quite pale and not breathing that I could see. I moved closer and took his wrist and could find no pulse or heartbeat, he was cold and his arm was stiff already. I went down to our Platoon Sergeant (Jack Carter) and had him notify someone downstairs such as drill sergeant, S.D.I., etc.

WITNESS STATEMENT OF ALSAUGH, JAMES R.

I went to bed at 8:30 last night and noticed that he was asleep and breathing a little heavy.

WITNESS STATEMENT OF BURRIS, ROBERT D.

I checked on Mr. Breeling to see what was wrong with him at about 6:00 p.m. He was having a hard time breathing and there was something wrong with his legs. I asked if he wanted anything and he said no.

I went to bed at 8:30 and I must of fallen asleep in about 15 or 20 minutes. That's the last I heard of him. He was breathing heavy.

Last saw victim alive at 8:30, heard victim breathing heavily at about 2:00 in the morning.

While on fire guard last night between the time's of 9:30 to 10:30, I heard Breeling throwing up so I enter the room he was laying over the side of the bed throwing up in a Butt-can. I ask him if he wanted to go to the latrine he said no, so I held him there for a moment then I went to get a cold compact. I placed it on his head and layed him on his back, I asked if he wanted something, he said no so I left him, at this time he was breathing pretty hard.

WITNESS STATEMENT OF RANDALL S. COCKRELL

I saw the victim alive at 8:30 last night when I went to bed. He was breathing real heavy and was sick. I awakened several times during the night and he was still breathing hard but I have no idea what time it was because I didn't have my watch on.

WITNESS STATEMENT OF CARTER, JOHN A.

Last night at about 1800, Pvt. Breeling, after taking a make up PT test, was having problems breathing and having bad cramps in his legs. He spit out phlegm. Then seemed to quite down and rest easily. He said he was doing all right. I left at about 1830 and checked several times later on, seeing that he was doing all right.

Between 1800 and 1830 he said he was hot and then cold. Talking deliriously of "getting even" with the DI who made him run back from the PT test.

WITNESS STATEMENT OF GERALD RAY CHILDRESS

I got back from chow last night about 6:00 and found him rolling in pain on his bunk. (He had just gotten back from the hospital with pneumonia Sunday.) I asked him what was wrong and he said he was all cramped up. I asked him where and he said his legs, under the kneecap mostly. (He also was having trouble breathing.) I started trying to massage his legs, and he said they felt better. He had a small fever, so I covered him up to try and keep him warm. He was all right, sleeping for about the next half hour. Then he woke up and said he was hot, so I put a cold towel on his head and massaged his legs some more. He wanted some water so I let him have some water. Then he laid back down and went to sleep. About a half hour later he leaned over the bunk and vomited into a can. So I rewet the towel and he said his legs hurt so I massaged them some more. At this time he complained of a severe headache. He then rolled over and went back to sleep. After about 15 minutes he got up and went to the latrine. He then came back and just kind of fell into bed. I asked him if he was feeling better and he said yes. After that about every 20 minutes he would wake up and vomit. I'd wipe his head and cover him back up. At 8:30 I went to bed. I woke up about ten and heard him breathing heavily. I got up and asked him how he was and he said his head hurt so I wiped his head off, covered him back up, and then went back to bed. I woke up at 3:45 and saw Downes standing over him, and then he said he was dead. Somebody went to get Carter, and I tried to see if I could feel or hear any heartbeat. I couldn't, and I felt that he was already ice cold.

APPENDIX 4

Subject. Prevention of Acute Respiratory Diseases.

To See distribution.

From S3, Second BCT Bde.

1. Your attention is invited to comment 1.
2. Recommend this subject be presented to all cadre during one of your scheduled NCO classes for the month of October 1969. The lesson plan attached as an inclosure is forwarded as a guide for presentation.

For the Commander:

JOHN B. OLIVER, Jr.,
Major, Infantry Adjutant.

1. References:
 - a. AR 40-5.
 - b. TB MED 274.
 - c. FM 21-10.
 - d. FLW Regulation 40-1.
2. In any discussion of diseases of military significance at Fort Leonard Wood, acute respiratory disease of the trainees will emerge as the most prevalent. It has been shown that during the period of the epidemic from October through April, and during an eight-week

period encompassing the epidemic, as many as 80% of the trainees acquire the infection. Of these, 50% may require hospitalization and another 20% may require dispensary care. The remainder of the infections are apparently subclinical.

3. To insure that commanders at all levels are aware of this problem, and to facilitate training of personnel under their jurisdiction, the attached lesson plan should be presented at frequent intervals during the period October through April. Particular emphasis should be given to the early recognition of signs and symptoms of disease as described here, and early referral of trainees to the nearest dispensary.

4. The noted references should be available to all cadre personnel to permit further knowledge of this problem than is presented by the lesson plan.

For the Surgeon:

JAMES F. PATTERSON,
Maj., USMC Administrative Officer.

LESSON PLAN

Instructional unit: Prevention of Upper Respiratory Infections and Meningococcal Disease.

Type: Lecture and Film.

Time allotted: One hour.

Class presented to: Individual Units.

Tools, equipment and materials: None.

Personnel: Projectionist.

Instructional aids: Lesson plan and Film, TF 8-3875, "Prevention and Control of Respiratory Diseases in USATC".

References: AR 40-5, FM 21-10, FLW Reg 40-1, 5th USA Reg 40-31.

Study assignments: None.

Student uniform and equipment: Duty uniform, no equipment.

Troop requirements: None.

Transportation requirements: None.

1. Presentation. Lecture, 30 minutes.

a. Introduction. Prevention of Upper Respiratory Infection. Upper respiratory infections (URI) caused by viruses are by far the most important cause of non-effectiveness among trainees; hospital admissions during winter months approach 50% of trainees during the eight week period with an additional 20% requiring out-patient treatment by the unit dispensary.

b. Objective. The objective of this lecture is to familiarize military personnel with some important basic considerations relating to upper respiratory infections and to outline measures to be taken for their prevention and control.

2. Examination.

a. What are upper respiratory infections (URI)? These are diseases of the upper respiratory tract (nose, throat), of sudden onset, usually mild and short lasting (three-four days).

b. What are the signs and symptoms? Fever and chills are the outstanding constitutional symptoms. The average temperature is around 100° F., although it may reach 103° F.; accompanying fever there is usually headache, dry cough, sore throat, burning eyes, nasal obstruction with occasionally a slight nasal discharge and a feeling of general malaise.

c. What causes URI? This disease which has been described almost exclusively in military recruits is caused by a group of organisms known as adenoviruses, so-called because they were originally found on tonsils and adenoids surgically removed. Their relationship was first established in 1954 when type 4 adenovirus was isolated during an epidemic occurring among the troops at this installation. Subsequent investigations revealed most outbreaks of upper respiratory infections are caused by types 4 and 7, although a few cases have also been attributed to type 3.

d. How is the disease transmitted?

Upper respiratory infection, as other re-

spiratory borne diseases, is transmitted from person to person with the sneezing, coughing and talking of infected persons. The causative organisms are contained in invisible droplets or dropping nuclei.

e. Why are they more frequent during the winter months?

The exact cause of the seasonal influx is not clear, however, presumably not one but many factors are involved. There is apt to be a greater amount of crowding, since people tend to gather in inside areas more than they do in the summer months. This crowding gives a better opportunity to pass the infection from person to person.

f. What is the treatment for URI?

There is no specific treatment for this disease except symptomatic care to include bed rest. Complications among hospitalized patients are so rare that there is no need for the prophylactic use of antibiotic drugs.

g. What are the measures to be taken to prevent and control URI?

Individual protective measures are:

- (1) Good personal hygiene and cleanliness.
- (2) Good general physical conditioning.
- (3) Adequate rest providing eight hours of sleep per day for trainees.
- (4) Good nutritional state.
- (5) Early treatment to preclude the development of complications, such as pneumonia.
- (6) Wearing proper uniform, as determined by weather conditions, to avoid overheating.

Environmental protective measures:

- (1) Provide 72 sq. ft of sleeping space to trainees at all times.
- (2) Head to foot arrangement of beds.
- (3) Adequate ventilation, temperature and dust control in billets, classrooms and theaters.
- (4) Protection of trainees from inclement weather where they are required to wait outdoors to enter facilities.

h. Is there any kind of immunization against URI? There is an effective oral vaccine capable of suppressing URI infections caused by adenovirus type 4. An oral type 7 vaccine will also be available for the first time, for the 1969-1970 season.

1. Presentation. Lecture.

a. Introduction. Prevention of Meningococcal Disease. No infectious agent can kill a human being quicker than the meningococcus. Death has occurred in less than two hours from the appearance of the first symptoms.

b. Objective. To familiarize military personnel with the disease and outline the basic principles essential in its control.

2. Explanation.

a. What is meningococcal disease? Meningococcal disease is the invasion of the human body by a bacteria called meningococcus. Once localized in the upper throat the organisms may invade the blood (meningococcemia) and may be finally localized in the membranes covering the brain and spinal cord (meninges) causing inflammation of the same (meningitis). This disease occurs all over the world and may occur at any season although it is most prevalent in late winter and spring. Cases resulting from infection by the meningococcus tend to concentrate among individuals crowded together in such places as military installations, ships, schools, etc.

b. How is the disease transmitted? The mode of transmission is essentially that described for other infections of the respiratory tract or direct contact with the discharge from nose and throat of infected persons usually carriers.

c. What is a carrier and what is its importance in the transmission of meningococcal disease?

A carrier is an infected person who harbors a specific infectious agent, in this case, meningococcus, in the absence of any sign

or symptom of disease. Normally the carrier rate among the general population may be as high as 20%. This figure is higher among trainees and at times may reach 70-90%. The probability of cases developing from contact with a patient is no higher than from the healthy population of carriers.

d. What are the signs and symptoms of meningitis?

There are three stages in the development of meningitis:

(1) Localization of the meningococcus in the upper throat where it may multiply abundantly, often without causing any symptoms. If the infection proceeds no further such person is a temporary carrier.

(2) Invasion of the blood stream by the meningococcus (Meningococcemia). The patient appears ill, febrile, a rash often develops characterized by minute red spots throughout the body. On the other hand, the presence of meningococcus in the blood stream may be so mild that the disease never progresses further.

(3) In the majority of cases, the third stage of infection, meningitis, develops. The organism has reached the meninges producing intense inflammation. The first symptom of meningitis usually is vomiting. A severe, bursting headache develops because of inflammation of the meninges and because the pressure of the spinal fluid increases. Stiffness of the neck then develops, due to irritation of the spinal nerves supplying those muscles. The degree of stiffness varies but often the head is retracted. Sometimes the head and spine may be drawn backward like a bow. At this time, mental disorientation is the rule and the patient may progress into coma.

e. How is the disease treated?

Since the clinical picture may change so rapidly anyone having fever, headache, vomiting, stiffness of neck, should be suspected of having meningococcal disease and should be rushed to the hospital. Once the diagnosis is made, treatment consists of chiefly intravenous penicillin in large doses.

f. What is the importance of upper respiratory infection in relation to meningococcal disease?

A meningococcal infection presumably begins as a localized upper respiratory infection and is often asymptomatic. Thus the importance of early recognition and treatment of upper respiratory infection.

g. How can meningococcal disease be prevented?

The measures of prevention are essentially the same as described for the prevention of upper respiratory infection. In the absence of a drug which may eradicate the infectious agent (meningococcus) from the throat of the high percentage of healthy carriers and thus eliminate the risk of transmission, the real emphasis in control must be placed on the regulations of environmental factor, assuring the minimum of 72 square feet of sleeping space to basic trainees and 55 square feet to others, providing adequate ventilation of sleeping quarters, prescribing head to foot sleeping arrangements, teaching and insisting on the practice of good personal hygiene, encouraging men to report to sick call upon first developing any sign or symptom of an illness, avoiding excessive fatigue and loss of sleep.

PREVENTION OF MENINGOCOCCAL DISEASE AND ACUTE RESPIRATORY DISEASE

Commanding Generals, CONUSA.

1. This letter supersedes letter, ATMED, HQ USCONARC, 11 March 1968, subject: Prevention of Meningococcal Disease.

2. References.

a. Paragraph 1-3, AR 40-5, "Preventive Medicine."

b. Paragraph 8b, AR 210-16, "Bachelor Housing, Officer, Enlisted and Civilian Employees."

c. Paragraph 6, TB Med 274, "Meningococcal Disease."

3. With an increase in meningococcal and acute respiratory disease being reported throughout CONUS, it is appropriate that commanders review preventive measures and insure the following:

a. Control of population density.

(1) Mass troop formations will be kept to a minimum.

(2) Overcrowding will be avoided in troop housing, classrooms, dispensaries and recreation areas where trainees congregate. Where available space permits in classrooms, theaters, or similar facilities, usage of "checkerboard" or spaced seating of personnel is recommended.

(3) A minimum of 72 square feet per man will be provided in billets for each receptee and basic trainee. Individuals other than receptees and basic trainees will be provided a minimum of 55 square feet per man.

b. Limitation of exposure.

(1) Restrict basic trainees to company areas as much as possible during the early weeks of training.

(2) Conduct processing, training, messing, recreational activities and billeting of basic trainees by platoons or companies to the maximum extent possible.

c. Environmental controls.

(1) Maintain adequate ventilation and heating in billets, classrooms and theaters.

(2) Provide shelter from inclement weather for trainees when they are required to wait outdoors to enter facilities.

(3) Ventilate billets in both the reception stations and training companies for a minimum of 48 hours before they are used by new receptees or trainees.

(4) Provide warming tents on ranges and at other training areas where there is prolonged exposure to the elements.

(5) Provide sufficient facilities, such as vacant classrooms, on weekends to prevent overcrowding, when increase in visitors exceeds existing dayrooms and service clubs normal capacity.

d. Sleep.

(1) Assure receptees and trainees an opportunity for a minimum of eight hours sleep nightly.

(2) Receptees arriving at reception stations after 1800 hours will receive only that in-processing which is essential at that time. Formal processing cycle will commence after receptee has been afforded an opportunity for minimum of eight hours sleep.

e. Health education at all levels.

(1) TF 8-3875, "Prevention and Control of Respiratory Disease at US Army Training Centers," will be shown to training center officers and noncommissioned officers and to the staffs of supporting medical facilities. This film will be shown initially as part of the orientation for new training center personnel. The film will be reshowed just prior to the start of the usual respiratory disease period. Appropriate at that time would be a short briefing by a medical officer emphasizing signs and symptoms of meningococcal disease and stressing the critical importance of early identification and immediate entry into medical channels of personnel suspected of having the disease.

(2) Officers, drill sergeants, and other cadre members will observe trainees for any indication of illness and if noted insure that the trainee receives medical attention immediately.

(3) A "buddy system" will be instituted so that the trainees observe one another and report any indication of an illness to an officer or noncommissioned officer.

4. Measures which the local commander desires to take, but is unable to because of local conditions or directives from higher headquarters, will be brought to the attention of this headquarters through command channels. Intermediate commanders will take

corrective action as resources and authority permit.

For the Commander:

ROBERT H. SCHELLMAN,
Major General, GS, Chief of Staff.

PREVENTION AND CONTROL OF RESPIRATORY INFECTION

1. References:

a. FLW Regulation 40-1.

b. AR 40-5.

c. TB MED 274.

2. There has been appreciable increase in the number of military personnel recently admitted to the hospital for meningococcal and upper respiratory infection. This upward trend requires a definition of objectives and revision of current preventive measures.

3. Pending revision of FLW Regulation 40-1, Prevention and Control of Respiratory Infection, the following will receive immediate implementation:

a. Health education.

(1) All personnel should be familiar with the nature of the disease, the mechanism of transmission and the presenting signs and symptoms. A revised lesson plan is attached.

(2) Each member of the chain of command will receive a program of instruction as outlined by the Preventive Medicine Activity. This program will provide training for trainer cadre to be able to frequently observe their men for early signs and symptoms of disease, supervise adequacy of clothing, personal hygiene and other basic principles of health.

b. Early diagnosis of disease.

(1) Individuals with early signs and symptoms of disease will be referred to the nearest dispensary. Delayed referral of sick individual may endanger his life.

(2) Disciplinary measures for individuals seeking medical care are only conducive to increased hospitalization rates and, therefore, not recommended. Sick call and admission rates should not be used to compare units or as index of efficiency.

(3) The buddy system will be utilized at all times. Each man will help another to look for the first signs and symptoms of respiratory disease and report to sick call at the earliest symptoms of disease.

c. Reduction of disease spread.

Respiratory and meningococcal diseases are transmitted from individual to individual with the discharges from nose and throat of infected persons. Measures which have been effective in reducing this transmission include:

(1) Strict application of platoon or company concept observing integrity through processing, training, messing and billeting.

(2) Restriction of groups upon notification from Installation Surgeon as the potential residence of disease increases.

(3) Avoidance of overcrowding in classrooms, assembly halls and similar facilities where trainees congregate and group intermingling.

(4) Provision of 72 square feet of sleeping space to basic trainees. Effort will be made to provide 72 square feet for permanent party personnel, however, when this cannot be achieved, the minimum for permanent party personnel should not be less than 55 square feet.

(5) Reduction of mass formations to a minimum.

(6) Adequate sanitation of barracks to include wet mopping of floors, airing of bedding, head to foot arrangements, sneeze sheets between beds.

d. Environmental control measures.

(1) Provide adequate ventilation maintaining temperature between 68-72 degrees Fahrenheit in all buildings occupied by troops, and insure close monitoring by periodic checks.

(2) Protection of trainees from inclement weather where they are required to wait outdoors to enter facilities.

(3) Warm-up areas or warm-up tents on ranges and training areas will be provided during the Upper Respiratory Infection season and these will be set up in advance where there is prolonged exposure to the elements.

e. Individual protective measures:

(1) Avoid unnecessary fatigue. Provide eight hours of sleep including compensatory time for night exercises or duty.

(2) Recretees arriving at Reception Station after 1800 hours will receive only that in-processing essential at that time. Formal processing cycle will commence after recretee has been afforded an opportunity for minimum of eight hours sleep.

(3) Encourage good personal hygiene, cover the nose and mouth when coughing. Mouth and teeth cleansing reduce oral and throat bacterial flora. Good general physical conditioning.

(4) Supervision of proper use of clothing to avoid overheating and chilling.

For the commander:

STEPHEN P. KELLY,
2Lt., AGC Assistant AG.

UPPER RESPIRATORY INFECTIONS AND MENINGOCOCCAL DISEASE

LESSON OUTLINE

1. Upper respiratory infection (URI)

a. Presentation

(1) *Objective.*—The objective of this presentation is to familiarize military personnel with what URI is, how it is transmitted, what the symptoms are, and what specific preventive measures can be taken.

(2) *Introduction.*—Upper Respiratory Infections caused by viruses are by far the most important cause of lost training time among trainees. Hospital admissions during winter months usually include up to 50% of the trainees during an eight week period, with an additional 20% requiring out-patient treatment by the unit dispensary.

b. Explanation

(1) What are Upper Respiratory Infections (URI)?

These are diseases of the upper respiratory tract (nose and throat), of sudden onset, which are usually mild and short lasting (three to four days). This disease is caused by a group of organisms known as adenoviruses so-called because they were originally found on tonsils and adenoids which had been surgically removed. The organisms's relationship to URI was first established in 1954 when type 4 adenovirus was isolated during an epidemic occurring among the troops at this installation. Subsequent investigations have revealed that most outbreaks of URI are caused by types 4 and 7, with a few cases attributed to type 3.

(2) How is URI transmitted?

Upper Respiratory Infection is transmitted from person to person through the sneezing, coughing and talking of infected persons. The organisms are contained in invisible droplet nuclei which remain suspended in air for hours. This allows the organisms to be breathed in by other individuals. During the winter months there is an increase in cases of URI. This is because there is apt to be a greater amount of crowding, since people tend to gather inside more than they do in the summer months. This crowding gives a better opportunity to pass the infection from person to person. Also, during the colder months, an individual's body resistance to the URI organism is usually lower.

(3) What are the signs and symptoms of URI?

Fever and chills are the most outstanding symptoms. The average temperature of the individual is approximately 100 degrees Fahrenheit, although it may reach 103 degrees Fahrenheit. Accompanying the fever, there is usually headache, dry cough, sore throat,

burning eyes, nasal obstruction with an occasional slight nasal discharge, and a feeling of general discomfort.

(4) What are the measures to be taken in order to prevent and control URI?

(a) Individual Protective Measures:

Good personal hygiene and cleanliness.
Good physical conditioning.
Adequate rest providing eight hours of sleep per day.

Good nutrition.

Early treatment to avoid the development of complications, such as pneumonia.

Wearing of the proper uniform, as determined by weather conditions, to avoid overheating.

(b) Environmental Protective Measures:

72 square feet of sleeping space for trainees at all times.

Head to foot arrangement of beds.

Adequate ventilation, temperature (68 degrees to 72 degrees F.), and dust control in barracks, classrooms and theaters.

Protection of trainees from inclement weather when they are required to wait outdoors before entering facilities.

2. Meningococcal disease.

a. Presentation.

(1) *Objective:* The objective is to familiarize military personnel with what meningococcal disease is, how it is transmitted, what the symptoms are, and what specific preventive measures can be taken.

(2) *Introduction.*—The seriousness of meningococcal disease must not be underestimated; no infectious agent can kill a human being quicker than the meningococcus. Death may usually occur in less than 24 hours, although it has occurred in less than two hours from the time of the appearance of the first symptoms.

b. Explanation.

(1) What is Meningococcal Disease?

This disease is the invasion of the human body by a bacteria called meningococcus. Once localized in the upper throat region, the organisms may invade the blood (Meningococcemia), and finally may be localized in the membranes covering the brain and spinal cord (meninges) causing inflammation of these membranes (meningitis). This disease occurs all over the world and may occur at any season, although it is most prevalent in late winter and spring. Cases resulting from infection by the meningococcus tend to concentrate among individuals crowded together in such places as military installations, ships and schools.

(2) How is Meningococcal Disease transmitted?

Meningococcal Disease is transmitted like URI: from person to person through the sneezing, coughing and talking of infected persons. The disease is also transmitted through the direct contact with the discharges from the nose and throat of infected individuals.

An infected person who harbors the meningococcus without showing any sign or symptom of the disease is called a carrier. Normally the carrier rate among the general population may be as high as 20%. This figure is higher among trainees, and at times may reach 70 to 90%. The probability of cases developing from contact with a patient is no higher than from contact with the carriers.

(3) What are the signs and symptoms of Meningococcal Disease? There are three stages in the development of Meningococcal Disease:

(a) Localization of the meningococcus in the upper throat region where it may multiply abundantly, often without causing any symptoms. If the infection does not proceed any farther, such a person is a temporary carrier.

(b) Invasion of the blood stream by the meningococcus (Meningococcemia). The patient appears ill, has a fever, and a rash often

develops characterized by minute red spots throughout the body. However, the presence of meningococcus in the blood stream may be so mild that the disease never progresses any farther.

(c) In the majority of cases, the third stage of infection develops (Meningitis). Here the organisms have reached the meninges producing intense inflammation. The first symptom of meningitis is vomiting. Then a severe, bursting headache develops due to the inflammation of the meninges and the increased pressure of the spinal fluid. Next, stiffness of the neck develops due to the irritation of the spinal nerves which serve the neck muscles. The degree of stiffness varies, but often the head is drawn back. Sometimes the head and spine may be drawn backward like a bow. At this time, mental disorientation occurs, and the patient may progress into coma.

(4) What are the measures to be taken in order to prevent and control Meningococcal Disease?

The measures of prevention are essentially the same as described for the prevention of Upper Respiratory Infection. In the absence of a drug which can eradicate the infectious agent (meningococcus), the real emphasis in control must be placed on the regulation of the environmental factors: assuring the minimum of 72 square feet of sleeping space to basic trainees, and 55 square feet to others, providing adequate ventilation of sleeping quarters; prescribing head to foot sleeping arrangements; teaching and insisting upon the practice of good personal hygiene; encouraging men to report to sick call upon the first sign or symptom of illness; and avoiding excessive fatigue and loss of sleep.

INQUIRY FROM SENATOR EAGLETON

COMMANDING GENERAL,
USATC Engineer at Fort Leonard Wood,
Fort Leonard Wood, Mo.:

1. Reference: Memorandum for Record, Subject: Senator Eagleton's Inquiry into Health Conditions at Fort Leonard Wood, dated 9 March 1970.

2. Attached as inclosures 1 through 3 are copies of all documents available in this headquarters that pertain to recycle procedures. The documents are attached in chronological order. No documents are available that prescribe policies earlier than 1965. The following is a summary of the information contained in each document:

a. Annex I (Retraining Policies and Procedures) to Section VIII, 2d TRB SOP, dated 21 April 1965.

(1) Paragraph 4 explains the policy in effect at that time which permitted recycle of trainees under the following circumstances:

(a) Absent for more than five consecutive days of training (applicable to all training but range firing).

(b) Absent for five consecutive days of range firing.

(2) The unit commander could retain an individual if he felt that the training missed could be made up within the unit. If, however, it was determined that recycle was necessary, the individual was reassigned commensurate with his level of training.

b. Annex I to Section VIII, 2d Brigade SOP, dated 11 February 1966, paragraph 4 indicates the policy concerning training absences to be the same as that previously cited except that an absence of four consecutive days during marksmanship training constituted grounds for recycle. The unit commander retained the prerogative to keep the individual if he felt that the training missed could be made up in the unit.

c. 2d BCT Brigade Regulation 350-1, Appendix 33, Annex B—Reassignment of Trainees, dated 24 January 1969. Paragraph 3 defines the circumstances which warrant a recycle to be a training absence of 5 consecutive days.

3. Sick Call Procedures:

a. No written policy has been established at brigade level regarding sick call procedures, however, the procedures outlined below are standard throughout all units of this brigade.

(1) At reveille formation those personnel who desire to go on sick call are identified.

(2) Each man going on sick call is issued a "sick slip" containing basic information necessary for use by the local dispensary, i.e., name, rank, SSAN, reason for sick call, etc.

(3) The individual reports to the local dispensary at 0630 and waits his turn to see the doctor.

(4) After seeing the doctor, the individual is returned to his unit (if fit for duty or if given limited duty that may be performed in the unit) or sent to the hospital for further examination and/or admission based on the judgment of the doctor.

b. Trainees may report for emergency sick call at any time. It is, and always has been, the unwritten policy of this brigade that no one is denied sick call. Since the increase in URI and outbreak of meningitis, units have not only been encouraging sick call but all personnel have been alerted to watch for sick men at all times and send them to see a doctor at any time of the day when they appear sick.

4. It is not policy within the 2d BCA Brigade to have a trainee pack his belongings and bedding and carry them to the supply room before going on sick call. In one company this winter (C-5-2) this policy did exist for the first two weeks of the training cycle but was discontinued. This policy was not intended to prevent personnel from going on sick call, but was implemented to carry out the provisions of paragraph 6-3, AR 700-84 which requires that the clothing and equipment of hospitalized personnel be immediately secured in the unit supply room. In the past, a few isolated instances of similar procedures have been found, but were immediately eliminated when discovered. The fact that this policy was used in C-5-2 was contained in a reply, signed by the Commanding General, to an inquiry from Representative Symington on 5 March 1970 regarding the meningitis problem. Before receipt of inquiry letters, a survey of the brigade was made to insure this policy was not in effect. One company was found to be using it—it was stopped.

5. Tab C, inclosure 1 contains current 2d Brigade policy regarding recycle procedures. An individual who misses five consecutive days of training is recycled. He is assigned to a unit in an appropriate week of training so that he may continue training without being required to repeat the entire cycle. This policy has been in effect at least since 1965 with minor modifications as to the amount of training that could be missed before recycle action was necessary (see paragraph 2a, b, c).

For the Commander:

JOHN B. OLIVER, Jr.,
Major, Infantry Adjutant.

APPENDIX 6

HARMONY, R.I., March 4, 1970.

DEAR CONGRESSMAN TIERNAN: I am writing with deep concern in my heart for all those boys at Fort Leonard Wood, Missouri. As you know we lost our son on February 22 after a ten day illness with spinal meningitis.

Pvt. David M. Mack, XXXX

My husband, David's father, spent the most trying days of his life at Fort Leonard Wood watching his oldest son, 20 years old, die. We feel very strongly that the Army is definitely lacking in the field of preventive medicine. The boy had written home several letters referring to poor latrine systems, lack of sleep and lack of vaccine, experimental but better than nothing. He was not the type to complain, I am sure all his comrades will

assure you of that. But at a time when a "killer" is on the loose it seems the Army should dole out more humane treatment than they did. I have outlined in red on the copies of Davids letters statements to back up our accusations.

When my husband arrived on Friday the 13th, the terror found amongst the boys seemed like a nightmare. After days of observing and talking to these boys we became even more concerned for their welfare. It seems to be a game of Army regulars playing games with the new recruits, they may say this is untrue, but check these letters closely and I'm sure you, too, will agree with us, much of this harassment is uncalled for.

We feel sorry for the Drs. and nurses who worked so desperately hard to save David, but we cannot forgive the Army for lack of equipment, and lack of trained personnel. It is extremely upsetting when your son's life is dependent on a respirator (ventillator) and people are standing around trying to figure out manuals, as they don't know how to operate it. Also when a boy has hemorrhaged and received over 15 units of blood, to have a lackadaisical blood technician draw blood through his only vein left and forget to irrigate so it too was destroyed. These are just a few of the trying things that happened during Davids last days.

An EEG was requested for over 5 days and due to lack of machine and trained personnel and typical army red tape it was never done—it was too late Monday—David was dead.

We cannot help but to question—what is the worth of a human life—the boys are having severe mental problems awol etc. Many, many have upper respiratory diseases and are not getting adequate attention.

We do hope you will find our plight a worthy one, we are truly concerned about this situation, it is ridiculous in this day and age. Please try to prevent any further tragedies by giving this your consideration our representatives are our only prayer at this time, we are counting on you.

If we can be of any further help, please contact us. Thank you.

Sincerely,

MAURICE and ALYCE MACK.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. HARRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the distinguished Senator from Ohio (Mr. YOUNG) is now recognized for 15 minutes.

PENTAGON SHOULD RELEASE THE FACTS ABOUT MY LAI ATROCITY

Mr. YOUNG of Ohio. Mr. President, Pentagon officials have been withholding important information about the My Lai massacre under the pretext that unless the facts are suppressed "the rights of defendants in current and potential criminal proceedings would be prejudiced." As a result there has been a profusion of rumors and misinformation which is really far more prejudicial to the rights of officers and men who face court-martial trials. More important, it has placed the American people in the position of determining what happened

at My Lai on the basis of hearsay and more recently downright false statements.

The citizens of the United States who are paying dearly for the Vietnam war—in lost sons, brothers, and fathers, as well as billions of dollars—have a right to know what our brutal policy has wrought. If hundreds of innocent Vietnamese villagers were murdered at My Lai, the American people should know. They should know if it is true that American officers and GI's participated in murdering civilians—old men, women, children, and babies. Also in committing rape on young girls and women.

Lt. Gen. W. R. Peers and Mr. Robert MacCrate have conducted a thorough and extensive inquiry into the events surrounding the My Lai massacre. The facts they have uncovered would, if released, provide a new perspective on the meaning of American involvement in that immoral, undeclared war in Vietnam. The text of the Peers-MacCrate report is an indictment of American policy as well as of individual Americans.

Mr. President, I assert that this is the real reason the Department of the Army is withholding important facts. Pentagon officials simply do not want the public to have further accurate information which would lead them to the appropriate conclusion that we should withdraw all of our troops from Southeast Asia without delay.

I call upon the Secretary of Defense and the Secretary of the Army to release the full Peers-MacCrate report at this time, deleting only the names of the persons involved. This would in no way prejudice the rights of defendants to receive a fair trial. We read daily in the United States, and particularly in our Nation's Capital, of murders and rapes. Knowledge of the facts in these cases has never proved to be prejudicial.

The fact is that the failure of the Pentagon to release the substance and facts of the Peers-MacCrate report has already had serious consequences. Instead of being protected from the truth, the public has been subjected to a series of misrepresentations, misinformation, and mistakes.

Yesterday, the Subcommittee To Investigate Juvenile Delinquency of the Senate Judiciary Committee concluded hearings on the influence, if any, of drugs in the atrocities at My Lai. During those hearings no testimony whatever was heard from either Lt. Gen. W. R. Peers or Robert MacCrate who conducted the extensive inquiry into the My Lai incidents. Information in their report could and would have provided conclusive evidence as to any allegation of the influence of drugs at My Lai. It is significant that Stanley Resor, Secretary of the Army, who is extremely knowledgeable and knows all the important facts pertaining to this atrocity, was not called as a witness before the subcommittee. Had he been he would have testified that the My Lai massacre was not related to drugs in any way.

I know the facts, because I was present as a member of the Armed Services Committee when Stanley Resor, Secretary of the Army, testified before us in closed hearing.

Instead of relating facts, one witness made an allegation in the hearing before this subcommittee that a majority of soldiers who had participated in the My Lai atrocity had smoked marijuana at some time or other, some as recently as the night before. There is no basis for this allegation. It is an untruthful statement. I charge that this witness used his imagination or deliberately lied.

The facts are that on the morning that Captain Medina and First Lieutenant Calley who were in direct command of soldiers on the spot, whose mission was to sweep through the village, gave the order to "destroy the village and everything in it." They gathered old men, women, children, and babies in groups. Grenade launchers were hurled into some groups. Captain Medina admitted killing a woman with a rifle shot. He admitted shooting a few inches over the heads of others. Soldiers in his outfit followed his example. Later that morning only three weapons were found in the entire area. Orders given by Medina and Calley were so terrifying that one GI shot himself in the foot to avoid participating. The GI said he just could not take it—the attack on the village. He said, "I gotta get out. I cannot stand this."

Secretary of the Army Resor would have stated before the subcommittee as he has stated on other occasions that this was something new in our national history and experience and he could offer no explanation. When Secretary of the Army Resor testified before a closed session of the Armed Services Committee there were tears in his eyes.

Mr. President, very definitely, this was murder in cold blood of old men, women, children, and babies on order of officers who will be placed on trial in due time.

The Senator from Hawaii (Mr. INOUE) sat beside me and said:

I am sick to my stomach. I never knew anything like this to happen before.

As you know, Mr. President, Senator INOUE lost his right arm in combat in Italy.

It is an untruthful allegation that what occurred at My Lai on that morning was the result of marijuana or smoking pot.

Mr. President, unfortunately, young Americans conscripted into our Armed Forces and following only 4 months training are sent into combat in Vietnam. They are involved in a civil war in a faraway Asiatic land where their officers have brutalized our military effort with body count procedures in a senseless, immoral, unpopular, and undeclared war. All this may have resulted in the brutalization of fine young Americans.

Like many other Senators, I served in combat in World War II, but we never heard of any such thing as a body count.

Paul Meadow, honorably discharged and returned to his home in Indiana, stated after talking with his wife and his parents he felt he must purge his mind of the horror he had participated in. His mother said:

He was a good boy when the army took him. They returned a murderer.

Sergeant Ronald Haeberle, present that morning, reported:

There was a little boy walking toward us in a daze. He'd been shot in the arm and leg. He wasn't crying or making any noise. The GI fired 3 shots into the child. The first knocked him back, the second shot lifted him into the air. The third shot put him down and the body fluids came out. The GI simply . . . walked away.

The chairman of this Senate subcommittee has alleged that there was a connection between the use of drugs and the mass killings by American troops. I know the evidence does not substantiate his suspicion or allegations. I am familiar with the facts. He is not.

Mr. President, I assert that no American involved in the My Lai massacre was under the influence of marijuana or other narcotics at the time. More important, I assert that Lieutenant General Peers or Mr. MacCrate or officials of the Department of the Army could and would have verified that fact.

Only yesterday, when the subcommittee hearings were in their final day, did officials in the Department of the Army release the facts which prove that no American involved in the My Lai massacre was under the influence of marijuana or other narcotics.

If the Peers-MacCrate report had been released to the public earlier, the harmful lies and misinformation produced in this hearing could have been avoided altogether. There is no valid excuse for keeping the facts secret any longer. All of the facts should be reported now to the American people.

Mr. President, the murders in cold blood of old men, women, children, and babies at My Lai were not the result of marijuana. They were the result of a brutalization of America's young men by prolonged participation in a dirty, senseless, immoral war.

Mr. President, it is the greatest stain on our national conscience and the greatest blunder any President ever made to send into Vietnam hundreds of thousands of U.S. fighting men—more than 2,500,000—to take over and continue the aggression of the French colonial oppressors seeking to restore the Indo-Chinese empire which ended with their defeat at Dienbienphu.

We should admit the cruelty and stupidity of our continuing aggression in Vietnam and bring all of our ground forces home in the same manner that they were sent into Vietnam—by planes and ships, and do that this year.

We must then deal with serious problems within our own country or we can expect to read of more abominations such as the one at My Lai—drugs or no drugs.

TREND TOWARD MILITARISM MUST BE STOPPED

Mr. YOUNG of Ohio. Mr. President, the power and influence of our Military Establishment and its allies in industry has grown to the point where our Nation is on the verge of becoming a militarized society. In the words of former Marine Corps Commandant Gen. David M. Shoup:

America has become a militaristic and aggressive nation . . . Militarism in America is in full bloom and promises a future of vigorous self-pollination.

As a nation, we have become like the man so obsessed with fear of catastrophe that he spends his income on insurance against improbable events while his children go hungry and his house falls apart.

Like every American, I am concerned about the defense of our country and determined that the United States remain the strongest nation that ever existed under the bending sky of God. However, what deeply worries me and, I am sure, millions of my countrymen is the difference between legitimate defense requirements and a vast military bureaucracy exercising enormous influence on our economy, our foreign policy, and our national priorities.

The most obvious evidence of this unwarranted influence is the size of the Military Establishment. There are 3,400,000 men in our Armed Forces. The Defense Department employs 1,300,000 civilian workers. Defense contracts provide jobs for an additional 3,800,000 industrial workers. It is a fact that 50 percent of all U.S. scientists and engineers are employed by companies doing military and aerospace work. In total, the Pentagon furnishes one out of every nine jobs in the United States. The Defense Department has contracts with 22,000 prime contractors and 100,000 subcontractors. Pentagon money flows into 363 of the 435 congressional districts. Entire communities are wholly dependent on military-industrial activity for their economic life. In some sections of the country, the local economy depends entirely upon the whim of Pentagon bureaucrats.

Because the military distributes hundreds of millions of dollars to colleges and universities, it is also deeply embedded in the Nation's educational system.

Today, defense expenditures, including the cost of past wars, account for 70 cents of every dollar of Federal expenditures. This, in addition to the more than a trillion dollars spent for defense purposes since World War II.

At the same time, the Pentagon employs 339 lobbyists, or two for every three Members of Congress. By its own admission, the Defense Department is spending 27.7 million this year alone on public relations, or, in other words, in lobbying activities. The Department of Defense propaganda staff involves more than 6,000 people whose job it is to polish up the public image of the Pentagon. In the meantime, legitimate news such as the horrendous My Lai massacre is suppressed and news to our fighting men in Vietnam is censored.

Before World War II the military held an honored but not a primary role in our society and in the policymaking functions of Government. Since World War II and the advent of the cold war the rapidly increasing influence of the Military Establishment and its allies in that huge portion of the industrial establishment dedicated to huge profits from war contracts has brought forth a new element in American life. Never in our his-

tory have we had such a prolonged period of involuntary conscription. Never in our history have we devoted for such a sustained period of time such a large percentage of our gross national product on expenditures for our Armed Forces. Never in our history have the voices of the generals and admirals carried such weight in the formulation of our national and our foreign policy, and in many of the basic institutions of our society.

Slowly, imperceptibly, and unconsciously, Americans are becoming conditioned to the acceptance of regimentation, wiretapping, and snooping by large defense-related investigative agencies. Slowly, Americans are accepting as natural an invasion of their individual privacy that their forefathers would have rebelled against. Unfortunately, security investigations, background reports, questioning of attitudes and opinions have become a part of our way of life.

Every facet of public life from politics to elementary and secondary school education to what is shown on motion picture screens is beginning more and more to be influenced by the growing power of the Pentagon. Our children are being subtly taught not to question the views of their military leaders, but to accept them as gospel. The military has been glorified on television and in motion pictures to the point where it is considered subversive by many citizens to criticize the Pentagon or the actions and statements of military leaders.

It is reasonable to assume that such a situation as we now find ourselves in was very much in the mind of President Eisenhower when, in his farewell address to the Nation in January 1961, he warned against the growing power and influence of the military-industrial complex. It is also noteworthy that George Washington, in his Farewell Address, also cautioned against excessive military power and influence. It was not conspiracy with which our first and 34th Presidents were concerned. Rather, they warned against a basic institutional danger—a military bureaucracy too powerful for the interplay of the traditional checks and balances upon which our democracy depends.

Mr. President, one of the most urgent tasks facing the Nation is to return the military to true civilian control and to reduce its influence over every aspect of American life. The architects of the Constitution—the Founding Fathers—wisely and with great foresight provided that in our Nation civil authority should always be supreme over the military. Unfortunately, since the end of World War II, we have drifted in the direction of a police state by our willingness to maintain the military as the unquestioned and spoiled darling of our national budget.

The combination of forces that has taken us this far down the road to complete militarization can still be stopped. Americans have finally begun to realize that after spending far more than a trillion dollars for national security since 1945, they have also bought a great deal of insecurity. There is hope that they

will demand a breakout from the old needless arms spiral approach to national security.

One hopeful sign is the fact that the Pentagon can no longer rely on traditional congressional rubberstamping of Department of Defense requests. In 1968 the Senate spent only 2 days debating the Defense Department military authorization bill. The authorized \$70,800 million was the highest single amount appropriated for the Defense Department in the history of the Republic. The Senate, almost without debate, yielded to the demands of the Joint Chiefs of Staff. Last year there was a world of difference. This bill contained authorization for the deployment of the ABM system proposed by President Nixon. Then, for more than a month the bill was thoroughly debated in the Senate. The opposition to the ABM deployment was voted down by only a one-vote majority. Those of us who opposed the ABM, and appropriations that would necessarily follow as being utter waste of taxpayers' money, attempted to restore sanity between national expenditures and national goals.

Unless the seemingly relentless drive toward militarization is halted, we cannot even begin to make progress toward arms control and reduction or toward establishing healthy national priorities for solving our great social problems—racism, poverty, the decay of our cities, the disillusionment and rage of our youth, environmental pollution, the stagnation of our educational system, our shameful treatment of the mentally ill and the elderly, inflation, and a host of others. These pressurized problems may well explode and make an already largely ungovernable society chaotic. Such a catastrophe would be an open invitation to a domestic military solution—order at the point of a bayonet.

Let us pray that we shall never be faced with that alternative—an alternative that would spell the end of the American dream.

Mr. President, instead we must strive to keep our Nation secure, free, and powerful and to leave as a legacy to our children and grandchildren a country that is the last best hope for permanent peace in the world. Many of us have children; some have grandchildren. I have five young granddaughters. They and our children and grandchildren will be the guardians, keepers, and trustees of our Nation in a comparatively few years. I want all of them to have their country mighty, solvent, free and great just like we now have. Along with that, we all want to leave them as a legacy the last best hope for permanent peace in this now troubled world. What greater contribution can we make to those Americans who come after us than for them to summon up out of their heritage all the talent and ability that Almighty God gave them in an atmosphere of freedom and peace? If we do that then eye hath not witnessed nor finite mind conceived the future grandeur and glory of our country and its people.

The PRESIDING OFFICER (Mr. HARRIS). Under the previous order, the Chair recognizes the Senator from Vermont (Mr. AIKEN) for 30 minutes.

THE SAINTS AND SINNERS OF FOREIGN AID

Mr. AIKEN. Mr. President, in his "State of the World" message, President Nixon said that he expected a new approach to foreign assistance to be one of his major foreign policy initiatives in the coming years.

He said:

A new American purpose and attitude are required, if our economic assistance is to contribute to development in the new environment of the 1970's.

He has now sent to the Congress for our comments the report of his Task Force on International Development.

It does represent a new attitude.

But I do not find any candid statement of a new American purpose.

Congress still has not been presented with a sufficient reason to continue foreign aid as we know it now.

I have been a consistent supporter of our foreign aid programs, but the more I have lived with the existing legislation, the more I have come to believe a new American purpose in this area is most necessary.

Unless we can develop a more practical program we might as well give up the pretense under which we have been operating for the last few years.

The report of the Peterson Commission makes some interesting suggestions for rearranging the pieces on the bureaucratic crazy quilt in order to give a much needed lower profile to our foreign aid effort.

Most of my comments are now directed at questions left unanswered not only by the Peterson report, but by most of the other recent reviews of this subject by distinguished Americans and others with long attachment to foreign aid.

Before we can talk seriously about new institutional arrangements, we must have the new purpose that President Nixon asks for.

The Peterson Commission recommends a divorce of those foreign aid activities concerned with military assistance and counterinsurgency in the broadest sense of the term from those activities that are concerned with economic and humanitarian objectives.

The union between the saints and the sinners of foreign aid should be dissolved, it is said, to pave the way for giving the saints more money to spend.

Although this may be a laudable objective, I am not sure that divorce would have any such result.

Probably our most successful foreign aid programs were in Korea and Taiwan where there were ample roles for both saints and sinners.

But I agree that a divorce would be most desirable if it promises to achieve practical results.

The Peterson Commission should at least be commended for that recommendation.

If the State Department really wishes to control foreign policy in the foreign relations bureaucracy, it must be willing to accept such responsibilities.

At present, AID is a mechanism for diffusing responsibility.

It provides an irresistible temptation

to all the chiefs of the foreign relations bureaucracy—Defense, CIA, State, and the White House itself—to play at intervention.

AID now provides the players with two kinds of levers to enhance their influence; if the arguments of the saints are not persuasive, there are always the arguments of the sinners.

Congress never intended the foreign aid agency to become an all-purpose intervention department.

The Peterson Commission may be right in asking that AID as it now functions be disbanded.

That is a debatable question.

But simply dissolving the marriage between the saints and the sinners of foreign aid is no reason why the Congress should vote a bigger foreign aid program.

There remains the vital question of a new American purpose.

On this score I find both the Peterson and the Pearson Commission reports disappointing.

A thorough reexamination is needed if only to rescue foreign aid from becoming the most boring subject of public policy today.

Take the word "development."

Ten years ago we thought we knew what it meant.

Now we know that development is simply a modern synonym for progress and as such it has become practically meaningless as a guide to policy.

The world is not divided into developed and underdeveloped nations.

Latin America, Africa, and Asia are not bound together in a mysterious condition called underdevelopment.

They are not bound together at all.

No worthy interest can be served by pretending otherwise.

It is true that Latin America, Asia, and Africa have experienced, in common, an historical encounter with Western ideas, Western economic and commercial penetration, and, usually, Western conquest.

And they are reacting to that common experience in certain similar ways.

They resent the fact that they were dominated or colonized in the past.

They are envious of the wealth and vitality of Western societies.

But it does not follow that the United States and other rich countries should pay reparations in the form of foreign aid for the historical impact they have had.

Nor does it follow that we should mount a crusade in the name of development in order to impose our ideas of progress on these countries.

Those who try to maintain the illusion that the world is divided into developed and underdeveloped nations must answer to the charge that they are investing the state of development with qualities of not just economic, but moral superiority as well.

There is much too much unconscious arrogance in this myth of the underdeveloped world, a myth which hides the vital differences that make these nations both interesting and understandable.

Latin America's culture is rooted in 16th century Spain; Asia's in a variety of infinitely complex traditional cultures dating back several millenia.

If Western man has undoubtedly disturbed the peace of tradition in these parts of the world, it does not follow that we should try to impose our priorities on government there, even in the name of progress.

All foreign aid inevitably involves just that hazard because all foreign aid as now practiced involves intervention in the internal affairs of other countries.

This is the most important reason why we need a new American purpose if we are to carry on foreign aid, and the Congress must understand that purpose.

The champions of development have compounded their difficulties by inventing an ingenious numbers game, designed to shock rich countries with the magnitude of the inequalities among nations, and at the same time to provide a basis for measuring the need for foreign aid.

This game has been played over and over again in years past until it has actually become a menace to the cause it is supposed to serve.

The foreign aid numbers game grossly exaggerates the real inequalities in welfare among nations.

It puts a premium on comparisons that heighten quite unnecessarily the envy and resentment between rich and powerful nations and poorer, weaker nations.

It creates a sense of hopelessness about the problems of the poorer nations that is certainly no service to them.

The key counter in this game is a useful economic indicator that was never intended to be used for international comparisons—the Gross National Product.

The foreign aid numbers game turns the GNP into a new weapon of "Western imperialism," as it is called in Communist countries.

We are supposed to believe that the average American lives 50 times better than the average Indian because, as far as we can calculate, our GNP is 50 times greater than India's.

An American family of four living under the official "poverty" line of \$3,600 a year is by this method of analysis more than 10 times better off than the average Indian family.

By the same token, a haircut that costs \$2.50 in Boston, Mass., is supposed to be 10 times better than the one a citizen of Bombay can get for a quarter.

There is something sinister in a method of measuring inequalities in welfare that is based on the notion that human services of roughly the same quality are somehow worth more in the rich countries simply because the price is higher.

Yet, this is precisely the kind of measurement that underlies virtually all professional attempts to measure the need for foreign aid and to set just targets for same.

Therefore, I am pleased that the Peterson Report decided against recommending that a certain portion of the U.S. GNP be earmarked for foreign aid.

I would not for a minute deny the dire plight of the masses in several poorer countries, squeezed by population pressure either into a life of landless laboring in the eroded countryside or into a

formless, aimless mode of existence in the crowded cities.

But is it humane to so exaggerate the real inequalities between societies with such absurd measures of progress that envy replaces hope and real human services are denied because they cannot be measured for the GNP the way ours can.

Almost half of our GNP consists of many personal and professional services that embrace much of the human activity in our country.

In a poor country most human services, most human activity takes place outside the money economy and, therefore, does not show up in Western man's calculations of GNP.

Now I ask, are they for this reason alone worse off?

In our search for a new American purpose in foreign aid we might ask President McNamara of the World Bank why the international community should not formally abandon international comparisons based on per capita GNP in favor of some better measures—measures that dispel illusions rather than creating them; measures that do not add to misunderstanding, but hopefully lessen it.

If this means admitting that we do not really know what the need for foreign aid is, that is an admission we should accept with humility because it is obviously the truth.

A new American purpose in foreign aid should start by making a virtue out of what we don't know about progress, not about what we think we do know.

What we should have learned most from foreign aid is a better appreciation of our shortcomings.

The new purpose, then, should accent the courage to explore the unknown, not as the bearer of charity and certainly not as the payers of reparations, but rather as the beneficiaries of a technology that has blessed a minority of mankind but only rippled the peace of tradition of the vast majority.

The new purpose of American foreign aid should be, perhaps, a dedication to see how technology can be made as good a servant in hot climates as it has become in temperate climates—and especially a good servant of the very poor in those parts of the world, not just the handmaiden of the rich.

This new purpose should accent people-to-people assistance, not government-to-government assistance.

Our Government should show in word and deed that the American people do care about sharing their knowledge with other nations and helping to adapt that knowledge to the many problems that exist in Asia, Africa, and Latin America.

But primarily it should be private Americans, not official Americans that offer their services.

If they hope to be really helpful, Americans must be willing to serve others rather than just their own Government and its special interests.

They must be invited by others, not imposed or bestowed as a result of a rich country's largess.

They must work under agreements where mutual responsibilities are set out clearly.

They should be fired if they do not live up to their part of the bargain.

Americans with the skills and motivations to give this kind of help, to undertake new voyages of technological discovery, exist in many different kinds of organizations in the United States.

They can be found in universities, in private corporations, and in a host of private associations, religious and secular.

It may be that they should not be brought into the Government because government may not provide a suitable career for them.

The Government's primary task in foreign aid should be to receive requests from others and refer them to likely contractors in the private sector and to help with the negotiation of suitable contracts.

The Government should not be in the business of implementing this kind of foreign aid.

I can imagine an institution to implement foreign aid that is wholly outside government, directed and supported by one or more foundations on an unselfish basis.

Such an institution could be financed by both public and private contributions in the measure that its services were requested, and its contracts proved useful.

I believe Congress would support generously such an institution as an alternative to the progressive bureaucratization of foreign aid.

Such an institution is needed to encourage a new generation of Americans who are willing and able to work in the hot climates of the world where so many of the world's impoverished millions live.

Such an institution could play a part in encouraging private investment.

I can see no need for a new development bank as recommended by the Peterson Task Force On International Development.

We have a sufficient number of international and regional development finance agencies now.

Insofar as their performance warrants it, we should continue to support these agencies.

But let us not forget that capital dressed up as foreign aid is simply a subsidy to the exporters in the rich countries.

We offer through the Export-Import Bank certain financial facilities for American exporters.

Perhaps they should be liberalized somewhat to accommodate some of the development lending now done by AID.

But when it comes to providing others with capital to buy things in the United States, that business should be conducted on a businesslike basis.

Borrowers come to a bank, like the Export-Import Bank, because they want to buy something in the United States.

That is purpose enough, and we do not have to dress that business up as development aid.

Here we run into that old foreign aid numbers game again.

We are told that capital, subsidized capital from the rich countries, is the first need of poor countries today.

We are not told that subsidies to exporters in the rich countries are needed, or are what so many exporters desire.

This seems to me to be a dangerous game, pretty much like a con game in which only the dealer can win.

To falsify the real price of capital in a poor country is not progress or development.

It is simply inhumane treatment.

It could mean sentencing millions to misery if the capital thus provided deprived more people of a livelihood than it employed by exhausting their resources and limiting their income.

After all, poor countries have in the main one natural advantage in the competition among nations and that is a potentially vast pool of labor.

If foreign aid does not build on that advantage, it cannot be called humane.

We need a new American purpose in foreign aid because we are an activist people and because real inequalities in welfare among societies today affront our sense of justice.

But injustices cannot be expressed in terms of Gross National Product, nor can they be overcome by falsifying the function of capital in society.

No manipulation of foreign aid funds, no benevolent banker of poor countries, can buy us out of what is a historical predicament that promises to be with us for generations.

The real opportunity of the rich countries is not to offer subsidized capital but to see their own economies in global terms.

They must create more and more room in the world market for the production of the poorer countries simply to insure expanding opportunities for themselves.

More than anything else this means expanding the purchasing power of the people of the less affluent nations.

This is particularly important now that we live in a state of more or less permanent inflation because there is so much to do here at home.

Without more and more sources of production in the world markets, without the discipline of international competition, costs and prices in the rich countries will become even more absurdly unrelated to real human welfare than they are now.

When a haircut costs \$10 in Washington or Paris or Tokyo, it is not going to be forty times better than a haircut that still costs a quarter in Bombay.

There is so much hypocrisy in the rich countries' attitude toward foreign aid.

To subsidize exports in the name of foreign aid, while at the same time barring imports from the very countries to which the aid is flowing, is not a new purpose—it is a very old hypocrisy.

If the rich countries really care about the plights of the poor, they will accept President Nixon's challenge to institute a system of global trade preferences designed to assure poor countries the right to compete in the world market with their new production.

We should also try to enter into agreements so that the rich countries do not use poorer countries as pawns in the international trade wars.

After all, the most serious and damaging effect on our own economy comes not from the poorer countries but from the most prosperous nations.

I said I was in favor of divorcing the saints and the sinners of foreign aid in order to reduce the temptation that the present marriage provides for all those who want to play at intervention.

But obviously it is not always easy to tell the saints from the sinners in this business.

To search for a new purpose is much more difficult than the proponents of foreign aid would have us believe.

Perhaps if we abandon the numbers game, perhaps if we stop talking about vague concepts like development and start concentrating on the real possibilities of making technology the servant of the very poor who crowd the hot climates of the world, perhaps if the rich countries really begin to see their economies in global terms—perhaps only then will a new purpose emerge.

All of us are hoping that the President will give us a new direction, for not to do so would be to admit to a failure on our part.

Foreign policy must appeal to something more than very narrow notions of national interest if it is to enjoy sustained public support in this country.

Foreign aid used to suggest such a dimension.

At the same time a nation that can only express such purposes in terms of dollars is a nation in search, not of a new purpose, but merely of a sop to its conscience or a gratification to its desires.

Foreign aid is not worth it as a sop to our conscience for we will probably do more harm than good with it.

To sum up my remarks on foreign aid programs, I have these recommendations to make:

First. Do not use aid as an excuse for intervention in the affairs of smaller, poorer countries;

Second. Stop using the Gross National Product as a yardstick for comparing rich and poor countries;

Third. Use international banks for the business for which banks are intended, not for imposing our moral or political beliefs on the needy people of poorer countries;

Fourth. Recognize the fact that much of our aid programs over the past 10 years have simply made rich countries richer and poorer countries more discouraged.

In the absence of a new American purpose, perhaps it would be better to close the books on the past two decades of American foreign aid programs and leave the work to international agencies with such support from us as their performance warrants.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. I was delighted to receive a copy of the Senator's speech before he gave it. I have not given it as much detailed study as I would like, but I do appreciate the accent which he stresses, the emphasis which the Senator places upon people-to-people assistance rather than government-to-government assistance. The latter, I think, by and large, has been in all too many instances a complete failure.

The summing up of recommendations which the distinguished Senator would

make for carrying out the foreign aid program meets with my approval. I think he has exposed some methods which have surrounded this program for too long. This idea of using the gross national product as a measure of what it means or does not mean—anyone can twist that as he sees fit. The suggestion that there should be more internationalization, certainly, I think is worth a great deal; and most important, the Senator's No. 1 recommendation, "Do not use aid as an excuse for intervention in the affairs of smaller, poorer, countries," I believe is most sound.

I commend the distinguished Senator. Mr. AIKEN. Mr. President, I appreciate the remarks of our majority leader, and would tell him that I would have given him an advance copy of these remarks sooner, except that they were finished only about a half hour before I started delivering them.

Mr. MANSFIELD. May I say that in that respect the distinguished Senator reminds me many times of Adlai Stevenson, who was never able to get his talks down on paper until just before he started to speak. But I am delighted to have this copy.

Mr. AIKEN. Sometimes all of us slow down and have to be pushed up against a deadline before we can get to work.

But I particularly wanted to point out the travesty of using the gross national product in comparing the welfare of people in poor countries with the welfare of people in rich countries.

The gross national product is all right as a means of comparing ourselves with Japan or Western Europe; but when it comes to comparing our situation, our welfare, with that of people who live in some of the very poor tropical countries, the use of GNP for this purpose is simply a farce.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Maine (Mr. MUSKIE) is recognized for 10 minutes.

ERA OF NEGOTIATION?—PART I

Mr. MUSKIE. Mr. President, this morning, representatives of the United States, Saigon, Hanoi, and the Vietcong met for the 60th session of the Paris Vietnam peace talks. Nothing was accomplished, just as nothing has been accomplished on the negotiating front at any of the other Paris sessions since Ambassador Henry Cabot Lodge resigned his post, 126 days ago.

While the charade of talks goes on, the war continues in Vietnam and threatens to spread in other parts of Southeast Asia. Laos is a battleground and Cambodia is in turmoil. We teeter on the edge of a wider war without a semblance of an effort to negotiate a peace settlement in that troubled part of the world.

A negotiated settlement is the only answer that makes sense in Southeast Asia, for those who live there and for the United States. A military solution is not viable for Vietnam, and it cannot bring peace in other countries of that region.

Unfortunately, Mr. President, the administration does not seem to be committed to a negotiated settlement. While it pursues the goal of false optimism with Vietnamization, the war goes on, casualties are up, and the dangers to world peace escalate. We are now told that the most the administration is planning, and the best it can achieve under Vietnamization is to have 225,000 troops left in Vietnam at the end of 1971—21 months from now.

This is a matter of grave concern to me and to other Members of the Senate. It is a matter which cannot be brushed aside by vague assurances and an attitude of wait and see.

I believe the time has come for the administration to turn its attention to a genuine effort toward a negotiated settlement, or to tell the American people why they have written off negotiations as the best way to end the fighting and the killing in Vietnam. For these reasons, Mr. President, I intend to raise the question about a negotiated end to the war in Vietnam each week in the Senate, until a successor to Mr. Lodge has been named and until some meaningful steps have been taken toward a settlement in Paris.

INCREASING DOUBTS

Each week more questions are being raised about the wisdom of the administration's policies and the directions in which they are leading us. A common thread unites the critics. The tragic conflict in Vietnam will know no satisfactory conclusion other than by negotiation.

As Gen. Matthew B. Ridgeway wrote in the *New York Times*, March 14, 1970:

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

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

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

Arthur M. Cox, in an article in the "Outlook" section of the *Washington Post*, noted the inconsistency in President Nixon's policies, when he wrote:

The President says Vietnamization is a plan "which will bring the war to an end regardless of what happens on the negotiating front." That is an impossibility which has been allowed to go unchallenged. The war will end only when one side wins a military victory or when a settlement has been negotiated. Since Vietnamization rules out serious negotiation, the only conceivable other assumption must be that the President is counting on the South Vietnamese to win their own war.

Commenting on recent events in Laos and Cambodia, the *St. Louis Post-Dispatch* of March 22, 1970, noted in an editorial:

The coup in Cambodia and Communist military success in Laos reemphasize what

has been clear ever since the Geneva Conference of 1954—that peace in the whole Indochina peninsula depends on making peace in Vietnam.

If the Nixon administration had the wit to recognize this, it would forget about Vietnamizing the war and set about negotiating a Vietnam settlement, which in turn would make possible peace in both Cambodia and Laos. Unfortunately and tragically, the administration appears to be bent on moving in precisely the opposite direction—toward expansion of the war in Laos and Cambodia as a means of supporting the policy of Vietnamization. If this is an accurate estimate of its course, then the Nation is being condemned to more and more years of war in Asia after being solemnly promised an end to it.

CONFRONTATIONS VERSUS NEGOTIATIONS

Fourteen months ago, President Nixon declared in his inaugural address that the United States would, under his administration, forsake "the era of confrontation" for "an era of negotiation" in international relations. His intentions were applauded.

On our most vexing international relations problem, ending the Vietnam war, the longest war in our history, the President said later that his administration was "proceeding in our pursuit for peace on two fronts—a peace settlement through negotiations, or if that fails, ending the war through Vietnamization."

How do those words square with the administration's failure to name a high-level replacement for Ambassador Lodge as our chief negotiator at the Paris Vietnam peace talks for more than 4 months of the 14 months of the new Nixon "era of negotiation"?

Mr. President, the administration's declarations on trying to end the war in Vietnam through negotiations are in conflict with its record of performance.

Let me focus today on just one aspect of the problem—the impact of the 4-month vacancy in the office of the top U.S. negotiator in Paris.

Our interim representative in Paris, Philip Habib, is an able career Foreign Service officer. He probably knows as much or more about Vietnam than any public servant now working for the Government. But he has not had prior ambassadorial rank. He is not a confidant of the President. He does not have the prestige needed to deal with the Communists, to explore proposals they may make, or to take initiatives on our behalf. He is at a hopeless disadvantage in his assignment.

Mr. Habib was the No. 3 man on the U.S. delegation, first under Ambassadors Harriman and Vance, and then under Ambassadors Lodge and Walsh. The North Vietnamese and Vietcong delegates have made it clear, time and again, that their top people will not engage in major discussions with representatives from our side who in their view, lack top credentials.

They made this clear in the past as well as in the present. When Averell Harriman was not present, his able deputy, Cyrus Vance, was never able to meet with their top man. I believe the same situation prevailed during Ambassador Lodge's tenure. Since Ambassador Lodge resigned, the Communists have not once sent their chief negotiators to the talks, and they have told us publicly and pri-

vately that they will not engage in serious talks with Mr. Habib.

This may seem a mere matter of protocol to some, but I believe it amounts to shortchanging the negotiations on the part of the Nixon administration. Obviously, North Vietnam, a country of fewer than 20 million people, is going to be acutely conscious of such matters in dealing with the United States, one of the world's two superpowers, with more than 10 times its population.

This is, moreover, an unfortunate and foolish time to be disadvantaged by the level of our representation in Paris. Le Duc Tho, a member of Hanoi's politburo and acknowledged as one of the top 10 in the North Vietnamese power structure, returned to Paris recently after an absence of many months. But we have been unable to engage in any discussions with him because he will not do business with anyone Hanoi considers of lesser rank.

This imbalance is accentuated by the representatives of the two South Vietnamese parties. The Vietcong representative, Madame Binh, holds the rank of "foreign minister of the provisional revolutionary government." Since General Ky left Paris early last year, the Government of South Vietnam has been represented by Ambassador Lam, who now frequently fails to appear and sends a deputy to the weekly meetings. Apparently he wants to strike a pose of equality with the second-rank representation of the Communists.

This is a problem we have caused by our failure to replace Ambassador Lodge with a representative of equal rank. Even when Lam has been present at the sessions, he has been a negotiator of limited means, who has to obtain authority for virtually every move, no matter how minor, from his superiors in Saigon.

QUESTIONS NEEDING ANSWERS

Mr. President, what is the administration trying to convey by this unfortunate diplomatic-protocol gap in Paris?

Is it so pleased with the progress and future of Vietnamization that it feels that the whole conflict can be settled to our satisfaction by force? Or does it feel that the reduced but still enormous U.S. troop presence in the south is inadequate to let us speak effectively to Hanoi or Saigon, to get them to resolve their differences by negotiation?

What has the administration done to get Saigon to send to Paris a representative both able and willing to negotiate?

How does the administration propose to deal with the related instability and conflict in Laos and Cambodia?

Is the administration so certain, in the face of some contrary evidence, that Hanoi's position in Paris is one of total intransigence? Even if the administration is so convinced, does this mean it has no obligation to probe and to try? Does it believe the tough bargaining necessary to achieve a negotiated end to the war is not worth the time of a top-level appointment as our chief negotiator in Paris?

Has the administration written off negotiations? If not, what are its preconditions for resuming meaningful negotiations? Is it, in effect, asking North Vietnam to surrender?

Is the administration playing a game where the next move can be made only by the other side?

Have we given up the initiative toward peace to the other side?

I raise these questions, Mr. President, because they must be answered if we are to know what the administration's real intentions are with respect to Vietnam and the rest of Southeast Asia. We have been told that the administration has a plan for peace in Vietnam, but the hard questions remain.

I believe the American people have a right to get some answers to those questions, and I intend to raise them each week until they are answered.

Mr. GRIFFIN. Mr. President, will the Senator yield for a moment?

Mr. MUSKIE. I yield.

Mr. GRIFFIN. Mr. President, I listened with interest to the statement of the distinguished Senator from Maine. I am sure he does not intend to leave the impression or suggestion that the North Vietnamese have been negotiating or seeking to negotiate in good faith in Paris; or does he believe that is the case?

Mr. MUSKIE. I understand the questions I have asked leave impressions. The questions were very carefully asked.

These impressions would not exist if we were to get tangible reassurance from the administration that it considers the negotiations, though difficult, important to our national interest.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes so that I may respond to the Senator from Michigan.

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

Mr. MUSKIE. We have learned from our experience of over a quarter of a century that negotiating with the Communists can be a time-consuming, drawn out, and frustrating experience, we learned that during the negotiations following Korea; we learned that from our experience in Berlin.

The question is whether or not, notwithstanding these difficulties and frustrations, we regard this process, however difficult, as significant and important to our interests.

The question raised by the Senator's question is whether or not the administration—which he is in a better position to represent than I—has decided that the next initiative in Paris will be taken only by the other side and not by us.

Mr. GRIFFIN. Mr. President, will the Senator yield further for a brief observation?

Mr. MUSKIE. Yes.

Mr. GRIFFIN. Of course, I cannot let the record stand without noting that for many months the distinguished and very able former ambassador to the United Nations, Mr. Lodge, represented us in Paris; that every effort was made and has been made throughout many long, long months of negotiating to reach some kind of agreement with the Communists at the negotiation table in Paris; and I also would dispute any suggestion that his successor who now represents the United States in Paris is not most able,

most capable, most distinguished, and most qualified to represent this Nation at Paris.

Further, I wish to remind the Senator and note for the RECORD that the United States at all times has been willing and eager to consider any good-faith offer or serious suggestion which the North Vietnamese might put forth at any time. That has been true, it continues to be true, and it will continue to be true.

I thank the Senator for yielding.

Mr. MUSKIE. Whatever any of us say on this subject leaves impressions. The impressions I get from the Senator's comments are: First, because of the frustrations Ambassador Lodge faced prior to his resignation, we decided not to seriously pursue negotiations in Paris, and second, as a result of that experience, if any initiative is taken in Paris, it will have to be taken by the other side. I hope those impressions are erroneous. I raised questions in my prepared remarks which, if answered, would correct those impressions.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the order of yesterday, the Senate will now proceed to the consideration of routine morning business, with statements limited to 3 minutes.

The Chair recognizes the Senator from Vermont.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED APPROPRIATIONS TO CARRY OUT THE PROVISIONS OF THE FLAMMABLE FABRICS ACT

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1971, 1972, and succeeding fiscal years to carry out the Flammable Fabrics Act, as amended (with accompanying papers); to the Committee on Commerce.

REPORT ON THE NATIONAL ESTUARY STUDY

A letter from the Secretary of the Interior, transmitting, pursuant to law, volumes 2 through 7 of a report on the national estuary study (with accompanying documents); to the Committee on Commerce.

PROPOSED LEGISLATION AUTHORIZING THE DISTRICT OF COLUMBIA COUNCIL TO FIX RATES CHARGED FOR WATER, WATER SERVICE AND SANITARY SEWER SERVICES

A letter from the Assistant to the Commissioners transmitting a draft of proposed legislation to authorize the District of Columbia Council to fix the rates charged by the District of Columbia for water and water services and for sanitary sewer services (with an accompanying paper); to the Committee on the District of Columbia.

PROPOSED LEGISLATION TO LOWER THE MANDATORY RETIREMENT AGE FOR FOREIGN SERVICE OFFICERS WHO ARE CAREER MINISTERS

A letter from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age of Foreign Service officers who are career ministers (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on U.S. imports of watch movements duty free from Virgin Islands which benefit the islands' economy, Department of the Treasury, Commerce, and the Interior (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION CONCERNING ILLEGAL USE, TRANSPORTATION, OR POSSESSION OF EXPLOSIVES

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend section 837 of Title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

PETITION

The ACTING PRESIDENT pro tempore (Mr. SPONG) laid before the Senate a concurrent resolution of the Legislature of the State of Hawaii, which was referred to the Committee on the Judiciary, as follows:

HOUSE CONCURRENT RESOLUTION 14

Requesting congressional action on the repeal of the Emergency Detention Act of 1950

Whereas, Title II of the Internal Security Act of 1950, otherwise known as the Emergency Detention Act of 1950, provides that upon declaration by the President of the United States of a state of "internal security emergency," the President through the United States Attorney General, may apprehend and by order detain any person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of sabotage or espionage; and

Whereas, Title II does not provide for a trial by jury or even before a judge, nor does it provide appeal to the courts, such civil rights and liberties being guaranteed under the United States Constitution, substituting instead the judgment of the Preliminary Hearing Officer appointed by the Attorney General and a Detention Review Board composed of members appointed de facto and paid by the Attorney General, the very official who initiates the proceedings for the apprehension and detention of the suspect; and

Whereas, this country has already experienced the tragic and regrettable consequences of the unnecessary and unwarranted internment of over 100,000 Americans of Japanese ancestry in detention camps during World War II without due process of law; and

Whereas, the Emergency Detention Act of 1950 was the product of another era when cold war tensions were at a fever pitch and when Communist subversion was the great national fear, however, in the last two decades our socio-political climate has changed greatly and other more meaningful, just, and effective laws and procedures to safeguard internal security could be used; and

Whereas, it is now imperative to eliminate a meaningless provision that has been used to generate equally meaningless fears among minority groups, and to remove the specter of concentration camps which remains in America as long as such a provision remains law; and

Whereas, approximately nine bills have been introduced in the 91st Congress thus far calling for the repeal of Title II of the Internal Security Act of 1950 largely through the combined efforts of Senator Daniel K. Inouye and Representative Spark M. Matsunaga and which have been co-sponsored

by an unprecedented one-fourth of the membership of the Congress; now, therefore,

Be it resolved by the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, the Senate concurring, that the President of the United States, the Vice-President of the United States, the Speaker of the United States House of Representatives, United States Senator Hiram L. Fong, United States Senator Daniel K. Inouye, United States Representative Spark M. Matsunaga, United States Representative Patsy T. Mink, and the chairmen of the respective congressional committees considering those bills calling for the repeal of Title II of the Internal Security Act of 1950, be, and hereby are, requested to take whatever action is necessary, including the holding of and participation at public hearings on the subject, to ensure the repeal of Title II of the Internal Security Act of 1950; and

Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to Richard M. Nixon, President of the United States; to Spiro T. Agnew, Vice-President of the United States; to John W. McCormack, Speaker of the United States House of Representatives; to each member of Hawaii's delegation to the United States Congress; and to the chairmen of the respective congressional committees which will be or presently are considering those bills calling for the repeal of Title II of the Internal Security Act of 1950.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. SPONG) announced that on today, March 26, 1970, he signed the enrolled bill (S. 2593) to amend the Immigration and Nationality Act to facilitate the entry of certain nonimmigrants into the United States, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 14705. An act to extend and improve the Federal-State unemployment compensation program (Rept. No. 91-752).

BILLS INTRODUCED

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

By Mr. FONG:

S. 3642. A bill to provide for the addition of certain property to Hawaii Volcanoes National Park in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. SCOTT (for himself, Mr. BROOKE, Mr. ALLOTT, Mr. BIBBLE, Mr. BURDICK, Mr. CASE, Mr. COOPER, Mr. DODD, Mr. DOLE, Mr. GOODELL, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. KENNEDY, Mr. MCINTYRE, Mr. MUSKIE, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. NELSON):

S. 3643. A bill to provide for the issuance of a gold medal to the widow of the Reverend Dr. Martin Luther King, Jr., and the

furnishing of duplicate medals in bronze to the Martin Luther King, Jr. Memorial Fund at Morehouse College and the Martin Luther King, Jr. Memorial Center at Atlanta, Ga.; to the Committee on Banking and Currency.

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

By Mr. SMITH of Illinois:

S. 3644. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation for blind persons and persons in attendance, when the blind person is traveling with such an attendant; and

S. 3645. A bill to authorize appropriations to be used for the elimination of certain rail-highway grade crossings in the State of Illinois; to the Committee on Commerce.

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

By Mr. MCINTYRE:

S. 3646. A bill for the relief of Bernardino Rossetti; to the Committee on the Judiciary.

By Mr. TYDINGS (by request):

S. 3647. A bill 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;

S. 3648. A bill to provide improvements in the administration of health services in the District of Columbia, and for other purposes; and

S. 3649. A bill relating to the rental of space for the accommodation of District of Columbia agencies and activities, and for other purposes; to the Committee on the District of Columbia.

By Mr. HRUSKA:

S. 3650. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

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

By Mr. NELSON:

S. 3651. A bill to amend section 510(h) of the Federal Food, Drug, and Cosmetic Act so as to require inspection thereunder at least once every 6 months of factories, warehouses, and establishments in which food, drugs, devices, and cosmetics are manufactured, processed, packed, or held; and

S. 3652. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established name of the drug dispensed; to the Committee on Labor and Public Welfare.

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

By Mr. DODD:

S. 3653. A bill to amend the Gun Control Act of 1968 to provide for better control of interstate traffic in explosive components; to the Committee on the Judiciary.

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

By Mr. MONDALE:

S. 3654. A bill for the relief of Rachid Jabbra; to the Committee on the Judiciary.

S. 3642—INTRODUCTION OF A BILL TO PROVIDE FOR THE ADDITION OF CERTAIN PROPERTY TO HAWAII VOLCANOES NATIONAL PARK, HAWAII

Mr. FONG. Mr. President, I introduce for appropriate reference a bill to provide for the addition of certain property to the Hawaii Volcanoes National Park in the State of Hawaii.

This measure would authorize the National Park Service to acquire for enlargement of the Hawaii Volcanoes National Park not more than 198,000 acres of lands by donation, or by purchase with donated or appropriated funds or by exchange. Presently the park acreage is approximately 201,007 acres of land.

With this acquisition we would preserve for posterity one of the most picturesque and wild areas in the Hawaiian Islands. As it is hoped that most of the land will be donated, the cost of enlarging the park will be minimal.

Hawaii Volcanoes National Park is situated on the gentle slopes of the volcano Mauna Loa. On this acreage is to be found the spectacular volcano crater Kilauea which continues to erupt and to provide to tourists and natives unrivaled shows of nature.

The landscape itself includes the lush growth one would expect in a semitropical climate. Many native Hawaiian trees such as the Koa and the Ohia with its bright red flowers, flourish in the park. Then, too, there are miles of sparse and desolate aa and pahoehoe lava spewed up by both recent and not-so-recent lava flows.

All of this contrasting landscape composes a beautiful and picturesque national park.

This park area has also been the site of scientific experiments. The National Aeronautical and Space Administration brought a group of astronauts to the Hawaii Volcanoes National Park to walk over the lava fields as mental preparation for the landing on the moon. The atmosphere at the high ranges of the park is ideally clear and is used as the site for astronomical observatories.

To the northwest of the present park site is Hualalai, a mountain that rises to its peak from the oceanside town of Kailua-Kona. In the Hualalai area are crevices where the earth has caved inwards. There are mounds of red and black cinders dotted with sparse vegetation. The summit of Hualalai is marked with cones and craters of past volcanic eruptions. On the slopes of Hualalai graze wild goats and pigs as well as wild turkeys and the nene, a kind of goose which is unique to Hawaii and is the official State bird.

The bill I am introducing today would extend the present boundaries of the Hawaii Volcanoes National Park to include Hualalai Mountain and the area between the park and this picturesque but lonely peak.

It would also authorize the National Park Service to acquire additional lands adjacent to the City of Refuge National Historical Park area situated at Honaunau at the base of Hualalai.

Honaunau has been restored to something of its original state when it was an ancient Hawaiian city of refuge. It was the law that any fugitive who reached Honaunau was to be free from persecution while he remained there.

The City of Refuge itself is part of the National Park Service system. The land adjacent to Honaunau is partially under private ownership and partially under trust control. Some of the private owners and trusts have expressed a desire to

have some of that land deeded over to the National Park Service in order to preserve it as part of the historical park.

The bill authorizes the Secretary to acquire not more than 710 acres as an addition to the City of Refuge National Historical Park, by donation, purchase or exchange. Whatever State lands are acquired for these parks would be by donation.

The bill also authorizes the Secretary of the Interior to designate a right-of-way, together with related sites for the purpose of developing a Hawaii parkway joining the Hualalai area with the present Hawaii Volcanoes National Park and the City of Refuge National Historical Park with the Hualalai area.

I am convinced that the acquisition of these lands are essential to the preservation of this critical part of Hawaii's ecological history. These land areas provide an outdoor classroom for not only Hawaii's citizens but all of the people of our great country and those who visit Hawaii from foreign countries. Here they can see first-hand the creation and metamorphosis of once molten lava into habitable lands.

It may be that refinements will have to be made in certain details of this measure which I am introducing today. However, it does provide a starting point for consideration by the Congress and I urge the Senate Committee on Interior and Insular Affairs, the committee to which this bill is being referred, to take action on it as soon as possible.

The ACTING PRESIDENT pro tempore (Mr. SPONG). The bill will be received and appropriately referred.

The bill (S. 3642) to provide for the addition of certain property to Hawaii Volcanoes National Park in the State of Hawaii, and for other purposes, introduced by Mr. FONG, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 3644—INTRODUCTION OF A BILL TO EXTEND TRAVEL FARE CONCESSIONS TO BLIND AIRLINE PASSENGERS WHO ARE ACCOMPANIED BY SIGHTED GUIDES

Mr. SMITH of Illinois. Mr. President, I introduce for appropriate reference a bill to permit the Nation's airlines to extend travel fare concessions to blind passengers who are accompanied by sighted guides. I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

Mr. President, this is permissive legislation only, to permit that the same type of fare concessions may be granted to the blind by the airlines as are currently granted by the railroads and buslines. Travel fare concessions have been authorized and have worked successfully on buses and trains in the United States for more than 30 years and are permitted on airplanes in several European countries.

This legislation would not require any airline to grant fare concessions to the blind. Neither would it establish what

type of fare concessions might be granted.

The fare concession granted most often by the buslines permits free travel for a sighted attendant when the blind passenger pays full fare.

The most common railroad fare concession allows the sighted attendant to travel free when the blind passenger pays first-class fare.

The American Council of the Blind has discussed fare concessions with a number of the airlines and receive assurances that the airlines would be favorably disposed to grant fare concessions if the Federal Aviation Act were amended to permit them to do so.

It is the policy of this Government to encourage the fullest possible participation in all aspects of life by any handicapped individual. Our legislative programs for special education, research, and vocational training programs for the handicapped testify to our concern that all Americans enjoy to the fullest the benefits of life in this country. Favorable action on this bill will make it economically more feasible for the blind to explore and expand their world of opportunity.

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

The bill (S. 3644) to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation for blind persons and persons in attendance, when the blind person is traveling with such an attendant, introduced by Mr. SMITH of Illinois, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "persons in connection with such accident;" the following: "blind persons and persons with sight attending such blind persons, when the blind person is traveling with such a person in attendance;"

S. 3645—INTRODUCTION OF A BILL TO AUTHORIZE FEDERAL ASSISTANCE FOR THE ELIMINATION OF CERTAIN RAIL-HIGHWAY GRADE CROSSINGS IN THE STATE OF ILLINOIS

Mr. SMITH of Illinois. Mr. President, I introduce for appropriate reference a bill to authorize Federal assistance for the elimination of certain rail-highway grade crossings in the State of Illinois. I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

Mr. President, the State of Illinois and the Chicago area specifically form one of the major links in our national rail system. The marketplaces of the world are served by the rail centers of Illinois.

Each ground-level, rail-highway crossings in the great rail network of Illinois is a potential safety hazard where the

slightest mishap can tie up and delay the delivery of goods and the mail throughout the Nation. The elimination of these ground-level crossings will facilitate the service of the Nation's railroads to the Nation.

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

The bill (S. 3645) to authorize appropriations to be used for the elimination of certain rail-highway grade crossings in the State of Illinois, introduced by Mr. SMITH of Illinois, was received, read twice by its title, referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

S. 3645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to pay the cost of each project to eliminate a ground-level, rail-highway crossing on those railroad routes in the State of Illinois, used in connection with the rail transportation of freight or passenger traffic. Each project to eliminate such a crossing shall be subject to section 130 of title 23, United States Code, in the same manner and to the same extent as any other project subject to such section, except that the entire Federal cost of a project for which payment is authorized by this Act shall be paid out of sums appropriated to carry out this Act and not from amounts apportioned to a State in accordance with section 104 of title 23, United States Code. Payments under this Act shall be made by the Secretary of Transportation to the State of Illinois in accordance with such rules and regulations as he deems necessary to protect the interests of the United States.

S. 3650—INTRODUCTION OF BILL TO STRENGTHEN FEDERAL CRIMINAL LAWS CONCERNING ILLEGAL USE, TRANSPORTATION AND POSSESSION OF EXPLOSIVES

Mr. HRUSKA. Mr. President, I introduce a bill which is designed to strengthen the Federal criminal laws concerning the illegal use, transportation, and possession of explosives. I am introducing this bill at the request of the Attorney General and ask that it be appropriately referred.

The country is being subjected to a rising tide of terrorism. In Washington, D.C., the Nation's Capital, on one day earlier this month, there were 28 bomb threats. On the same day in New York City, there were 161 bomb threats. That same night, a building in Buffalo, N.Y., was seriously damaged by an explosion.

During the last 3 months, more than a score of bombs have exploded in more than a dozen different cities, killing at least six persons and injuring at least 15. The property damage has run well into the millions of dollars. This terrorism must be stopped.

The bill modifies existing law, as found in 18 U.S.C. 837, in several respects. First, a new subsection is added to cover malicious damage to Federal property, when that damage is caused by explosives. An-

other subsection is included to cover malicious damage to real and personal property used for business purposes by persons engaged in "commerce." Other modifications are made to the penalty sections.

The bill submitted by the administration is designed to carry out the commitment made by the President of the United States to deal with this recent rash of bombings.

I ask unanimous consent that a copy of the statement of the President, the letter of transmittal from the Attorney General to the Vice President, be printed in the RECORD along with the bill and a section-by-section analysis.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred; and, without objection, the bill, statement of the President, the letter of transmittal and the section-by-section analysis will be printed in the RECORD.

The bill (S. 3650) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes, introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 837 of Title 18, United States Code is amended to read as follows:

§ 837. *Explosives—illegal transportation, use or possession; threats or false information.*

"(a) As used in this section—

"commerce" means commerce between any State, the District of Columbia, or any Commonwealth, Territory or possession of the United States, and any place outside thereof; or between points within the same State, the District of Columbia, or any Commonwealth, Territory or possession of the United States but through any place outside thereof; or within the District of Columbia, or any Territory or possession of the United States;

"explosive" means gunpowder, powder used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

"(b) Whoever transports or receives, or attempts to transport or receive, in commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than \$20,000, or both; and if death results shall be subject to imprisonment for any term of years, or to the death penalty

or to life imprisonment as provided in section 34 of this title.

"(c) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of an explosive shall be imprisoned for not more than five years or fined not more than \$5,000, or both.

"(d) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, shall be imprisoned for not more than ten years, or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years, or fined not more than \$20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(e) Whoever possesses an explosive in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department or other person responsible for the management of such building shall be imprisoned for not more than one year, or fined not more than \$1,000, or both.

"(f) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used for business purposes by a person engaged in commerce or in any activity affecting commerce shall be imprisoned for not more than ten years or fined not more than \$10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than \$20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(g) Whoever possesses an explosive with the knowledge or intent that such explosive will be transported or used in violation of this section shall be imprisoned for not more than five years or fined not more than \$5,000, or both.

"(h) Nothing in this section should be construed as indicating an intent on the part of Congress to prevent any State, Territory, or possession of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for investigating and prosecuting actions that may be violations of this section and that are violations of State and local law.

"(i) No investigation or prosecution of any offense described in this section shall be undertaken by the United States except upon a determination by the Attorney General, or an Assistant Attorney General designated by the Attorney General, that in his judgment an investigation or prosecution by the United States is in the public interest."

SEC. 2. The reference to section 837 in the analysis of Chapter 39, Title 18, United States Code, is amended to read as follows:

"837. Explosives—illegal transportation, use or possession; threats or false information."

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

STATEMENT BY THE PRESIDENT

Recent months have brought an alarming increase in the number of criminal bombings in the cities of our country. In recent weeks, the situation has become particularly acute, as telephoned threats and actual bombings have sent fear through many American communities.

Schools and public buildings have had to be evacuated; considerable property has been destroyed; lives have been lost. Clearly, many of these bombings have been the work of political fanatics, many of them young criminals posturing as romantic revolutionaries. They must be dealt with as the potential murderers they are.

Under existing law, the transport of explosives across the State lines is, under some circumstances, a Federal crime. I am proposing an extensive strengthening and expansion of that law. In the proposals being sent to the Congress, it is asked that:

Anyone involved in the transport or receipt in commerce of explosives, intending their unlawful use, be made subject to imprisonment for ten years or a fine of \$10,000 or both. The current maximum penalty is a single year in prison or a thousand dollar fine or both.

The maximum penalty be doubled to twenty years in prison or a twenty thousand dollar fine or both if anyone is injured as the ultimate result of such transport of explosives.

Penalties for bomb threats be raised from one year in prison to a maximum of five years or five thousand dollars fine or both.

Incendiary devices be included in the category of "explosives," bringing such devices under the anti-bombing provisions.

Use of explosives to damage or destroy any building, vehicle or other property owned or leased to the Federal government be made a Federal crime.

Possession, without written authorization, of any explosive in such a building be made a Federal crime.

Use of explosive to damage or destroy any building or property used for business purposes by any person or firm engaged in interstate commerce, or in any activity affecting such commerce, be made a Federal crime.

Possession of explosives with the intent to damage either Federal property or property used in its business by a person engaged in interstate commerce also be made a Federal crime.

The individual engaged in the transport or use of explosives in violation of these provisions be made subject to the death penalty if a fatality occurs.

Our purpose in bringing these crimes under Federal jurisdiction is not to displace State or local authority. Federal investigations and prosecutions would begin only after the Attorney General had determined that intervention by the national government is necessary in the public interest. Our purpose is rather to assist State and local governments in their efforts to combat the multiplying number of acts of urban terror. I am also asking that Law Enforcement Assistance Administration funds be specifically designated for special training programs for State and local law enforcement agencies to aid them in coping with this latest threat to the public safety and to the maintenance of a free and open society.

The anarchic and criminal elements who perpetrate such acts deserve no more patience or indulgence. It is time to deal with them for what they are.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal "To amend Section 837 of Title 18, United States

Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes."

This proposed legislation is designed to assist in the carrying out of the President's commitment to deal with the recent series of bomb explosions and bombing threats. It would revise 18 U.S.C. 837 to expand its scope, improve its effectiveness, and increase its penalties in several significant respects. The potential large loss of life, the destruction of property, and the disruption of the daily activities of our people, our economy and our government all require that we act promptly.

First, the definition of explosives in subsection (a) has been expanded, chiefly by including the definition of explosive and incendiary device in section 232 of the same title, which section more specifically covers devices such as "Molotov cocktails".

Second, subsection (b) of section 837, which now deals with the offense of transporting an explosive with the knowledge or intent that it will be used in certain wrongful ways, has been substantially broadened both as to the overt conduct covered and as to the range of known or intended wrongful uses that are specified. The present basic penalties of up to a year's imprisonment or a fine of up to \$1,000 or both, have been increased to up to ten years or \$10,000, or both. These would be doubled if personal injury resulted, with additional imprisonment for up to a life term or the death penalty if death resulted.

Third, subsection (c), dealing with willfully conveying threats or information known to be false (now covered by subsection (d)), has been revised with respect to the subject matter and character of the threats or false information to relate more directly and effectively to bombing threats and malicious bombing scares. The maximum penalties have been increased from a year's imprisonment and a \$1,000 fine, to five years and a \$5,000 fine.

Fourth, a new subsection (d) is proposed to cover malicious damage or destruction by explosives of federal premises and other federal property. The range of penalties in this subsection, ranging up to the death penalty if death results, is the same as that proposed for subsection (b).

Fifth, a new subsection (e), with lesser penalties, covers unauthorized possession of explosives in federal buildings, including buildings used by or leased in whole or in part to federal agencies.

Sixth, a new subsection (f) covers malicious damage or destruction of real or personal property used for business purposes by persons or firms engaged in commerce or activities affecting commerce. The range of penalties is the same as in subsection (b) and (d).

Seventh, a new subsection (g) covers possession of explosives with the knowledge or intent that they will be transported or used to violate the section. Penalties of up to five years imprisonment, a \$5000 fine, or both, are prescribed.

Eighth, present subsection (e) of the section, dealing with the effect of the section on State laws, has been revised as subsection (h) to emphasize State law enforcement responsibility.

Finally, since the Federal Government cannot possibly have the manpower and facilities to become involved in every bomb threat or bombing incident, and because the investigation and prosecution of most such incidents are State and local responsibilities, a new subsection (i) has been added to make certain that federal action under the section will not be undertaken except upon high level authorization in each case.

A section-by-section analysis of the proposal is enclosed and further explains its provisions.

This legislation will, in the view of this Department, provide legal tools of substantial value in dealing with the unfortunate and continuing rash of bombings and bomb threats. The Bureau of the Budget has advised that its enactment would be in accord with the Program of the President.

Sincerely,

Attorney General.

ANALYSIS OF LEGISLATIVE PROPOSAL TO AMEND
18 U.S.C. 837, RELATING TO EXPLOSIVES

Section 1 of the measure amends section 837 of title 18, United States Code, recasting it in nine subsections. The changes are as follows:

1. Subsection (a) expands the definition of "explosive" in present subsection (a), primarily to include explosive or incendiary devices as defined in 18 U.S.C. 232. Technical revisions are also made in the definition of "commerce."

2. Subsection (b) presently makes it a crime to transport explosives in interstate commerce with the knowledge or intent that they will be used to damage or destroy property for the purpose of interfering with its use for specific objectives or for the purpose of intimidating any person pursuing such objectives. The bill would amend subsection (b) to include receipt as well as transportation; apply to attempts; cover movement in "commerce" rather than "interstate commerce" so as to embrace movement wholly within areas, such as the District of Columbia, which are subject to plenary federal jurisdiction, and clearly to embrace movement originating and terminating within one jurisdiction but through another one; abolish the test of specific forbidden purposes in favor of a general requirement of knowledge or intent that the explosives would be used in substantially any crime of violence; and increase the applicable penalties. Two technical amendments to subsection (b) are also made. The provision for imposing the death penalty is revised to comply with the Supreme Court's decision in *United States v. Jackson*, 390 U.S. 570 (1968), and the present reference in subsection (b) to aiding and abetting is deleted as unnecessary (see 18 U.S.C. 2).

3. Present subsection (c) is deleted. This subsection creates a rebuttable presumption that a person who uses an explosive for certain destructive purposes or who possesses an explosive with intent so to use it has violated subsection (b). This presumption is of dubious validity (see *Tot v. United States*, 319 U.S. 463 (1943), *Leary v. United States*, 395 U.S. 6 (1969)). This coupled with the ambiguous proviso at the end of the subsection has prompted its deletion.

4. Subsection (c) is a substantially revised subsection (d) of existing law, which deals with bomb threats and hoaxes. Changes are made to conform to the broadened coverage of subsection (b). The requirement of showing the specific purpose of the threat has been deleted and replaced with the more general requirement that the threat must be willful or the false information must be communicated maliciously. The maximum term of imprisonment for violation has been increased from one to five years, and the maximum fine raised from \$1,000 to \$5,000.

5. Subsection (d) is new. It would forbid the malicious damage or destruction of federal property by means of an explosive. The requirement of maliciousness is intended to exclude the application of this provision to accidental damage or authorized use of explosives on such property.

6. Subsection (e) is new. It would cover unauthorized possession of an explosive in a building used, possessed, occupied or leased by the Federal Government, in whole or in part. This is the only provision of the statute which punishes mere possession. Such a prohibition is justified because possession of explosives is so dangerous as to call for punish-

ment whether or not the possessor intends to use the explosives for a criminal purpose.

7. *Subsection (f)* is another new provision. It would cover malicious bomb damage or destruction of any real or personal property used for business purposes by a person engaged in commerce or any activity affecting commerce. Since the term "affecting commerce" embraces "the fullest jurisdictional breadth constitutionally permissible under the Commerce Clause," *NLRB v. Reliance Fuel Corp.*, 371 U.S. 224, 226 (1963), this is an extremely broad provision. Like subsections (b) and (d), subsection (f) provides for more severe penalties in cases where injury or death results.

8. *Subsection (g)* is new. This subsection would cover possession of explosives with the knowledge or intent that they will be transported or used in violation of any of the other provisions of the section. It prescribes a maximum penalty of five years imprisonment, a \$5,000 fine, or both.

9. *Subsection (h)*, formerly subsection (e), constitutes a Congressional declaration of its intent not to pre-empt the field in which the statute applies. Minor revisions have been made in phraseology.

10. *Subsection (i)*, a further expression of Congressional intent not to displace State and local jurisdiction and responsibility, provides that this section shall not be invoked except upon the express authority of the Attorney General or a designated Assistant Attorney General, on the basis of his judgment that a federal investigation or prosecution is in the public interest. It recognizes that most bombings and bomb threats will be investigated and prosecuted by State and local law enforcement personnel.

Section 2 of the bill appropriately amends the reference to section 837 in the analysis of Chapter 39.

S. 3651—INTRODUCTION OF A BILL TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO FREQUENCY OF INSPECTIONS

Mr. NELSON. Mr. President, I introduce, for appropriate reference a bill to amend the food and drug law which would require that the plants of drug manufacturers be inspected at least once every 6 months rather than every 2 years as the law reads at present.

In the course of the Senate Small Business Committee's Monopoly Subcommittee's hearings on competitive problems in the drug industry, it became clear that there is a very real need for proper and continuous inspection of drug manufacturing plants.

I wonder how many people are aware that as things stand at present, the American public can buy meat and even pet food which have been produced under more frequently inspected conditions than the drugs on which their health and life may depend. We can sit down and eat the meat we have purchased and generally not worry about whether or not it is wholesome. Meat products are packed under continuous Federal supervision. Meat processing and packaging plants have resident inspectors paid for by the Federal Government with the plant paying for any overtime.

We can feed our pets food which is packaged and labeled "Packed under continuous inspection of the U.S. Department of Agriculture." Pet foods which contain meat, fish, or poultry, in order to rate a seal of approval, not only

are packed under continuous Federal supervision but are also inspected by State officials, generally backed up by the Food and Drug Administration.

Yet, when we purchase the drugs upon which our health and even life may depend, we have no such assurances. Under the 1962 Kefauver-Harris amendment to the Food and Drug Act, inspection of plants of drug manufacturers is required at a minimum of once every 2 years. That this has proven inadequate is easily seen on the basis of the large number of drug recalls carried out by the Food and Drug Administration year after year. These drugs are recalled because they do not meet the standards of either the U.S. Pharmacopeia or the National Formulary, the official compendia of the United States.

In testifying before our subcommittee at the second in our series of hearings, Dr. Solomon Garb, then professor of pharmacology and professor of community health at the University of Missouri Medical Center, stated:

They (the American people) are entitled to wholesome, pure, effective and safe (drug) products. There is absolutely no excuse for having anything else on the market. The solution is inspection not one day out of every two years . . . but continuous inspection. . . .

Dr. Garb went on to say:

Seven years ago I asked why we could not have the same safeguards for drugs that we have for dog food. Thus far I have not received a satisfactory reply. . . . Most drugs which are produced in this country today are being inspected by inspectors hired and paid for by the manufacturers and the costs are included in the price of the drugs. If we had continuous Government inspection, the costs should not increase . . . in the long run the cost of inspection would still be paid by the person who uses the drugs.

Mr. President, I submit that there is no place for any kind of substandard drug anywhere in America. It is essential that the American people have adequate safeguards as to the wholesomeness and purity of drug products. This, of course, will take continuous cooperative effort on the part of both the drug manufacturers and the Food and Drug Administration.

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

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

The bill (S. 3651) to amend section 510(h) of the Federal Food, Drug, and Cosmetic Act so as to require inspection thereunder at least once every 6 months of factories, warehouses, and establishments in which food, drugs, devices, and cosmetics are manufactured, processed, packed, or held, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 510(h) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 360(h)),

is amended (1) by striking out "once in the two-year period" and inserting in lieu thereof "once in the six-month period"; and (2) by striking out "once in every successive two-year period thereafter" and inserting in lieu thereof "once in every successive six-month period thereafter".

S. 3652—INTRODUCTION OF A BILL TO REQUIRE THAT DRUG CONTAINER LABELS BEAR THE ESTABLISHED NAME OF THE DRUG DISPENSED

Mr. NELSON. Mr. President, I introduce, for appropriate reference, a bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established name of the drug dispensed. I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 3652) to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established name of the drug dispensed, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 503(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(2)) is amended by inserting immediately after the words "bears a label containing" the following: "the established name (as defined in section 502(e)(2) of this Act) of the drug or in the case of combination drugs the established name of the active ingredients of the drug, unless the prescriber of such drug specifically directs that the established name not appear on the label,".

S. 3653—INTRODUCTION OF THE EXPLOSIVE COMPONENT CONTROL ACT OF 1970

Mr. DODD. Mr. President, the sound of bombs is reverberating across the land. It is a sound that is frightening. It is a sound of terror.

In my own State of Connecticut, a police station was bombed in the city of Danbury, as a diversionary tactic during a bank robbery.

In New York City, the offices of three large corporations, involved in varying degrees in the Vietnam war effort, were shaken by bombs. An entire floor of one building was destroyed in a single blast.

In Maryland, two persons were blown to pieces when a bomb exploded in the car in which they were riding. Hours later, a blast leveled a part of the courthouse in Cambridge, Md.

In Greenwich Village, a townhouse, converted into a bomb factory by young militants, was completely destroyed. In inexperienced hands, the unstable chemical nitroglycerin exploded and killed the young bomb manufacturers.

The traditional forms of dissent have

been supplanted by acts of violence and terror. The dynamite stick is replacing the protest placard; the bomb, the demonstration.

The injury, damage, and destruction that could result from the use of bombs in congested areas is a chilling potentiality, for it would take little of such terrorist activity to bring a large city to its knees.

In view of this situation, I was very pleased to note the action which the administration took yesterday to provide stiff Federal penalties for those involved in bombing or in bomb threats. This action may well prove to be significant as a deterrent to those who might engage in these terror tactics.

Nonetheless, an increased penalty structure as a deterrent will not solve the problem. Instead, we must move to regulate explosives and explosive devices before they reach the hands of those who should not have them.

In a majority of States, anyone can buy explosives and anyone can sell them. For the most part, State laws, where they do exist, are sorely inadequate.

Frankly, it is more difficult in most States to own and license a dog than it is to purchase a deadly package of explosives and explosive devices. In many jurisdictions, it is more difficult for someone under 16 to purchase a package of cigarettes than it is to buy a box of blasting caps.

It should be abundantly clear that Federal controls over the purchase of explosives and other bomb components are essential.

Industry wants them. The National Fire Protection Association has demanded them. And one of the Nation's large manufacturers and distributors of explosives, the Du Pont Corp., has recently urged speedy action to provide for Federal regulation of explosives so that those States without controls do not become suppliers for the arsenal of the radical militants.

To provide these controls, Mr. President, I introduce for appropriate reference, a bill entitled the Explosive Component Control Act. This legislation amends the Gun Control Act of 1968 by expanding the definition of destructive devices to cover under its regulatory provisions the main components of homemade bombs. Included within this new definition would be: any device, or chemical compound or mixture, which primarily functions or is customarily used as an explosive including, but not limited to, dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuses, lighters, fuse igniters, nitroglycerin, picric acid, lead acid fulminate of mercury, and detonating primers.

All of these materials would be regulated in much the same way that the sale of firearms is now regulated.

In order to sell explosives or explosive devices, a manufacturer or dealer would have to secure a license from the Secretary of the Treasury.

The seller would be required to keep careful sales records, including the name

and address of the purchaser and the quantity and kind of explosives or explosive devices that have been purchased.

In order to purchase explosives and explosive components, the buyer must submit an affidavit to the Secretary of the Treasury, and present a copy to the dealer, indicating that he is 21 years of age. The affidavit must also show that he is a bona fide employee or corporate officer of a business engaged in mining, construction, quarrying, agriculture, seismographic research, or that he is an individual who has a bona fide use for such devices.

While the Gun Control Act of 1968 prohibits the sale of firearms to non-residents of the State in which the dealer operates, this bill allows an explosive manufacturer to sell the devices directly to a buyer in another State, provided that the affidavit mentioned above is submitted. I have added this section to the bill because I am well aware that a legitimate business located in a State like Nevada might well purchase explosives directly from a manufacturer located in a State like Delaware. It is probable that this practice has been going on for years, and I see absolutely no reason to hinder legitimate industry in the purchase of the tools necessary for its trade.

Increased criminal penalties are provided in this bill for commission of a felony with explosives. Under the Gun Control Act, the penalty for commission of a Federal felony while armed with a firearm was a sentence of not less than 1 year and not more than 10 years. While I have been steadfast in my opposition to the imposition of mandatory sentences, in the case of bombings, where hundreds could be killed or injured in a single incident, the penalty must be consistent with the gravity of the crime. Accordingly, I am proposing that the penalty for a felony using any of the items described above be raised from a 1-year minimum to a 10-year minimum sentence.

With this bill, I am hopeful that the alarmingly casual purchase of explosives will be completely eliminated. The purchase and use of these items are serious matters, and there should be effective legal barriers to prevent the terrorists and the irresponsible from buying and using them.

Mr. President, the situation is urgent, and I hope this bill will receive early attention. The longer we permit the unchecked purchase and stockpiling of weapons of terror, the greater will be the hold of fear and danger on our people. And the more tentative the security and tranquility of our cities and towns, the less capable we shall be of dealing with our other problems.

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

The bill (S. 3653) to amend the Gun Control Act of 1968 to provide for better control of interstate traffic in explosive components, introduced by Mr. DODD, was received, read twice by its title, and referred to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS

S. 3528

Mr. BYRD of West Virginia. Mr. President, in behalf of the Senator from New Hampshire (Mr. McINTYRE), I ask unanimous consent that at the next printing, the names of the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Minnesota (Mr. MONDALE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Nevada (Mr. CANNON), and the Senator from Iowa (Mr. MILLER) be added as cosponsors of S. 3528, to amend the Small Business Act.

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

S. 3552

Mr. BYRD of West Virginia. Mr. President, in behalf of the Senator from New Hampshire (Mr. McINTYRE), I ask unanimous consent that, at the next printing, the names of the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Indiana (Mr. BAYH) be added as cosponsors of S. 3552, a bill to provide certain privileges against disclosure of confidential information obtained by newsmen.

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

S. 3562

Mr. HUGHES. Mr. President, I ask unanimous consent that, at the next printing, the names of the following Senators be added as cosponsors of the bill (S. 3562) to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependents: the Senator from Utah (Mr. MOSS), the Senator from Ohio (Mr. YOUNG), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Nevada (Mr. BIBLE), the Senator from Hawaii (Mr. INOUYE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. MUSKIE), and the Senator from Nevada (Mr. CANNON).

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

S. 3565

Mr. BYRD of West Virginia. Mr. President, in behalf of the Senator from New Hampshire (Mr. McINTYRE), I ask unanimous consent that, at the next printing, the names of the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Indiana (Mr. BAYH) be added as cosponsors of S. 3565, a bill to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes.

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

S. 3614

Mr. COOK. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Ohio (Mr. YOUNG) be added as cosponsors of S. 3614, to amend

the Federal Water Pollution Control Act and the Clean Air Acts through Federal procurement contract procedures.

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

SENATE CONCURRENT RESOLUTION 59 — CONCURRENT RESOLUTION SUBMITTED AND AGREED TO RELATING TO ADJOURNMENT OF THE SENATE FROM MARCH 26, 1970 UNTIL MARCH 31, 1970

Mr. MANSFIELD submitted a concurrent resolution (S. Con. Res. 59) to provide for the adjournment of the Senate from March 26, 1970 until March 31, 1970, which was considered and agreed to.

(The remarks of Mr. MANSFIELD when he submitted the concurrent resolution appear earlier in the RECORD under the appropriate heading.)

SENATE RESOLUTION 381—SUBMISSION OF A RESOLUTION TO EXPRESS THE SENSE OF THE SENATE REGARDING A TREATY ON HIJACKING AIRCRAFT

Mr. DODD. Mr. President, I submit for reference to the appropriate committee a resolution which seeks to convey the sense of the Senate to the American delegation that will be attending the extraordinary session of the General Assembly of the International Civil Aviation Organization which has now been convened for this coming June 16.

The purpose of this conference will be to deal with the growing threat to air safety, including the threats posed by sabotage, bombing, and hijacking. I welcome the announcement, which was made yesterday morning, that there will be an extraordinary session of the ICAO General Assembly to deal with these problems.

I note in this connection that in the resolution which I introduced on January 29 of last year, I called for a special international conference, convened on an emergency basis, to deal with the problem of hijacking.

The entire situation has of course been gravely complicated in recent months by the midair bombings of two European aircraft, resulting in the loss of many innocent lives. I think it worth noting that three of the victims of the bombing of the Swiss airlines bound for Israel were prominent citizens in my own State.

As a result of a special conference which took place in Montreal in February of 1969, the ICAO legal committee was given the task of drafting a new treaty dealing with hijacking. It is my understanding that a draft treaty has now been prepared and that it will be acted on by a special diplomatic conference to be convened in December of this year.

I have been informed that the treaty drafted by the legal committee calls for either extradition or for prosecution under the laws of the country which receives the hijacked aircraft.

The Department of State feels that

this represents a significant advance because it would automatically make hijacking an extraditable offense where extradition treaties exist; it is currently listed as such an offense in only two existing treaties. However, it is clear that the treaty would have absolutely no effect on Cuba, which, incidentally, continues to function as a member of ICAO.

The Department apparently has serious doubts about the wisdom of raising the question of mandatory extradition at the forthcoming General Assembly because of the adverse reaction from many countries the last time this proposal was made.

In introducing my resolution of January 29, 1969, I said that if a hijacking epidemic ever got underway in Communist Europe, it might soon make our own epidemic look like small potatoes. Since I made this statement, there have been a number of instances involving the hijacking or attempted hijacking of Communist-bloc aircraft.

If it was not clear to the Communist leaders previously, then it should be clear to them today that they have much to gain from an agreement that would effectively prevent hijacking by guaranteeing the automatic extradition of hijackers.

For this reason, I am in favor of having our delegation raise the problem for discussion at the ICAO General Assembly, even though I know that the proposed treaty can only be amended at the special diplomatic conference scheduled for this coming December.

I think there is everything to be gained and nothing to be lost by letting the members of ICAO know, and also letting the Soviet Union and other nonmember nations know, that the Congress of the United States is not satisfied with what has been proposed to date, and that we demand stronger action to deal with the situation.

I hope the Senators will give their support to this resolution as an indication of the attitude of the U.S. Senate.

The PRESIDING OFFICER (Mr. CRANSTON). The resolution will be received and appropriately referred.

The resolution (S. Res. 381), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 381

Whereas the past two years have witnessed a growing international epidemic of the hijacking of commercial airplanes, which has endangered the lives of many hundreds of passengers and resulted in serious inconvenience to both passengers and airlines; and

Whereas in recent months this danger has been further aggravated by two midair bomb explosions perpetrated by Arab terrorists against European planes bound for Israel or carrying mail for Israel, resulting in a heavy loss of innocent lives; and

Whereas pursuant to the call of ten nations (Austria, Belgium, Denmark, Federal Republic of Germany, Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom), an extraordinary session of the General Assembly of the International Civil Aviation Organization will be convening on June 16, 1970, to deal with the growing threats of air safety, including the threats posed by sabotage, bombing, and hijacking; and

Whereas the new draft treaty on hijacking drawn up by the ICAO legal committee for submission to a special diplomatic conference, does not call for the mandatory extradition of hijackers because there has heretofore been widespread opposition to this proposal among ICAO members; and

Whereas there is serious reason for believing that any action short of mandatory extradition would be ineffective in dealing with the problem of hijacking; and

Whereas there is reason to believe that, in consequence of the recent series of hijackings and attempted hijackings involving Communist planes, even the Communists might today be willing to reconsider their opposition to the mandatory extradition of hijackers;

Therefore be it resolved that it is the sense of the Senate

1. that the American delegation to the forthcoming General Assembly of ICAO should be instructed to raise the question of fortifying the draft treaty proposed by the ICAO legal committee by providing for the automatic extradition of hijackers, even in the absence of bilateral extradition treaties;

2. that it should also be instructed to raise the question of requiring member nations of ICAO to suspend bilateral flight agreements with those nations who refuse to agree to the automatic extradition of hijackers, or who condone or refuse to take action against terrorist organizations involved in attacks on passenger aircraft;

3. that the American delegation should press for a broad examination of other measures, technical and legal, that might be taken to further discourage and control the hijacking of commercial aircraft and terrorist operations against them.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 26, 1970, he presented to the President of the United States the bill (S. 2593) to amend the Immigration and Nationality Act to facilitate the entry of certain nonimmigrants into the United States, and for other purposes.

NOTICE OF HEARING ON CENTRAL AND SOUTHERN FLORIDA FLOOD CONTROL PROJECT

Mr. BYRD of West Virginia, Mr. President, at the request of the Senator from Ohio (Mr. YOUNG), I ask unanimous consent that a statement by him with respect to the notice of hearing on central and southern Florida flood control project be printed at this point in the RECORD.

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

Mr. YOUNG of Ohio, Mr. President, I wish to announce that the Subcommittee on Flood Control—Rivers and Harbors of the Committee on Public Works will hold a hearing on the matter of monetary authorization for the Central and Southern Florida Flood Control Project, including consideration of the relationship of the project to the Everglades National Park.

The hearing will be held on Wednesday, April 8, 1970, and will begin at 9:30 a.m., in Room 4200, New Senate Office Building.

Persons desiring to testify or to submit written statements in connection with this hearing should notify Mr. Joseph F. Van Vladricken, Professional Staff Member, Committee on Public Works, Room 4204, New Senate Office Building, Washington, D.C. 225-6176.

VERMONT CITIZENS MOBILIZE FOR GREEN-UP DAY ON APRIL 18

Mr. AIKEN. Mr. President, on Saturday, April 18, an army of Vermont citizens will be mobilized to participate in a statewide highway beautification program.

This unique, all-volunteer effort has been called "Green-Up Day."

The goal will be to pick up trash and other unsightly wastes which have been discarded along the roadsides of the Green Mountain State.

This program was conceived last year by Gov. Deane C. Davis.

It has also been given moral support by the Vermont General Assembly.

Vermont officials from State, civil, and local agencies are coordinating in this program.

But the muscle of this citizens' army will be the average Vermonter who has agreed to give up a day of his time in order to make his community, and Nation, a better place to live.

I have always felt that the best place to start projects of this kind is at home.

Not only will the Vermont Green-Up Day get the citizenry involved in cleaning up the highways, but it will also result in saving the taxpayers some money.

In Vermont about \$200,000 a year is spent on cleaning up the roadsides.

As a result of Green-Up Day, State officials estimate that taxpayers' dollars will be saved.

In this time of national concern and, indeed, even alarm over the spoilation of our natural surroundings, I commend the citizens of Vermont for their decision to do something about the pollution problem.

It seems to me that President Nixon must have been thinking of Vermonters when on February 10 in his message to the Congress on the environment, the President said:

The task of cleaning up our environment calls for total mobilization by all of us.

It involves government at every level; it requires the help of every citizen.

It cannot be a matter of simply sitting back and blaming someone else.

Neither is it one to be left to a few hundred leaders.

Rather it presents us with one of those rare situations in which each individual everywhere has an opportunity to make a special contribution to his country as well as his community.

Once again, Vermonters have shown that they do not sit back and let someone else do the job.

They are rolling up their sleeves and getting on with the job of cleaning up their surroundings.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Governor Davis' proclamation designating April 18 as Green-Up Day, and a copy of the resolution approved by the Vermont General Assembly.

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

PROCLAMATION

Whereas, Vermont is presently engaged in a historical effort to preserve and protect its environment through legislation, education, citizen involvement, conservation groups and

student, business, labor and industrial committees; and

Whereas, continued interest in the environment should be fostered by practical involvement of students and citizens in projects that promote ecological understanding and appreciation; and

Whereas, Vermonters are concerned about the maintenance and perpetuation of roadside beautification, marred each spring with the melting snows by the unsightly accumulation of trash and refuse; and

Whereas, awareness of this problem will be dramatically and uniquely fostered on GREEN UP DAY, Vermont's statewide clean up day involving a massive coordinating effort between state, civil and local agencies and the utilization of a volunteer army of thousands of citizens in every town in the State;

Now, therefore, I, Deane C. Davis, Governor of the State of Vermont, do hereby proclaim April 18, 1970 as: Green-Up Day in Vermont and urge all citizens to observe the day by volunteering two hours of their time to rid the highways of litter and to green up their neighborhoods.

Given under my hand and the Great Seal of the State of Vermont this fourth day of March, A.D. 1970.

DEANE C. DAVIS,
Governor.

RESOLUTION

Whereas, Governor Deane C. Davis has proclaimed April 18, 1970 as Green Up Day in the State of Vermont and urged all citizens to observe the day by volunteering two hours of their time to rid the highways of litter and to green up their neighborhoods; and

Whereas, Vermont is presently engaged in an historical effort to preserve and protect its environment through legislation, education, citizen involvement, conservation groups and student, business, labor and industrial committees; and

Whereas, continued interest in the environment should be fostered by practical involvement of students and citizens in projects that promote ecological understanding and appreciation; and

Whereas, Vermonters are concerned about the maintenance and perpetuation of roadside beautification, marred each spring by the unsightly accumulation of trash and refuse; and

Whereas, awareness of this problem will be dramatically and uniquely fostered on Green Up Day, now therefore be it Resolved by the Senate and House of Representatives; That all Vermonters be urged to join forces in a massive Green Up army on April 18, 1970, to remove highway litter, thereby preserving Vermont as a special way of life.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

INTEREST RATE CUT

Mr. GRIFFIN. Mr. President, the Irving Trust Co., America's 12th largest bank, cut its prime interest rate from 8½ percent down to 8 percent this morning. Major banks across the country, including the Nation's four largest, have responded and are also reducing their prime rates.

This is a welcome and significant re-

sponse to President Nixon's efforts to cool the fires of inflation.

Even more important to some economists is the news that yesterday the Bureau of Labor Statistics reported wholesale prices for March showed the smallest increase in 7 months.

And industrial commodity prices scored their smallest rise since last July. We are, in other words, approaching a stable economy.

The anti-inflationary policies of the Nixon administration do seem to be working. The evidence of success continues to mount.

The interim objective of policy—to restrain economic expansion—is being realized. The ultimate objective—to reduce the rate of price inflation to an acceptable level—is being steadily achieved.

This morning's news of reductions in interest rates and a slowing down of price increases is heartening proof that we are, indeed, on the right track.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADMINISTRATION DESEGREGATION POLICY MAKES SENSE

Mr. BYRD of West Virginia. Mr. President, I applaud the President of the United States for his statement on Tuesday, March 24, setting forth in detail the administration's policies on the subject of desegregation of America's elementary and secondary schools. I commend him for the soundness of his views on this difficult problem that has created so much unhappiness and turmoil in all parts of our country.

His statement was realistic, it was reasonable, it was appropriate. I am glad to hear somebody at last say something that sounds as if he has his feet on the ground with respect to this issue. It was the first statement on this subject which has come from the White House within the past several years that has had the stamp of commonsense upon it.

There were many cogent sentences in the President's position paper, which I hope will not be forgotten. For example, he said:

Demands that an arbitrary "racial balance" be established as a matter of right misinterpret the law and misstate the priorities.

The Supreme Court has never ruled that there must be racial balance, and the Congress has never so required by any legislative act. Moreover, to insist upon racial balance would be not only grossly impracticable in so many situations; it would also be inordinately costly. No good purpose would be achieved, but, quite to the contrary, bad matters would simply be made worse. Insistence upon racial balance is as unwise as it is unworkable.

The President reviewed the pertinent

court decisions beginning with the historic Brown case in 1954, in which the Supreme Court laid down the principle that enforced segregation of students by race in the public schools is unconstitutional.

That decision was constitutionally sound and right. That is the law of the land, and I support it. However, the Supreme Court, in that decision, did not use the words "forced integration." And the court has never at any time outlawed freedom of choice or declared freedom of choice to be unconstitutional.

Of course, a few of the lower courts and a few overzealous bureaucrats have gone beyond the Supreme Court decisions on school desegregation.

But, as the President said, a review of school desegregation cases plainly shows that the decisions which have caused so much upheaval and confusion and agony in parts of the country are "untypical" and "the prevailing trend of judicial opinion is by no means so extreme."

The President noted that there are a number of questions involved in the school desegregation controversy on which the Supreme Court has not yet clearly spoken.

Mr. President, sanity needs to be restored in the mess that has been made of school desegregation. If the policies which Mr. Nixon has outlined are adhered to, I believe that sanity can be restored.

For too many years there has been far too much doctrinaire theory and too little common sense expressed in the complex problem of school desegregation. The Supreme Court has never said that all-white schools or all-black schools in a de facto situation are unconstitutional or unlawful, and I do not believe them to be unconstitutional or unlawful.

Moreover, in the 1964 Civil Rights Act, as the President pointed out, the Congress stated:

Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another . . . in order to achieve such racial balance.

That language seems plain enough to me, as it apparently does to the President. Yet, we have seen attempt after attempt made to circumvent the will and intend of Congress by the Department of Health, Education, and Welfare, and by some of the lower Federal courts.

Buttressing my belief that those who have sought to bring about total forced integration have gone considerably beyond what the Supreme Court has thus far required were the words of Chief Justice Burger in a decision earlier this month in which he noted that a number of "basic practical problems" have not been resolved, "including whether, as a constitutional matter, any particular racial balance must be achieved in the schools."

In view of these facts, I think the President has taken precisely the position he should have taken in expressing his opposition to "any compulsory busing of pupils beyond normal geographic school zones for the purpose of achieving racial balance."

The truth, Mr. President, is that decisions of lower Federal courts on this matter of requiring an artificial racial mix in the schools are in conflict. There are disagreements over what is required—disagreements brought about primarily by the overzealous efforts of fanatics who would force everyone to their own way of thinking.

In all of this confusion, one thing is very clear: the Supreme Court, which ordered an end to forced segregation, has not yet ordered forced integration to bring about racial balance, and it may very well never go to such an undesirable and impracticable length.

The President's statement makes it plain that he is thoroughly aware of this fact; and it makes plain also that he is aware of the deep dissatisfaction of millions of American citizens—black and white—with the ruthless manner in which the education of children in so many areas is being sacrificed on the altar of fanatical devotion to forced integration in de facto situations.

The theorists, the fanatics—as the President correctly noted—have succeeded in heightening racial tensions and exacerbating racial frictions. In place of the impossible utopia they envisaged, they have created instead an educational chamber of frustration, uneasiness, and, in many instances, plain fear for countless numbers of American children. In the President's telling words:

Children in many instances have not been served, they have been used—

They have been used, I repeat for emphasis.

in what all too often has proved a tragically futile effort to achieve in the schools the kind of multiracial society which the adult community has failed to achieve for itself.

The Nation has witnessed the predictable but understandable results that have followed: The flight of whites from the central cities; the decay of the cities; the erosion of the tax base; the deterioration of schools; the rise of school violence and crime; and a generation of inadequately educated children. These, Mr. President, are the end products of forced integration.

De facto segregation, based upon residential patterns, is not illegal, and I agree with Mr. Nixon that the Nation has a vital and special stake in upgrading education where de facto segregation exists. We should do everything possible to improve educational opportunity in racially impacted areas, with special emphasis placed upon equalizing those schools which are furthest behind.

If America means anything, it means opportunity—opportunity for all. But opportunity is not created by rigidly forcing children into unrealistic situations and hostile surroundings. Children and parents should have the right to decide the matters of school preference and attendance for themselves. After all, the parents who pay the taxes should have some say in where their children go to school.

In a free society, a mobile society such as ours, Mr. President, it is not possible to bring about a synthetic racial balance by executive order or judicial fiat. The final result of such tactics will inevitably be a de facto resegregation. Washington,

D.C., is an example, with a school population that has become 95 percent Negro.

I seriously doubt that even the faulty social ends that are sought can be realized by such colossal judicial blunders as that which occurred in California, where a State court has ordered the Los Angeles school board to establish a racial balance in its 711 square mile district with its 775,000 children in 561 schools.

This draconian decree will cost the taxpayers there \$40 million in the next year alone just to lease 1,600 unnecessary buses, to acquire facilities to house them, to hire drivers, and to buy gas and oil and tires. The annual additional cost in each subsequent year, it is estimated, will be \$20 million. How much more sense it would make to use these funds for the upgrading of education itself. Money for schools is almost always in short supply. It ought to be used for better facilities and materials and methods, not frittered away to implement questionable notions of social readjustment.

The President made the valid point that only when Federal rulings and orders have the support of those at the local level can they be expected to produce the desired results. He emphasized the importance of neighborhood schools, and the essential necessity of having the cooperation of local school officials. What local school official could possibly react with anything but anger to such a high-handed decision as that rendered in Los Angeles?

The President is right when he insists upon minimum disruptions of education, and he recognizes that the neighborhood school is the most appropriate base for a system which puts the proper emphasis on education. In recent years, too much emphasis has been placed upon integration of the races and, as a result, education has become secondary. The primary purpose of the public school system is to educate children, black and white, but the cart has been placed before the horse by some of the lower courts and by some public officials. As a consequence, public education has suffered, private schools have proliferated, and the public school system has been undermined and impaired and, in fact, endangered.

Mr. Nixon said:

If our schools fail to educate, then whatever they may achieve in integrating the races will turn out to be only a pyrrhic victory.

I agree completely with those views. The business of our schools is to educate, not to provide a meaningless and superficial racial mix. The social and economic status of Negro children can be improved much more surely through a policy which places the primary emphasis upon education rather than upon forced integration.

I was glad to hear the President say that—

There are limits to the amount of Government coercion that can reasonably be used.

I also agree with the President's statement that—

There has been an implicit assumption that blacks would be improved by association with whites.

Many Negroes in this country have come around to the view that forced integration is not an unmixed blessing for them, if it is, indeed, any blessing at all. They prefer spending more money on improving their own neighborhood schools and upgrading the quality of education there, and they want to see less hauling of their children around like cattle at great cost and distance just that they might look into white faces.

Many of us, Mr. President, rode the school bus when we were young, but we did it in order to get to the closest school which, in many instances, was several miles away from where we lived. Busing in such a situation could not be helped. But that was a far cry from the forced busing that is being visited upon some communities and some children today in order to comply with some theoretical formula requiring racial balance. May I say, as I have often said, it is sheer hypocrisy for Federal judges and legislators and other public officials to require other people's children to forcibly integrate while these same officials and judges are able to send their own children and grandchildren to private schools or they can afford to live in suburbia where the schools are mostly all white. And may I add, in this connection, that many of the pseudoliberal columnists who constantly prattle about the righteousness of forced integration simply do not know, or do not care, about the real problems that are involved, and one can surmise, their own children probably do not go within 10 miles of a school in which there are many blacks.

And what Mr. Nixon did not say, Mr. President, I shall say. Many parents are fearful of what might happen to their children when they are forced to go to schools like some of those in the Nation's Capital—where militants carry switchblade knives and guns and where shake-downs occur and where obscenities and profanity are the order of the day. It is a traumatic and unsettling experience for white children to be forced into an environment where they live in fear of being molested or attacked, robbed, and beaten. Some consideration should be given to the lasting psychic injury which may result to them, and no one should have difficulty in realizing that such a situation is not conducive to learning.

Mr. President, as an example of what happens in Washington, D.C. schools, I recall that in 1968 my Negro barber, here in the Capitol Building, came to me with an earnest plea that I assist him in getting his daughter, Brenda, transferred from the junior high school which she was then attending to another junior high school. He stated that his daughter had been attacked by five girls during the lunch hour and again after school, that she had been badly beaten and kicked, that she had lost 2 weeks of school from her classes, and that her life had been threatened to the point of death. I asked my barber to put the matter in writing, and I quote the following sentence from his letter:

Whenever Brenda does return to school, we are afraid all progress in learning will be impeded by this ever pending danger and threat of further attacks which could result

in sustaining injuries becoming more serious than before.

I contacted the board of education and was able to assist in having this little Negro girl transferred to another junior high school for the sake of her safety and peace of mind.

Mr. President, many Negro parents in the District of Columbia send their children to private schools out of consideration for their safety.

Moreover, to force fast learners to adjust their pace to that of slow learners is to sacrifice the welfare of intelligent children to the cult of mediocrity. This is often what happens—often what happens, in the mad rush to bring about some degree of racial balance.

Mr. Nixon said that:

An open society does not have to be homogeneous or even fully integrated.

I commend the President on having the courage to speak the truth. It is time that the fanatical integrationists, the theorists, the pseudointellectuals, and the super-duper liberals realize the wisdom of the President's statement. It is not the statement of a segregationist; it is not the statement of one who is against voluntary integration. It is a statement which is realistic and which makes sense. It is a statement based upon sound and thoughtful judgment.

In summation, the President's speech expressed the following basic principles: That ours is a free and open society; that ours is a government of laws, that the law of the land will be upheld, but that there will be a limit to Government coercion; that every individual, black and white, must have an equal chance to go just as high and as far as his talents and energies will take him; that quality education and integration are not necessarily synonymous terms; and that, while de jure segregation is unconstitutional, de facto segregation is not.

His speech, Mr. President, was a speech for liberty, for freedom, for equality.

The President has done the Nation a service in clarifying his views and in forthrightly stating his administration's policy on school desegregation.

There will be a better day for education, and a better opportunity for all American children, black and white, throughout the land if the Nation now proceeds in accordance with the wise policy that President Nixon has enunciated.

Mr. President, I represent a border State, which is neither North nor South. But this is a national problem, and we, as U.S. Senators, should put the interests of public education, the interests of the Nation first. I believe that the approach to the problem proposed by the President puts the interests of the Nation and public education first.

Mr. President, a very fairminded liberal editorial on President Nixon's school desegregation statement was published in the Washington Star on yesterday, Wednesday, March 25, 1970, which I hope will be widely noted.

The editorial views Mr. Nixon's statement as one of landmark significance. As I have already indicated, I would have to agree, if for no other reason than the

fact that the President's position is based on practical reality rather than on impractical theory. That, in itself, in my judgment, is something of a landmark.

I agree wholeheartedly with the Nixon statement on school desegregation. It should be obvious to all, save those who will not see, that forced integration, in an effort to bring about racial balance—even at the price of subordination of education—is not working and will not work.

Mr. President (Mr. CRANSTON), I ask unanimous consent that the editorial be printed in the RECORD and that it be followed in the RECORD by the Negro barber's correspondence and by the President's 8,000 word statement to which I have referred.

There being no objection, the editorial and the President's statement were ordered to be printed in the RECORD, as follows:

[From the Evening Star, Mar. 25, 1970]

RACE AND THE SCHOOLS

President Nixon's 8,000-word message defining his administration's approach to the complex and crucial problems inherent in school desegregation, an issue which touches all our lives both as Americans and as parents, is of landmark significance.

Mr. Nixon made two particularly important points. The first is that whatever else it may achieve, a school system that does not educate has failed in its basic task. Children of all races, as the President points out, "have not been served but used" as the spearhead for achieving a social transformation "which the adult community has failed to achieve for itself."

The second is that it is evident that the school system alone is too fragile to bring about the color-blind society which the law requires, and which so many Americans of all races rightly cling to as a basic article of their political faith. It is clear that if this goal is to be achieved, the burden is one which must be borne not only by the schools but by other federal, state and local institutions and—more importantly—by each of us in our daily thoughts and acts.

There are those who will see in the President's emphasis on desegregation rather than integration, in his differentiation between vestigial unconstitutional de jure segregation and the socially-undesirable de facto segregation imposed by housing patterns, a presumptive "Southern strategy" and a retreat from the Warren Court's epochal *Brown versus Board of Education* decision of 1954. We do not see it.

Mr. Nixon has made it clear that, in his view, the neighborhood school is and must be the basic vehicle for educating our children. He holds that the busing of students for many hours each day across many miles to achieve an arbitrary racial balance—as ordered recently by a California state court at an estimated recurrent cost to the city of Los Angeles of \$20 million—is both faulty educational practice and an inane use of limited funds.

We agree on both counts and are of the view that the great mass of parents—black and white—take the same position. All of us want to do what is right; at the same time, each of us wants the best education possible for his children. The two need not be incompatible.

The President asserts that his administration, in devising local plans for compliance with court desegregation orders, plans to give "primary weight" to the considered judgment of local school boards, "provided they act in good faith, and within constitutional limits." That, again, is wise. For only when

local leaders actively back the rulings of the courts can there be hope of success. It is the abdication of responsibility by many leaders, white and black—not least in this city—which has resulted in the failures the children have had to bear.

To fund what he hopes will produce a return to educational sanity, Mr. Nixon intends to ask Congress to divert from "other domestic programs" \$500 million for fiscal 1971 and twice that sum the following year to improve education in "racially impacted areas" in both the North and the South. Some of this money the President sees being used in area centers to which children would come from their neighborhood schools for supplementary educational activities on racially "neutral" territory. The idea is interesting and certainly deserves exploration, as does his reiterated proposal for creation of a National Institute of Education to help us to understand—and solve—the problems we face.

One means of achieving the integrated society we must eventually achieve is education. What matters is less the pigmentation of individual schools than the quality of the education each offers. The President to his credit, has given public recognition to this truth.

WASHINGTON, D.C.,
November 15, 1968.

To: The Honorable Robert Byrd.

DEAR SENATOR BYRD: On November 1, 1968, Brenda, age 13, an 8th grade student attending Banneker Junior High School, located on Georgia Avenue and Euclid, was attacked by five (5) girls during the lunch hour (12:00 noon) and again after school (3:00 P.M.). She was badly beaten and kicked.

As a result of this attack, Brenda has lost two weeks out of school and from her classes, which means, this time must be made up before the end of this year or may cause her to repeat some of these classes, and most of all, we have a fear for her life. At the time of the attack, her life was threatened to the point of death. Whenever Brenda does return to school, we are afraid all progress in learning will be impeded by this ever pending danger and threat of further attacks which could result in sustaining injuries becoming more serious than before.

It was suggested that a transfer to another Junior High School within the boundaries and not too far from our home could be a solution. Although a hardship would be imposed on us, we are willing to risk this imposition for the safety and welfare of Brenda. The Jr High School, we had in mind, is Garnet Patterson located at 10th and Vermont Avenue, N.W.

We would greatly appreciate all efforts within your power to help us in this critical matter. We would further ask you to look into this matter as soon as possible due to the loss of time for Brenda in her classes and the difficult time spent in trying to tie in school, home and our employment schedules. We also appreciate any help in initiating any action or actions in transferring Brenda to the suggested school or any other suggestions and actions you may advise. Again, we wish to thank you for your consideration.

Sincerely yours,

E. G.

STATEMENT BY THE PRESIDENT ON ELEMENTARY AND SECONDARY SCHOOL DESEGREGATION

My purpose in this statement is to set forth in detail this Administration's policies on the subject of desegregation of America's elementary and secondary schools.

Few public issues are so emotionally charged as that of school desegregation, few so wrapped in confusion and clouded with misunderstanding. None is more important to our national unity and progress.

This issue is not partisan. It is not sectional. It is an American issue, of direct and immediate concern to every citizen.

I hope that this statement will reduce the prevailing confusion and will help place public discussion of the issue on a more rational and realistic level in all parts of the nation. It is time to strip away the hypocrisy, the prejudice and the ignorance that too long have characterized discussion of this issue. My specific objectives in this statement are:

—To reaffirm my personal belief that the 1954 decision of the Supreme Court in *Brown v. Board of Education* was right in both Constitutional and human terms.

—To assess our progress in the 16 years since *Brown* and to point the way to continuing progress.

—To clarify the present state of the law, as developed by the courts and the Congress, and the Administration policies guided by it.

—To discuss some of the difficulties encountered by courts and communities as desegregation has accelerated in recent years, and to suggest approaches that can mitigate such problems as we complete the process of compliance with *Brown*.

—To place the question of school desegregation in its larger context, as part of America's historic commitment to the achievement of a free and open society.

Anxiety over this issue has been fed by many sources.

On the one hand, some have interpreted various Administration statements and actions as a backing away from the principle of *Brown*—and have therefore feared that the painstaking work of a decade and a half might be undermined. We are not backing away. The Constitutional mandate will be enforced.

On the other hand, several recent decisions by lower courts have raised widespread fears that the nation might face a massive disruption of public education; that wholesale compulsory busing may be ordered and the neighborhood school virtually doomed. A comprehensive review of school desegregation cases indicates that these latter are untypical decisions, and that the prevailing trend of judicial opinion is by no means so extreme.

Certain changes are needed in the nation's approach to school desegregation. It would be remarkable if sixteen years of hard, often tempestuous experience had not taught us something about how better to manage the task with a decent regard for the legitimate interests of all concerned—and especially the children. Drawing on this experience, I am confident the remaining problems can be overcome.

WHAT THE LAW REQUIRES

In order to determine what ought to be done, it is important first to be as clear as possible about what must be done.

We are dealing fundamentally with inalienable human rights, some of them constitutionally protected. The final arbiter of Constitutional questions is the United States Supreme Court.

The President's responsibility

There are a number of questions involved in the school controversy on which the Supreme Court has not yet spoken definitely. Where it has spoken, its decrees are the law. Where it has not spoken, where Congress has not acted, and where differing lower courts have left the issue in doubt, my responsibilities as Chief Executive make it necessary that I determine, on the basis of my best judgment, what must be done.

In reaching that determination, I have sought to ascertain the prevailing judicial view as developed in decisions by the Supreme Court and the various Circuit Courts of Appeals. In this statement I list a number of principles derived from that prevailing judi-

cial view. I accept those principles and shall be guided by them. The Departments and agencies of the Government will adhere to them.

A few recent cases in the lower courts have gone beyond those generally accepted principles. Unless affirmed by the Supreme Court, I will not consider them as precedents to guide Administration policy elsewhere.

What the Supreme Court has said

To determine the present state of the law, we must first remind ourselves of the recent history of Supreme Court rulings in this area.

This begins with the *Brown* case in 1954, when the Court laid down the principle that deliberate segregation of students by race in the public schools was unconstitutional. In that historic ruling, the court gave legal sanction to two fundamental truths—that separation by law establishes schools that are inherently unequal, and that a promise of equality before the law cannot be squared with use of the law to establish two classes of people, one black and one white.

The Court requested further argument, however, and propounded the following questions, among others:

"Assuming it is decided that segregation in public schools violates the Fourteenth Amendment.

"a. would a decrease necessarily follow providing that, within the limits set by normal geographic school districting, Negro children should forthwith be admitted to schools of their choice, or

"b. may this Court, in the exercise of its equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?"

In its second *Brown* decision the following year, the Court addressed itself to these questions of manner and timing of compliance. Its ruling included these principles:

Local school problems vary: school authorities have the primary responsibility for solving these problems; courts must consider whether these authorities are acting in good faith.

The courts should be guided by principles of equity, which traditionally are characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs."

Compliance must be achieved "with all deliberate speed," including "a prompt and reasonable start" toward achieving full compliance "at the earliest practicable date."

In 1964, the Supreme Court spoke again: "The time for mere 'deliberate speed' has run out, and that phrase can no longer justify denying these . . . children their constitutional rights."

At the same time, Congress also added to the impetus of desegregation by passing the Civil Rights Act of 1964, an Act that as a private citizen I endorsed and supported.

Although the Supreme Court in the *Brown* cases concerned itself primarily, if not exclusively, with pupil assignments, its decree applied also to teacher assignments and school facilities as a whole.

In 1968, the Supreme Court reiterated the principle enunciated in prior decisions, that teacher assignments are an important aspect of the basic task of achieving a public school system wholly freed from racial discrimination. During that same year, in another group of Supreme Court decisions, a significant and new set of principles also emerged.

That a school board must establish "that its proposed plan promises meaningful and immediate progress toward disestablishing State-imposed segregation," and that the plan must "have real prospects for dismantling the State-imposed dual system 'at the earliest practical date.'"

That one test of whether a school board has met its "affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch" is the extent to which racial separation persists under its plan.

That the argument that effective desegregation might cause white families to flee the neighborhood cannot be used to sustain devices designed to perpetuate segregation.

That when geographic zoning is combined with "free transfers," and the effect of the transfer privilege is to perpetuate segregation despite the zoning, the plan is unacceptable.

The most recent decisions by the Supreme Court have now rejected any further delay, adding to the Court's mandate:

"The obligation of every school district is to terminate dual systems at once and to operate now and hereafter only unitary schools."

That the obligation of such districts is an affirmative one and not a passive one.

That freedom of choice plans could no longer be considered as an appropriate substitute for the affirmative obligation imposed by the Court unless they, in fact, discharge that obligation immediately.

The Court has dealt only in very general terms with the question of what constitutes a "unitary" system, referring to it as one "within which no person is to be effectively excluded from any school because of race or color." It has not spoken definitely on whether or not, or the extent to which, "desegregation" may mean "integration."

In an opinion earlier this month, Chief Justice Burger pointed out a number of "basic practical problems" which the Court had not yet resolved, "including whether, as a Constitutional matter, any particular racial balance must be achieved in the schools; to what extent school districts and zones may or must be altered as a Constitutional matter; to what extent transportation may or must be provided to achieve the ends sought by prior holdings of this Court."

One of these areas of legal uncertainty cited by Chief Justice Burger—school transportation—involves Congressional pronouncements.

In the 1964 Civil Rights Act, the Congress stated, "... nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

In the 1966 amendments to the Elementary and Secondary Education Act, the Congress further stated, "... nothing contained in this Act shall ... require the assignment or transportation of students or teachers in order to overcome racial imbalance."

I am advised that these provisions cannot constitutionally be applied to *de jure* segregation. However, not all segregation as it exists today is *de jure*.

I have consistently expressed my opposition to any compulsory busing of pupils beyond normal geographic school zones for the purpose of achieving racial balance.

What the lower courts have said

In the absence of definitive Supreme Court rulings, these and other "basic practical problems" have been left for case-by-case determination in the lower courts—and both real and apparent contradictions among some of these lower court rulings have generated considerable public confusion about what the law really requires.

In an often-cited case in 1955 (*Briggs v. Elliott*), a District Court held that "the Constitution . . . does not require integration. . . . It merely forbids the use of governmental power to enforce segregation."

But in 1966 another court took issue with this doctrine, pointing out that it had been used as justifying "techniques for perpetuating school segregation," and declaring that: ". . . the only adequate redress for a previously overt system-wide policy of segregation directed against Negroes as a collective entity is a system-wide policy of integration."

In 1969, the 4th Circuit Court of Appeals declared:

"The famous *Briggs v. Elliott* dictum—adhered to by this court for many years—that the Constitution forbids segregation but does not require integration . . . is now dead."

Cases in two circuit courts have held that the continued existence of some all-black schools in a formerly segregated district did not demonstrate unconstitutionality, with one noting that there is "no duty to balance the races in the school system in conformity with some mathematical formula."

Another circuit court decision declared that even though a district's geographic zones were based on objective, nonracial criteria, the fact that they failed to produce any significant degree of integration meant that they were unconstitutional.

Two very recent Federal court decisions continue to illustrate the range of opinion: a plan of a southern school district has been upheld even though three schools would remain all-black, but a northern school system has been ordered by another Federal court to integrate all of its schools completely "by the revising of boundary lines for attendance purposes as well as busing so as to achieve maximum racial integration."

This range of differences demonstrates that lawyers and judges have honest disagreements about what the law requires. There have been some rulings that would divert such huge sums of money to non-educational purposes, and would create such severe dislocations of public school systems, as to impair the primary function of providing a good education. In one, for example—probably the most extreme judicial decree so far—a California State court recently ordered the Los Angeles School Board to establish a virtually uniform racial balance throughout its 711 square mile district, with its 775,000 children in 561 schools. Local leaders anticipate that this decree would impose an expenditure of \$40,000,000 over the next school year to lease 1,600 buses, to acquire site locations to house them, to hire drivers, and to defray operating costs. Subsequent costs would approximate \$20,000,000 annually. Some recent rulings by federal district courts applicable to other school districts appear to be no less severe.

I am dedicated to continued progress toward a truly desegregated public school system. But, considering the always heavy demands for more school operating funds, I believe it is preferable, when we have to make the choice, to use limited financial resources for the improvement of education—for better teaching facilities, better methods, and advanced educational materials—and for the upgrading of the disadvantaged areas in the community rather than buying buses, tires and gasoline to transport young children miles away from their neighborhood schools.

What most of the courts agree on

Despite the obvious confusion, a careful survey of rulings both by the Supreme Court and by the Circuit Courts of Appeals suggests that the basic judicial approach may be more reasonable than some have feared. Whatever a few lower courts might have held to the contrary, the prevailing trend of judicial opinion appears to be summed up in these principles:

—There is a fundamental distinction between so-called "*de jure*" and "*de facto*" segregation: *de jure* segregation arises by law or by the deliberate act of school officials and is unconstitutional; *de facto* segregation results from residential housing patterns and does not violate the Constitution. (The clearest example of *de jure* segregation is the dual school system as it existed in the South prior to the decision in *Brown*—two schools, one Negro and one White, comprised of the same grades and serving the same geographical area. This is the system with which most of the decisions, and the Supreme Court cases up until now, have been concerned.)

—Where school boards have demonstrated a good-faith effort to comply with court rulings, the courts have generally allowed substantial latitude as to method—often making the explicit point that administrative choices should, wherever possible, be made by the local school authorities themselves.

—In devising particular plans, questions of cost, capacity, and convenience for pupils and parents are relevant considerations.

—Whatever the racial composition of student bodies, faculties and staff must be assigned in a way that does not contribute to identifying a given school as "Negro," or "White."

—In school districts that previously operated dual systems, affirmative steps toward integration are a key element in disestablishing the dual system. This positive integration, however, does not necessarily have to result in "racial balance" throughout the system. When there is racial separation in housing, the Constitutional requirement has been held satisfied even though some schools remained all-black.

—While the dual school system is the most obvious example, *de jure* segregation is also found in more subtle forms. Where authorities have deliberately drawn attendance zones or chosen school locations for the express purpose of creating and maintaining racially separate schools, *de jure* segregation is held to exist. In such a case the school board has a positive duty to remedy it. This is so even though the board ostensibly operates a unitary system.

—In determining whether school authorities are responsible for existing racial separation—and thus whether they are Constitutionally required to remedy it—the *intent* of their action in locating schools, drawing zones, etc., is a crucial factor.

—In the case of genuine *de facto* segregation (i.e., where housing patterns produce substantially all-Negro or all-White schools, and where this racial separation has not been caused by deliberate official action) school authorities are not Constitutionally required to take any positive steps to correct the imbalance.

To summarize: There is a Constitutional mandate that dual school systems and other forms of *de jure* segregation be eliminated totally. But within the framework of that requirement an area of flexibility—a "rule of reason"—exists, in which school boards, acting in good faith, can formulate plans of desegregation which best suit the needs of their own localities.

De facto segregation, which exists in many areas both North and South, is undesirable but is not generally held to violate the Constitution. Thus, residential housing patterns may result in the continued existence of some all-Negro schools even in a system which fully meets Constitutional standards. But in any event, local school officials may, if they so choose, take steps beyond the Constitutional minimums to diminish racial separation.

SCHOOL DESEGREGATION TODAY

The progress

Though it began slowly, the momentum of school desegregation has become dramatic.

Thousands of school districts throughout the South have met the requirements of law.

In the past year alone, the number of black children attending southern schools held to be in compliance has doubled, from less than 600,000 to nearly 1,200,000—representing 40 per cent of the Negro student population.

In most cases, this has been peacefully achieved.

However, serious problems are being encountered both by communities and by courts—in part as a consequence of this accelerating pace.

The problems

In some communities, racially mixed schools have brought the community greater interracial harmony; in others they have heightened racial tension and exacerbated racial frictions. Integration is no longer seen automatically and necessarily as an unmixed blessing for the Negro, Puerto Rican or Mexican-American child. "Racial balance" has been discovered to be neither a static nor a finite condition; in many cases it has turned out to be only a way station on the road to resegregation. Whites have deserted the public schools, often for grossly inadequate private schools. They have left the now resegregated public schools foundering for lack of support. And when whites flee the central city in pursuit of all—or predominantly—white schools in the suburbs, it is not only the central city schools that become racially isolated, but the central city itself.

These are not theoretical problems, but actual problems. They exist not just in the realm of law, but in the realm of human attitudes and human behavior. They are part of the real world, and we have to take account of them.

The complexities

Courts are confronted with problems of equity, and administrators with problems of policy. For example: To what extent does desegregation of dual systems require positive steps to achieve integration? How are the rights of individual children and their parents to be guarded in the process of enforcement? What are the educational impacts of the various means of desegregation—and where they appear to conflict, how should the claims of education be balanced against those of integration? To what extent should desegregation plans attempt to anticipate the problem of resegregation?

These questions suggest the complexity of the problems. These problems confront us in the North as well as the South, and in rural communities, suburbs and central cities.

The troubles in our schools have many sources. They stem in part from deeply rooted racial attitudes; in part from differences in social, economic and behavioral patterns; in part from weaknesses and inequities in the educational system itself; in part from the fact that by making schools the primary focus of efforts to remedy longstanding social ills, in some cases greater pressure has been brought to bear on the schools than they could withstand.

The context

Progress toward school desegregation is part of two larger processes, each equally essential:

The improvement of educational opportunities for all of America's children.

The lowering of artificial racial barriers in all aspects of American life.

Only if we keep each of these considerations clearly in mind—and only if we recognize their separate natures—can we approach the question of school desegregation realistically.

It may be helpful to step back for a moment, and to consider the problem of school desegregation in its larger context.

The school stands in a unique relationship to the community, to the family, and to the individual student. It is a focal point of com-

munity life. It has a powerful impact on the future of all who attend. It is a place not only of learning, but also of living—where a child's friendships center, where he learns to measure himself against others, to share, to compete, to cooperate—and it is the one institution above all others with which the parent shares his child.

Thus it is natural that whatever affects the schools stirs deep feelings among parents, and in the community at large.

Whatever threatens the schools, parents perceive—rightly—as a threat to their children.

Whatever makes the schools more distant from the family undermines one of the important supports of learning.

Quite understandably, the prospect of any abrupt change in the schools is seen as a threat.

As we look back over these sixteen years, we find that many changes that stirred fears when they first were ordered have turned out well. In many Southern communities, black and white children now learn together—and both the schools and the communities are better where the essential changes have been accomplished in a peaceful way.

But we also have seen situations in which the changes have not worked well. These have tended to command the headlines, thus increasing the anxieties of those still facing change.

Overburdening the schools

One of the mistakes of past policy has been to demand too much of our schools: They have been expected not only to educate, but also to accomplish a social transformation. Children in many instances have not been served, but used—in what all too often has proved a tragically futile effort to achieve in the schools the kind of a multiracial society which the adult community has failed to achieve for itself.

If we are to be realists, we must recognize that in a free society there are limits to the amount of government coercion that can reasonably be used; that in achieving desegregation we must proceed with the least possible disruption of the education of the nation's children; and that our children are highly sensitive to conflict, and highly vulnerable to lasting psychic injury.

Failing to recognize these factors, past policies have placed on the schools and the children too great a share of the burden of eliminating racial disparities throughout our society. A major part of this task falls to the schools. But they cannot do it all or even most of it by themselves. Other institutions can share the burden of breaking down racial barriers, but only the schools can perform the task of education itself. If our schools fail to educate, then whatever they may achieve in integrating the races will turn out to be only a pyrrhic victory.

With housing patterns what they are in many places in the nation, the sheer numbers of pupils and the distances between schools make full and prompt school integration in every such community impractical—even if there were a sufficient desire on the part of the community to achieve it. In Los Angeles, 78 per cent of all Negro pupils attend schools that are 95 per cent or more black. In Chicago the figure is 85 per cent—the same as in Mobile, Alabama. Many smaller cities have the same patterns. Nationwide, 61 per cent of all Negro students attend schools which are 95 per cent or more black.

Demands that an arbitrary "racial balance" be established as a matter of right misinterpret the law and misstate the priorities.

As a matter of educational policy, some school boards have chosen to arrange their school systems in such a way as to provide a greater measure of racial integration. The

important point to bear in mind is that where the existing racial separation has not been caused by official action, this increased integration is and should remain a matter for local determination.

Pupil assignments involve problems which do not arise in the case of the assignment of teachers. If school administrators were truly color blind and teacher assignments did not reflect the color of the teacher's skin, the law of averages would eventually dictate an approximate racial balance of teachers in each school within a system.

Not just a matter of race

Available data on the educational effects of integration are neither definitive nor comprehensive. But such data as we have suggest strongly that, under the appropriate conditions, racial integration in the classroom can be a significant factor in improving the quality of education for the disadvantaged. At the same time, the data lead us into several more of the complexities that surround the desegregation issue.

For one thing, they serve as a reminder that, from an educational standpoint, to approach school questions solely in terms of race is to go astray. The data tell us that in educational terms, the significant factor is not race but rather the educational environment in the home—and indeed, that the single most important educational factor in a school is the kind of home environment its pupils come from. As a general rule, children from families whose home environment encourages learning—whatever their race—are higher achievers; those from homes offering little encouragement are lower achievers.

Which effect the home environment has depends on such things as whether books and magazines are available, whether the family subscribes to a newspaper, the educational level of the parents, and their attitude toward the child's education.

The data strongly suggest, also, that in order for the positive benefits of integration to be achieved, the school must have a majority of children from environments that encourage learning—recognizing, again, that the key factor is not race but the kind of home the child comes from. The greater concentration of pupils whose homes encourage learning—of whatever race—the higher the achievement levels not only of those pupils, but also of others in the same school. Students learn from students. The reverse is also true: the greater concentration of pupils from homes that discourage learning, the lower the achievement levels of all.

We should bear very carefully in mind, therefore, the distinction between educational difficulty as a result of race, and educational difficulty as a result of social or economic levels, of family background, of cultural patterns, or simply of bad schools. Providing better education for the disadvantaged requires a more sophisticated approach than mere racial mathematics.

In this same connection, we should recognize that a smug paternalism has characterized the attitudes of many white Americans toward school questions. There has been an implicit assumption that blacks or others of minority races would be improved by association with whites. The notion that an all-black or predominantly-black school is automatically inferior to one which is all or predominantly-white—even though not a product of a dual system—inescapably carries racist overtones. And, of course, we know of hypocrisy: not a few of those in the North most stridently demanding racial integration of public schools in the South at the same time send their children to private schools to avoid the assumed inferiority of mixed public schools.

It is unquestionably true that most black schools—though by no means all—are in fact inferior to most white schools. This is due

in part to past neglect or shortchanging of the black schools; and in part to long-term patterns of racial discrimination which caused a greater proportion of Negroes to be left behind educationally, left out culturally, and trapped in low paying jobs. It is not really because they serve black children that most of these schools are inferior, but rather because they serve poor children who often lack the home environment that encourages learning.

Innovative approaches

Most public discussion of overcoming racial isolation centers on such concepts as compulsory "busing"—taking children out of the schools they would normally attend, and forcing them instead to attend others more distant, often in strange or even hostile neighborhoods. Massive "busing" is seen by some as the only alternative to massive racial isolation.

However, a number of new educational ideas are being developed, designed to provide the educational benefits of integration without depriving the student of his own neighborhood school.

For example, rather than attempting dislocation of whole schools, a portion of a child's educational activities may be shared with children from other schools. Some of his education is in a "home-base" school, but some outside it. This "outside learning" is in settings that are defined neither as black nor white, and sometimes in settings that are not even in traditional school buildings. It may range all the way from intensive work in reading to training in technical skills, and to joint efforts such as drama and athletics.

By bringing the children together on "neutral" territory friction may be dispelled; by limiting it to part-time activities no one would be deprived of his own neighborhood school; and the activities themselves provide the children with better education.

This sort of innovative approach demonstrates that the alternatives are not limited to perpetuating racial isolation on the one hand, and massively disrupting existing school patterns on the other. Without uprooting students, devices of this kind can provide an additional educational experience within an integrated setting. The child gains both ways.

Good faith and the courts

Where desegregation proceeds under the mandate of law, the best results require that the plans be carefully adapted to local circumstances.

A sense of compassionate balance is indispensable. The concept of balance is no stranger to our Constitution. Even First Amendment freedoms are not absolute and unlimited; rather the scales of that "balance" have been adjusted with minute care, case by case, and the process continues.

In my discussion of the status of school desegregation law, I indicated that the Supreme Court has left a substantial degree of latitude within which specific desegregation plans can be designed. Many lower courts have left a comparable degree of latitude. This does not mean that the courts will tolerate or the Administration condone evasions or subterfuges; it does mean that if the essential element of good faith is present, it should ordinarily be possible to achieve legal compliance with a minimum of educational disruption, and through a plan designed to be responsive to the community's own local circumstances.

This matter of good faith is critical.

Thus the far-sighted local leaders who have demonstrated good faith by smoothing the path of compliance in their communities have helped lay the basis for judicial attitudes taking more fully into account the practical problems of compliance.

How the Supreme Court finally rules on the major issues it has not yet determined can have a crucial impact on the future of public education in the United States.

Traditionally, the Court has refrained from deciding Constitutional questions until it became necessary. This period of legal uncertainty has occasioned vigorous controversy over what the thrust of the law should be.

As a nation, we should create a climate in which these questions, when they finally are decided by the Court, can be decided in a framework most conducive to reasonable and realistic interpretation.

We should not provoke any court to push a Constitutional principle beyond its ultimate limit in order to compel compliance with the court's essential, but more modest, mandate. The best way to avoid this is for the nation to demonstrate that it does intend to carry out the full spirit of the Constitutional mandate.

POLICIES OF THE ADMINISTRATION

It will be the purpose of this Administration to carry out the law fully and fairly. And where problems exist that are beyond the mandate of legal requirements, it will be our purpose to seek solutions that are both realistic and appropriate.

I have instructed the Attorney General, the Secretary of Health, Education, and Welfare, and other appropriate officials of the Government to be guided by these basic principles and policies:

Principles of enforcement

Deliberate racial segregation of pupils by official action is unlawful, wherever it exists. In the words of the Supreme Court, it must be eliminated "root and branch"—and it must be eliminated at once.

Segregation of teachers must be eliminated. To this end, each school system in this nation, North and South, East and West, must move immediately, as the Supreme Court has ruled, toward a goal under which "in each school the ratio of White to Negro faculty members is substantially the same as it is throughout the system."

With respect to school facilities, school administrators throughout the nation, North and South, East and West, must move immediately, also in conformance with the Court's ruling, to assure that schools within individual school districts do not discriminate with respect to the quality of facilities or the quality of education delivered to the children within the district.

In devising local compliance plans, primary weights should be given to the considered judgment of local school boards—provided they act in good faith, and within Constitutional limits.

The neighborhood school will be deemed the most appropriate base for such a system.

Transportation of pupils beyond normal geographic school zones for the purpose of achieving racial balance will not be required.

Federal advice and assistance will be made available on request, but Federal officials should not go beyond the requirements of law in attempting to impose their own judgment on the local school district.

School boards will be encouraged to be flexible and creative in formulating plans that are educationally sound and that result in effective desegregation.

Racial imbalance in a school system may be partly de jure in origin, and partly de facto. In such case, it is appropriate to insist on remedy for the de jure portion, which is unlawful without insisting on a remedy for the lawful de facto portion.

De facto racial separation, resulting genuinely from housing patterns, exist in the South as well as the North; in neither area should this condition by itself be cause for Federal enforcement actions. De jure segre-

gation brought about by deliberate school-board gerrymandering exists in the North as the South; in both areas this must be remedied. In all respects, the law should be applied equally, North and South, East and West.

This is one nation. We are one people. I feel strongly that as Americans we must be done, now and for all future time, with the divisive notion that these problems are sectional.

Policies for progress

In those communities facing desegregation orders, the leaders of the communities will be encouraged to lead—not in defiance, but in smoothing the way of compliance. One clear lesson of experience is that local leadership is a fundamental factor in determining success or failure. Where leadership has been present, where it has been mobilized, where it has been effective, many districts have found that they could, after all, desegregate their schools successfully. Where local leadership has failed, the community has failed—and the schools and the children have borne the brunt of that failure.

We shall launch a concerted, sustained and honest effort to assemble and evaluate the lessons of experience: to determine what methods of school desegregation have worked, in what situations, and why—and also what has not worked. The Cabinet-level working group I recently appointed will have as one of its principal functions amassing just this sort of information and helping make it available to the communities in need of assistance.

We shall attempt to develop a far greater body of reliable data than now exists on the effects of various integration patterns on the learning process. Our effort must always be to preserve the educational benefit for the children.

We shall explore ways of sharing more broadly the burdens of social transition that have been laid disproportionately on the schools—ways, that is, of shifting to other public institutions a greater share of the task of undoing the effects of racial isolation.

We shall seek to develop and test a varied set of approaches to the problems associated with "de facto" segregation, North as well as South.

We shall intensify our efforts to ensure that the gifted child—the potential leader—is not stifled intellectually merely because he is black or brown or lives in a slum.

While raising the quality of education in all schools, we shall concentrate especially on racially-impacted schools, and particularly on equalizing those schools that are furthest behind.

Words often ring empty without deeds. In government, words can ring even emptier without dollars.

In order to give substance to these commitments, I shall ask Congress to divert \$500 million from my previous budget requests for other domestic programs for Fiscal 1971, to be put instead into programs for improving education in racially-impacted areas, North and South, and for assisting school districts in meeting special problems incident to court-ordered desegregation. For Fiscal 1972, I have ordered that \$1 billion be budgeted for the same purposes.

I am not content simply to see this money spent, and then to count the spending as the measurement of accomplishment. For much too long, national "commitments" have been measured by the number of Federal dollars spent rather than by more valid measures such as the quality of imagination displayed, the amount of private energy enlisted or, even more to the point, the results achieved.

If this \$1.5 billion accomplishes nothing, then the commitment will mean nothing.

If it enables us to break significant new ground, then the commitment will mean everything.

This I deeply believe:

Communities desegregating their schools face special needs—for classrooms, facilities, teachers, teacher training—and the nation should help meet those needs.

The nation also has a vital and special stake in upgrading education where de facto segregation persists—and where extra efforts are needed if the schools are to do their job. These schools, too, need extra money for teachers and facilities.

Beyond this, we need to press forward with innovative new ways of overcoming the effects of racial isolation and of making up for environmental deficiencies among the poor.

I have asked the Vice President's Cabinet Committee on School Desegregation, together with the Secretary of Health, Education and Welfare, to consult with experts in and out of government and prepare a set of recommended criteria for the allocation of these funds.

I have specified that these criteria should give special weight to four categories of need:

—The special needs of desegregating (or recently desegregated) districts for additional facilities, personnel and training required to get the new, unitary system successfully started.

—The special needs of racially-impacted schools where de facto segregation persists—and where immediate infusions of money can make a real difference in terms of educational effectiveness.

—The special needs of those districts that have the furthest to go to catch up educationally with the rest of the nation.

—The financing of innovative techniques for providing educationally sound inter-racial experiences for children in racially isolated schools.

This money—the \$500 million next year, and \$1 billion in Fiscal 1972—must come from other programs. Inevitably, it represents a further reordering of priorities on the domestic scene. It represents a heightened priority for making school desegregation work, and for helping the victims of racial isolation learn.

Nothing is more vital to the future of our nation than the education of its children; and at the heart of equal opportunity is equal educational opportunity. These funds will be an investment in both the quality and the equality of that opportunity.

This money is meant to provide help now, where help is needed now.

As we look to the longer-term future, it is vital that we concentrate more effort on understanding the process of learning—and improving the process of teaching. The educational needs we face cannot be met simply with more books, more classrooms and more teachers—however urgently these are needed now in schools that face shortages. We need more effective methods of teaching, and especially of teaching those children who are hardest to reach and most lacking in a home environment that encourages learning.

In my message on education reform earlier this month, I proposed creation of a National Institute of Education to conduct and to sponsor basic and applied educational research—with special emphasis on compensatory education for the disadvantaged, on the Right to Read, on experimental schools and on the use of television for educational purposes.

I repeat that proposal—and I ask that the Congress consider it a matter of high priority.

A FREE AND OPEN SOCIETY

The goal of this Administration is a free and open society. In saying this, I use the words "free" and "open" quite precisely.

Freedom has two essential elements: the right to choose, and the ability to choose. The right to move out of a mid-city slum, for example, means little without the means

of doing so. The right to apply for a good job means little without access to the skills that make it attainable. By the same token, those skills are of little use if arbitrary policies exclude the person who has them because of race or other distinction.

Similarly, an "open" society is one of open choices—and one in which the individual has the mobility to take advantage of those choices.

In speaking of "desegregation" or "integration," we often lose sight of what these mean within the context of a free, open, pluralistic society. We cannot be free, and at the same time be required to fit our lives into prescribed places on a racial grid—whether segregated or integrated, and whether by some mathematical formula or by automatic assignment. Neither can we be free, and at the same time be denied—because of race—the right to associate with our fellow-citizens on a basis of human equality.

An open society does not have to be homogeneous, or even fully integrated. There is room within it for many communities. Especially in a nation like America, it is natural that people with a common heritage retain special ties; it is natural and right that we have Italian or Irish or Negro or Norwegian neighborhoods; it is natural and right that members of those communities feel a sense of group identity and group pride. In terms of an open society, what matters is mobility: the right and the ability of each person to decide for himself where and how he wants to live, whether as part of the ethnic enclave or as part of the larger society—or, as many do, share the life of both.

We are richer for our cultural diversity; mobility is what allows us to enjoy it.

Economic, educational, social mobility—all these, too, are essential elements of the open society. When we speak of equal opportunity we mean just that: that each person should have an equal chance at the starting line, and an equal chance to go just as high and as far as his talents and energies will take him.

This Administration's programs for helping the poor, for equal opportunity, for expanded opportunity, all have taken a significantly changed direction from those of previous years—and those principles of a free and open society are the keys to the new direction.

Instead of making a man's decisions for him, we aim to give him both the right and ability to choose for himself—and the mobility to move upward. Instead of creating a permanent welfare class catered to by a permanent welfare bureaucracy, for example, my welfare reform proposal provides job training and a job requirement for all those able to work—and also a regular Family Assistance payment instead of the demeaning welfare handout.

By pressing hard for the "Philadelphia Plan," we have sought to crack the color bar in the construction unions—and thus to give black and other minority Americans both the right and the ability to choose jobs in the construction trades, among the highest paid in the nation.

We have inaugurated new Minority Business Enterprise programs—not only to help minority members get started in business themselves, but also, by developing more black and brown entrepreneurs, to demonstrate to young blacks, Mexican-Americans and others that they, too, can aspire to this same sort of upward economic mobility.

In our education programs, we have stressed the need for far greater diversity in offerings to match the diversity of individual needs—including more and better vocational and technical training, and a greater development of 2-year community colleges.

Such approaches have been based essentially on faith in the individual—knowing that he sometimes needs help, but believing that in the long run he usually knows what

is best for himself. Through them also runs a belief that education is the key that opens the door to personal progress.

As we strive to make our schools places of equal educational opportunity, we should keep our eye fixed on this goal: To achieve a set of conditions in which neither the laws nor the institutions supported by law any longer draw an invidious distinction based on race; and going one step further, we must seek to repair the human damage wrought by past segregation. We must give the minority child, that equal place at the starting line that his parents were denied—and the pride, the dignity, the self-respect, that are the birthright of a free American.

We can do no less and still be true to our conscience and our Constitution. I believe that most Americans today, whether North or South, accept this as their duty.

The issues involved in desegregating schools, reducing racial isolation and providing equal educational opportunity are not simple. Many of the questions are profound, the factors complex, the legitimate considerations in conflict, and the answers elusive. Our continuing search, therefore, must be not for the perfect set of answers, but for the most nearly perfect and the most constructive.

I am aware that there are many sincere Americans who believe deeply in instant solutions and who will say that my approach does not go far enough fast enough. They feel that the only way to bring about social justice is to integrate all schools now, everywhere, no matter what the cost in the disruption of education.

I am aware, too, that there are many equally sincere citizens—North and South, black and white—who believe that racial separation is right, and wish the clock of progress would stop or be turned back to 1953. They will be disappointed, too.

But the call for equal educational opportunity today is in the American tradition. From the outset of the nation, one of the great struggles in America has been to transform the system of education into one that truly provided equal opportunity for all. At first, the focus was on economic discrimination. The system of "free schools" and "pauper schools" persisted well into the 19th century.

Heated debates preceded the establishment of universal free public education—and even in such States as New York, New Jersey and Connecticut, the system is barely a century old.

Even today, inequities persist. Children in poor areas often are served by poor schools—and unlike the children of the wealthy, they cannot escape to private schools. But we have been narrowing the gap—providing more and better education in more of the public schools, and making higher education more widely available through free tuition, scholarships and loans.

In other areas, too, there were long struggles to eliminate discrimination that had nothing to do with race. Property and even religious qualifications for voting persisted well into the 19th century—and not until 1920 were women finally guaranteed the right to vote.

Now the focus is on race—and on the dismantling of all racial bars to equality of opportunity in the schools. As with the lowering of economic barriers, the pull of conscience and the pull of national self-interest both are in the same direction. A system that leaves any segment of its people poorly educated serves the nation badly; a system that educates all of its people well serves the nation well.

We have overcome many problems in our 190 years as a nation. We can overcome this problem. We have managed to extend opportunity in other areas. We can extend it in this area. Just as other rights have been secured, so too can these rights be secured—

and once again the nation will be better for having done so.

I am confident that we can preserve and improve our schools, carry out the mandate of our Constitution, and be true to our national conscience.

Mr. BYRD of West Virginia. Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13448) to authorize the exchange, upon terms fully protecting the public interest, of the lands and buildings now constituting the U.S. Public Health Service Hospital at New Orleans, La., for lands upon which a new U.S. Public Health Service hospital at New Orleans, La., may be located.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 59) to provide for the adjournment of the Senate from March 26, 1970, until March 31, 1970, with amendments, in which it requested the concurrence of the Senate.

The message further also announced that the House had passed a bill (H.R. 16612) to amend the District of Columbia Bail Agency Act to provide additional funds for the District of Columbia Bail Agency for fiscal year 1970, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, and it was signed by the President pro tempore.

HOUSE BILL REFERRED

The bill (H.R. 16612) to amend the District of Columbia Bail Agency Act to provide additional funds for the District of Columbia Bail Agency for fiscal year 1970, was read twice by its title and referred to the Committee on the District of Columbia.

ADJOURNMENT OF CONGRESS TO MARCH 31, 1970

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 59.

The PRESIDING OFFICER (Mr. CRANSTON). The Chair lays before the Senate the amendments of the House to Senate Concurrent Resolution 59, which the clerk will state.

The assistant legislative clerk read as follows:

Resolved, That the resolution from the Senate (S. Con. Res. 59) entitled "Concurrent resolution to provide for the adjournment of the Senate from March 26, 1970, until March 31, 1970", do pass with the following amendments: Line 4, strike out the period, and insert "; and that when the House adjourns on Thursday, March 26, 1970, it stand ad-

journed until 12 o'clock meridian, Tuesday, March 31, 1970."

Amend the title so as to read: "Concurrent resolution to provide for the adjournment of the Congress from March 26, 1970, until March 31, 1970."

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a question?

Mr. BAYH. I am glad to yield.

Mr. BYRD of West Virginia. Mr. President, has the morning business been concluded?

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

STATUS OF LEGISLATIVE PROPOSALS

Mr. MANSFIELD. Mr. President, on February 5, I reported to the Senate on actions taken by the bipartisan leadership of both the House and Senate to expedite legislative proposals deemed necessary before Congress could adjourn sine die.

At that time, I outlined goals as being early submission of the President's budget to Congress, an identification of new authorizations necessary for enactment prior to appropriations action, and an early submission of messages and legislative proposals on those authorization bills.

The leadership had been assured by chairman of the legislative committees that early hearings on those proposals would be scheduled and the measures brought to the floor of the Senate in a timely manner so as not to delay the appropriations process.

The chairman of the Committee on Appropriations in the House of Representatives, Mr. MAHON, announced on March 17 a schedule for reporting and floor consideration of all appropriations bills. If this schedule can be met, it is entirely feasible to reach an early adjournment this year.

For the information of the Senate, at the end of my remarks, I will place in the RECORD a table outlining the status of recommended 1971 budget items which require additional authorizing legislation.

It should be noted that some laws have been enacted; some acts are awaiting the President's signature; some measures have passed the Senate and are awaiting House action; others are on the Senate Calendar and will be acted on soon—in fact, one is the pending

business; and others are under active consideration in the appropriate legislative committees.

However, it should also be noted, Mr. President, that in at least five cases, legislative proposals have not yet been forwarded by the Executive. In order that Congress may act in a timely and thorough manner, it is necessary that these proposals be received at the earliest possible time.

I ask unanimous consent that appropriate tables be printed in the RECORD.

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

STATUS OF RECOMMENDED 1971 BUDGET ITEMS REQUIRING ADDITIONAL AUTHORIZING LEGISLATION AS OF MARCH 26, 1970

PUBLIC LAWS ENACTED

Mental Health—PL 91-211.
National Library of Medicine—PL 91-212.

ENROLLED LEGISLATIVE ACTS AWAITING PRESIDENT'S SIGNATURE

Bureau of Reclamation—S. 3427.
Office of Saline Water—HR 15700.

PASSED SENATE, AWAITING HOUSE ACTION

Food Stamp Program—S. 2547.
Metric System Study—S. 1287.
Child Nutrition Program—HR 515.
U.S. Travel Service—S. 1289.

BILLS ON SENATE CALENDAR

Elementary and Secondary Education—HR 514.
Medical Facilities Construction (Hill-Burton)—HR 11102.

MEASURES RECEIVED AND REFERRED TO COMMITTEE FOR ACTION

Aeronautical and Space Sciences Committee
National Aeronautics & Space Administration—S. 3374.

Armed Services Committee

Defense Procurement—S. 3367.
Military Construction—S. 3588.

Banking and Currency Committee

Housing and Urban Development Act of 1970—S. 3639.

Commerce Committee

Fire Research—HR 16538.
Coast Guard—S. 3473.
Bureau of Commercial Fisheries and Bureau of Sport Fisheries (Anadromous Fish Conservation)—HR 1049.
Maritime Administration—S. 3489.
Railroad High Speed Ground Transportation.

Foreign Relations Committee

Peace Corps—S. 3430.
Foreign Military Sales—S. 3429 & HR 15628.
Arms Control and Disarmament—S. 3544.
Interior and Insular Affairs Committee
Trust Territories of Pacific—S. 3479.
National Park Service, Historic Properties—S. 3029.

Judiciary Committee

Law Enforcement Assistance—S. 3451.
American Revolution Bicentennial Commission—HR 16408.
Civil Rights Commission—S. 2455.

Labor and Public Welfare Committee

Health Services, Comprehensive Health, Regional Medical Services—S. 3443.
National Foundation on Arts and Humanities—S. 3238.
National Science Foundation—S. 3412.

Social Rehabilitation Services

S. 2846—Developmental Disabilities Services and Facilities Construction.
S. 3277—Mental Retardation Services Act.

Public Works Committee

Air Pollution—S. 3466.

Environmental Control—S. 3469.

Joint Committee on Atomic Energy

Atomic Energy Commission—S. 3409.

LEGISLATIVE PROPOSALS NOT YET FORWARDED BY
THE EXECUTIVE

Agriculture and Forestry Committee

PL 480, Foreign Assistance.

Commerce Committee

Bureau of Standards Research on Flam-
mable Fabrics.

Foreign Relations Committee

Economic Assistance.

Labor and Public Welfare Committee

Health Manpower.

Public Works

Economic Development Administration

Federal Aid to Highways Biennial
Authorization Bill

Forest roads and trails.

BLM roads and trails.

Highway beautification.

Highway safety.

Forest highways.

Public Lands highways.

Highway trust funds.

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES

SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATION BILLS, MAR. 17, 1970

Bill	Report in full committee	Floor consideration ¹
Education	Thursday, Apr. 9	Week of Apr. 13.
Legislative	Friday, Apr. 10	Do.
Treasury-Post Office	do	Do.
Second supplemental, 1970	(c)	(c).
Independent offices-HUD	Thursday, May 7	Week of May 11.
Interior	Thursday, May 14	Week of May 18.
State-Justice-Commerce-Judiciary	Friday, May 15	Do.
District of Columbia	Thursday, May 21	Week of May 25.
Transportation	do	Do.
Agriculture	Late May	Late May.
Foreign operations	Monday, June 1	Week of June 1.
Defense	Wednesday, June 3	Week of June 8.
Public works	Thursday, June 4	Do.
Military construction	Monday, June 8	Do.
Labor-HEW-OEO	Thursday, June 11	Week of June 15.

¹ Exact floor dates to be worked out in cooperation with House leadership.

² Probably some time during period mid-April/mid-May.

MARYLAND DAY—1970

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maryland (Mr. MATHIAS), who is necessarily absent today, relating to Maryland Day, 1970.

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

STATEMENT BY SENATOR MATHIAS

Mr. President, during the past week, we in Maryland passed a significant milestone. On March 25th we commemorated the 336th anniversary of the founding of Maryland, the day that the first settlers arrived at St. Clement's Island at the end of their journey from England. Maryland is older than any other northern State save only Massachusetts. Marylanders share a history of the continuous exercise of the right of self-determination, of representative government, of freedom of religion and of many of the principles which today are considered keystones to the operation of a modern social and political system. We can very truly be proud of the tradition and of the heritage which we have been given by the early settlers who on March 25, 1634 first set foot in Maryland with the object of making it a good place to live.

But there is a high tax on this pride of pedigree. It is a tax that I think everyone of us should be happy to pay because it is a tax which merely demands that we do in our time and in our generation the very best that we can to equal and, if possible, to improve the quality of life that we have inherited. This means that Marylanders today have a high standard to match in meeting the kind of effort and the kind of principle which was established for our benefit 335 years ago. We have, I think, a tremendous record of progress. Maryland has grown from an original population of about 250 settlers to a State of more than four million, larger than many of the sovereign nations of the earth. We have wealth and technology and a variety of landscape and seascape.

We have the material ability to contribute to life on this planet, and we must have a correlative, a parallel desire, to use this bounty for the benefit of all mankind. Moreover, I think we must develop a great respect for the resources that were used first by the settlers who came to Maryland on the Ark and the Dove, and we must preserve the Chesapeake Bay as well as the mountains of Western Maryland from pollution and from despoilment. So, I think it's appropriate that on this Maryland Day of 1970, during the week in which we celebrate the anniversary of the settling of our State, that we remember the prayer which was offered on behalf of Maryland by the Very Reverend Francis Sayre, Dean of the National Cathedral in Washington:

"Blow, Lord, Thy clean winds upon the shores and shoals of Maryland.

Blow gentle breeze of blessing across the earth, atop her stalwart hills, and over the greening fields.

Blow, Holy Spirit, the freshness of liberty through the hearts of Thy people whose domain named for a queen, yet worships the King who is the Father of us all.

So may Thy children catch upon their hopes the breath of glory which Thou doth send to fill the spangled sky, the lofty sails of ships, and faithful lives of men.

Fulfill then, O God, the promise once borne upon the wings of a dove of a land of peace and companionship, and encourage enough ever to follow after Thee; through Jesus Christ Our Lord. Amen.

HOW TO DEAL WITH STUDENT
UNREST

Mr. FULBRIGHT. Mr. President, the warden of Wadham College, Oxford, developed an original method of dealing with student unrest.

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:

The Warden and Fellows of Wadham College, Oxford, in a letter to a group of students who had presented a list of non-negotiable demands:

Dear Gentlemen: We note your threat to take what you call "direct action" unless your demands are immediately met. We feel that it is only sporting to let you know that our governing body includes three experts in chemical warfare, two ex-commandos skilled with dynamite and torturing prisoners, four qualified marksmen in both small arms and rifles, two ex-artillerymen, one holder of the Victoria Cross, four karate experts, and a chaplain. The governing body has authorized me to tell you that we look forward with confidence to what you call a "confrontation," and I may say even with anticipation.

RECORDING INDUSTRY'S CULTURAL
AWARD TO WILLIS CONOVER

Mrs. SMITH of Maine. Mr. President, in these days of cynical pragmatism and pretentious expressions, rarely are we privileged to hear or read a truly moving statement. I heard such a statement on March 18, 1970.

It was elegant in its clarity and simplicity.

It was inspirational in its honesty and frankness.

It was admirable in its quiet and humble delivery.

It is truly rare and unforgettable.

It was the acceptance statement of Willis Conover of the Voice of America's "Music USA" on the Recording Industry Association's Cultural Award to him.

I have had much to do with the Voice of America and with the U.S. Information Agency, and nothing of their programs has impressed me as much as Mr. Conover's message. The American people are truly fortunate to have this man projecting not only our music but also our image to the people of the world.

I had never met Mr. Conover prior to hearing his message. But it was clearly evident that here was a rare person—a truly wise man in a world of too many "wise guys."

One of the greatest needs of our Nation today is more of his rare type to offset the "jet set" types and the "burn baby burn" types.

I envy and admire him. I only wish that I were capable of achieving such a message in such a manner as he did in his acceptance of the Cultural Award.

The Voice of America should have a prominent and repeated place for the Conover message.

One of the member companies of the Recording Industry Association should record the great value of the Conover message and acceptance statement and make a record of it in a manner similar to the Dirksen recordings.

It is too inspirational and reassuring not to be shared. For that reason, Mr. President, I ask unanimous consent that it be printed in the RECORD, for you cannot help catching its spirit when you read it.

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

REMARKS BY WILLIS CONOVER OF VOICE
OF AMERICA

When we were kids, we took for granted that the world we knew was the world every-

one knew. People had different names and different faces, but if our home was happy (or if it was unhappy) we assumed that was the way all other homes were. Remember? If we were Protestants, or Catholics, or Jews, we joined our gang in teasing or fighting kids of other faiths for being "different", but it didn't occur to us that the services in those other churches might be very different from what we knew. We would have howled at anyone who told us that in the Southern Hemisphere it's winter in June and summer in January.

We held on to whatever beliefs we could grasp in the chaos, wrong beliefs and right ones, because that was all we had, then, and—really, it seemed—all we ever would have: We would never become adults because adults were "grownups" and we were "kids" and how could you change that?

Then we approached the door into the adult world. And every door was different. Some of us were good talkers, and maybe a dedicated teacher urged us to go into the Debating Society, and we found we could convince and influence. We went through the door and became salesmen if money was what we wanted, or politicians if we wanted to change the way the world was run.

Some of us wrote poems, or drew copies of comic strip characters, or sang in an amateur show, and were praised by Mommy and Daddy (or weren't praised, which could be even more decisive) and found ourselves artists on the other side of the door. When I was fourteen I played the part of a radio announcer in a high school play, and afterwards everyone said, "You sounded just like a real radio announcer!", and I knew then exactly which door I was going to go through.

Well, things on this side of the door aren't always what we thought they'd be. But here we all are tonight: salesmen and executives, Congressmen and Senators and other government officials, and artists. (I am none of these unfortunately. The things I do are a step or two away from all of them.) It would appear that we are all different from each other. And of course we are. But there is one simple kind of difference that, paradoxically, unites us all. A congressman friend of mine once told me: "There are two kinds of congressmen: The kind who work to get in the headlines and the kind who work to accomplish something for their country." Some times, of course, the two overlap.

There are two kinds of performers. Those who want to be instant celebrities—famous because they're famous, guests on TV talk shows, names in the gossip columns, and best tables in night clubs—and those who are proud not of "who they are" but of what they do and how they do it.

Two kinds of salesmen, in the entertainment industries: those who push performers who want a paper-fire success, a big fast blaze and then out, and those who help the artists achieve a steady, enduring glow. In my own field, lacking (as I said) those other talents, I was forced by the circumstances to settle on a sort of secondary talent, that of editor, or interpreter, or sometimes catalyst. I believe I saw a difference here, too. The headline stuff, the quick spotlight, the fast buck never appealed to me. I'm simply unable to be one of the "Now" people: no past, no future, just the quantum jump into Now—and a closet full of last year's Nehru jackets.

But "It's what's happenin', baby"? Comic books and sex magazines outsell Saturday Review, Atlantic Monthly, and Harper's; but I'm not going to throw Shakespeare out of my library (either William or Frank) for Batman. Andy Warhol is what's happening; in my gallery, I hang Warhol only in effigy. Drugs are what's happening; crime is what's happening; rudeness; shoddy workmanship; pollution; noise. Adults are trying to imitate children. Whites are trying to imitate blacks. Officers are being Good Guys with enlisted men. And they're all being laughed at behind their backs.

Okay, so the flashy headline and the Now stuff makes a buck. And we need that too.

But when I talk about America to people overseas, when I broadcast American music, when I encourage performers, my subject is the thing you've done that you're most proud of. Whether or not it made the papers or the charts. Your unadvertised good works are what I advertise.

And so we share that difference. You can honor me this evening only because of the honorable things you do. I can't exist without them.

And neither can America.

ELECTRIC POWER AND THE ENVIRONMENT

Mr. MUSKIE. Mr. President, one example of the concern throughout the Nation for our environment has been the difficulties experienced by the electric utility industry in finding acceptable sites for their new generating plants and for transmission line rights-of-way. The Intergovernmental Power Coordination and Environmental Protection Act (S. 7242), which I introduced and which has been the subject of hearings in Washington, D.C. and in the field, would provide a rational means to resolve the conflict between two significant national objectives: adequate electric energy to meet the Nation's demands and the protection of the environment.

We cannot permit this problem to go unattended and unresolved. The likelihood of "brown-outs" this coming summer, similar to those experienced last summer and even during the periods of peak demand for electric energy during the winter, makes it evident that this problem cannot be ignored without risking drastic consequences.

The New York Times of Sunday, March 1, contained a perceptive article by Mr. Gene Smith entitled "Utilities Damned at Any Location." Mr. Smith has summed up the dilemma in a very few paragraphs. I ask unanimous consent that his article be printed in the RECORD in order that his analysis may be read by those concerned about this situation.

In his article, Mr. Smith refers to a speech made by Lee C. White, the former Chairman of the Federal Power Commission, setting forth a number of specific suggestions to be considered by utility executives in undertaking to meet this challenge. An editorial from Electrical World for February 23, 1970, a publication widely read in the electric utility industry, comments favorably on Mr. White's suggestions and commends them to the attention of utility executives throughout the country. I, too, believe that Mr. White's suggestions are worthy of examination and ask unanimous consent that the text of his speech, which contained the nine-point proposal, and the editorial from Electrical World also be printed in the RECORD.

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

[From the New York Times, Mar. 1, 1970]

UTILITIES DAMNED AT ANY LOCATION (By Gene Smith)

Like frustrated apartment seekers, electric utilities are having trouble these days finding a place to live.

Or, as the January issue of Resources, the

Magazine Inc., headlined a recent article: "Power—Yes; Power Plants—No."

The utilities have reached the point where they seemingly have no place to turn. Power demand doubles at a rate slightly faster than every 10 years but utilities are opposed by certain groups if they try to situate plants in cities, by others if they seek sites in the suburbs or wilderness areas and by still others if they try to locate near vital water supplies.

Several developments of recent weeks point up the problems of finding sites for power plants, whether nuclear, fossil-fueled (coal, oil or gas) or hydro:

The New York City Council has before it a proposed law regarding nuclear reactors. It reads in part: "No person, corporation, association, institution, college or university shall conduct an industry, occupation, business, profession, training program, demonstration or experiment, educational or otherwise, requiring the use of a nuclear reactor in the city."

Northeast Utilities announced last Wednesday that it might build a giant pumped-storage power plant at one of two sites in the Lower Berkshires on either side of the Connecticut-Massachusetts border. The utility asked governmental and citizens groups to participate in feasibility studies. Conservationists immediately indicated their opposition to any plants in the area.

Speakers at a recent briefing on a national energy policy suggested that maybe the time had come for electric utilities to slow down on their salesmanship "at least until we can catch up and develop power-supply technology that will minimize environmental concerns."

Federal Governmental officials have urged the creation of regional or national regulatory groups to pass on potential power-plant sites, and several states have already established such bodies with varying degrees of power.

Congressional leaders have called for a moratorium on all nuclear-plant construction, while the California Environmental Quality Study Council wants to give top priority to nuclear plants to eliminate future air pollution.

Obviously, the solution lies somewhere between these extremes, and the more progressive utility leaders recognize this. Lelan F. Sillin Jr., president and chief executive officer of Northeast Utilities, explained last week that he would use the same approach for future nuclear and fossil-fueled plants that he unveiled last Wednesday at Salisbury, Conn. He described it as an "open-planning concept" and acknowledged that it had such drawbacks as the possibility of escalating land values by disclosing well in advance exact sites for power projects.

Mr. Sillin said it was "quite apparent that we've got to improve the process for siting (power plants)." He added that in the past the lowest possible cost, which included straight-line routing of high voltage power lines, was the chief criterion.

"This is a step beyond the unilateral decision," he went on. "We are seeking a truly cooperative approach . . . one that will avoid the 'climate of crisis.'"

"It sort of seems to me that we've lost the art of communications. We intend to bend over backwards to establish a quality of credibility and hope we can do it this way rather than in a climate of polarized views." Mr. Sillin added.

The New York State Atomic and Space Development Authority expects to spend most of its time during the next 15 months finding sites for future nuclear-power plants. Under the state's electric-power program, the Authority is authorized to select and acquire sites and to make them available as needed to electric-power generating organizations through leases or other contractual agreements.

CONSIDERATION INVOLVED

James G. Cline, general manager, indicated that the key criteria would take into consideration thermal effects, nuclear safeguards, power growth and grid needs, esthetics and actual land usage, including how best to integrate facilities into the environment.

He explained his group realized that there were "certain places where power plants belong, just as there are certain places where they don't belong." He emphasized that all alternative sites would be considered in the process of eliminating for the best locations.

Governor Rockefeller has proposed additional legislation aimed at establishing "a procedure for resolving questions relating to the location of major utility facilities without undue delay."

LUCÉ URGES REVISION

Charles F. Luce, chairman and chief executive officer of the Consolidated Edison Company, has called for a complete revision of state laws on the licensing of power plants and transmission lines. He has repeatedly urged the creation of one single regulatory agency that would make engineering, economic and environment decisions in consultation with state and local agencies interested in the outcome of licensing procedures.

Maryland has threatened a moratorium on nuclear plants if the Federal Government doesn't institute a crash program to study potential hazards.

Oregon and Washington have established advisory and coordinating committees aimed at the control of power-plant sites.

Senator Edmund S. Muskie, Democrat of Maine, has introduced a bill that calls for resolving power-plant siting on a regional level and providing a means for coordinating Federal, state and local group responsibilities for all the maintenance of reliable power supplies. Mr. Luce indicated he felt this would only add another level of regulation to the already over-crowded procedures.

Lee C. White, former chairman of the Federal Power Commission, recently outlined a nine-point plan for utilities faced with growing environmental problems. Chief among his points were:

Break away from the traditional approach of keeping long-range plans supersecret.

Give the earliest possible advice on plans to all state and local agencies that might have a hand in planning.

Consider for nomination to boards of directors persons identified with the conservation movement.

Name a company official responsible for environmental matters.

"Come very quickly to grips with the environmental crisis that faces you . . . The question is getting a little more attention in Congress these days, but I do not believe that, if I were managing a utility, I would wait for that particular salvation," Mr. White concluded.

REMARKS BY LEE C. WHITE, SEMER, WHITE & JACOBSEN, BEFORE THE ANNUAL MEETING OF THE MISSOURI BASIN SYSTEMS GROUP, DENVER, COLO., FEBRUARY 4, 1970

Every competent, or even semi-competent, speech writer has an all purpose speech entitled "The ——— Industry is at the Crossroads." Today the electric utilities industry—and that term includes every segment of the industry—is truly facing a future unrecognizable in terms of the past and even the present. I am not as close today as I was 6 months ago to the specifics of the problems facing the industry, and I can't even claim that my remoteness has necessarily given me new breadth or better perspective, but this has never deterred me in the past from expressing my views; and, having come this

far, it is difficult for me to conceive of any force that could prevent me from expressing them now.

Not necessarily in the order of importance, I see the following problem areas and would like to discuss each of them in turn: financing and rates; the need for greater coordinated planning and operations; the commitment to nuclear energy; the need for greater research efforts; and the environmental crisis.

Financing and Rates.—The electric utility industry, which is already the nation's number one industry in capital investment, at somewhere near \$100 billion, is estimated to require an additional capital investment of \$350 billion by 1990, and this is occurring at a time when interest rates on utility bonds are between 8½ and 9 percent. An industry that prided itself on the fact that while the cost of living was rising steadily, rates for electricity were relatively constant and, if anything, had experienced a decline, is apparently moving into an era of sharply rising rates. I am no longer faced with the problem of determining what rates should be allowed, but I have considerable sympathy for those who must. The nation's regulatory bodies are now staring at hundreds of millions of dollars in proposed rate increases. Their obligation—to fix fair rates which will enable the utilities to secure the necessary funds to finance their required expansion and yet at the lowest cost to the consumer consistent with that requirement—is indeed a monumental assignment, and especially difficult will it be to perform the task reasonably and without undue delay. I hope that the individual states will provide adequate funds for staffing their regulatory bodies and that they will attract to those commissions men of vision, experience, and competence to protect the public interest. At this point, let me indicate my enthusiastic support for the action of Governor Rockefeller of New York in designating my predecessor at the Federal Power Commission to be Chairman of the New York Public Service Commission—simultaneously I should express my great pleasure that Mr. Swidler accepted the assignment. As opportunities to fill their important positions occur, I hope the appointing authorities will find the best possible candidates, especially at this time when the responsibilities are greater than ever before and where the tasks are probably more difficult than ever before.

An even more complicated aspect of rate making has begun to attract attention, and this is the structuring of rates. It has been suggested that rates should be tailored to assist the economically disadvantaged, not only because of their need to have vital utilities service, but perhaps because they are bearing an inordinate share of the rate burden, in that a greater investment in facilities is required to serve suburban areas than the more densely settled inner city. It also has been noted recently that, if we are approaching a period in our national life when there will not be sufficient energy to meet all demands, it may make sense to conserve energy by reversing the normal pattern and charging higher rates for that amount of energy used over the minimum required for the most essential services. This is not the time and place to discuss these problems in detail—and, frankly, I don't know what the answers are, but suffice it to say that this is the type of issue that must be identified and resolved by those with regulatory responsibilities.

The Need for Greater Coordinated Planning and Operations.—Improved coordination in planning and operations by electric utilities is just about universally accepted as a laudable objective; but, quite candidly, we have had a little difficulty in getting from here to there. In some sections of the coun-

try, for example the Pacific Northwest, considerable progress has been made toward this end. Elsewhere, problems such as the tensions that have existed between different forms of ownership have impeded efforts to achieve that level of cooperation that is essential to a nation that is heavily dependent upon electric energy. In my view, one of the outstanding contributions of the Federal Power Commission during the 1960's was to get the various segments of the electric utility industry to focus on their common needs and problems and to put aside the natural rivalries and tensions that have existed between the different forms of ownership through the decades. Unfortunately, this has not been uniform throughout the country. As you know better than I, in the upper Midwest there have been some severe problems in achieving the accord and understanding that is essential to the mutual strength of all of the systems serving all of the people of the area. Electrons do not run around wearing little tags saying "produced by investor-owned utility" or "produced by a cooperatively-owned utility" or "produced by a municipally-owned system." While serving in the government I recommended legislation which would have required regional coordinating councils and authorized the FPC to approve the method of operating them. This recommendation was made with full recognition of the fact that it is difficult to legislate cooperation. I hope the fact Congress has not acted on that recommendation will not encourage utilities to hang back, but rather will serve as a prod to achieving the required level of coordination on a voluntary basis. I hope, too, that the developing regional councils will respond affirmatively to the FPC's very courteous "request" in its revised order on voluntary interconnection and coordination by power systems to permit participation by FPC and state regulatory commission staff on a non-voting basis "in their principal meetings, and upon occasion, as may be requested by the Commission's Chief, Bureau of Power, in important technical meetings."

I do not hold to the view expressed by some that the inevitable solution to the bulk power supply problem is the establishment of only 12 or 15 bulk supply corporations operating in the United States. This is certainly an approach, but there are other appropriate and legitimate methods, and none is more promising than true regional coordination.

The Commitment to Nuclear Energy.—There is, of course, something stimulating about people in a technical industry operating in the outer reaches of technology. Undoubtedly, some electric utilities have committed themselves to nuclear energy plants only for the prestige associated with the new technology. Those whose operations and locations (that is nearness to conventional fossil fuels) permit have apparently hedged their bets by ordering conventional facilities at the same time they are sticking their toes in the nuclear bathtub. The remarkable delays in getting nuclear units on the line (particularly the very large units); the increase in cost per installed kilowatt of capacity over the quoted prices of only a few years ago; the continuing concern about both thermal pollution and potential radioactive emissions have all conspired to slow down the pellmell rush for nuclear contracts that existed in 1967 and 1968. Recent announcements of new contracts indicate that there has been a slight quickening of the pace that nuclear is creeping back up from a very difficult 1969. The Atomic Industrial Forum predicted last week that there would be a 50 percent increase in nuclear plant orders in 1970 over 1969. I do not advocate the barring of nuclear plants or a slow-

down by the industry in the purchasing of such plants, but certainly any utility management has the greatest obligation to satisfy itself that the decision to go nuclear not be made without the most exhaustive assessment of both the benefits and the disadvantages of such a course.

The Need for Greater Research Efforts.—It has become standard fare for the people in government to criticize the electric utility industry for the relatively meager contribution it has made in research and development. In my view, the reason is quite evident: Simply stated, the criticism is valid.

The FPC recently released its compilation of Statistics for Privately Owned Electric Utilities in the United States for 1968. It reveals that the approximately 200 investor-owned utilities spent less than \$39 million, or about 2/10 of 1 percent of revenues, on research and development in 1968 either directly by the utility or in support of outside organizations. In the same year, expenses for advertising and other sales expenses were over \$273 million. I do not have comparable figures for the municipally and cooperatively-owned systems, but I doubt that they would look much better.

The unwillingness of the industry to finance an experimental magneto hydrodynamics (MHD) plant is, in my view, inexcusable. It has always mystified me that, as important and as financially strong as the electric utility industry is, it had left so much of the research and development to the manufacturers of electrical equipment. Basic human behavior would suggest that the organization performing the research will resolve any differences or questions of emphasis in favor of its own needs, not someone else's. The Federal Power Commission has sought to encourage research by utilities; its most recent action being a rule proposed last week which would permit expenditures for research not only to be an operating expense, but a part of the utility's rate base. Although the objective is certainly commendable, I personally have a little trouble with the concept of including the research and development expenses as part of the rate base. However, I am confident the matter will be thoroughly argued before the Commission before it reaches a decision on the question.

The point, rather simply, is that the consuming public has the right to expect a greater research effort by the industry, especially in the light of the environmental problems it faces.

The Environmental Crisis.—Undeniably, the major problem facing electric utilities throughout the country is the sharply increased concern about the environment. This problem, which manifested itself a few years ago in sporadic outbursts, has now risen to the point where it is designated by President Nixon as perhaps the most important domestic problem facing the nation.

Although a whole host of us lesser lights may get a little charge out of digging copies of our own brilliant analyses of these problems out of our files and can point with pride to our vision of years ago, the significant factor is that today there is legitimate and vigorous competition among our top political leaders for preeminence in the field of preserving and protecting our environment. This, as I see it, is all to the good.

What it means, however, is that the problems associated with selecting generating sites and transmission line rights of way constitute one very prominent, visible, and definable chunk of the total environmental problem. Because of its character, this particular chunk will certainly continue to have a great deal of attention focused on it.

Prior to leaving the Federal Power Commission, I predicted that within 2 years—that is by May 1971—the utility industry

would be asking Washington for assistance to help it cut through the growing stalemate between those who have the responsibility to meet the steadily increasing power needs of the nation and those who are deeply concerned about the impact of such industrial growth on the environment. I have a hunch that that particular prediction will prove to be a little better than the political predictions I have been making during the past few years.

In any event, it is worth noting that Mr. Charles Luce, Chairman of the Board of the Consolidated Edison Company of New York, in a speech to the Association of the Bar of the City of New York a couple of months ago, expressed the view that the State of New York should adopt legislation vesting in one state agency the authority to cut through the complex of issues that is preventing Con Ed from constructing the facilities necessary to meet its projected load growth. I do not know that I favor individual state legislation, but certainly the situation cannot continue as it has without a very severe danger that we will find ourselves without adequate power.

It is perfectly evident that the dialogue between the environmentalists and utilities is beginning to shift. The utilities are no longer being asked, "why don't you locate your plant in a site other than the one that you have selected?" The question being asked today is, "can you justify the construction of an additional plant anywhere?" In short, the public is beginning to challenge the basic assumption upon which the electric utilities have operated in the past 85 years, namely, that not only must the utility meet every request for power, but it was appropriate and desirable for it to promote increased consumption of electric energy. Today there are a very few voices in the wilderness questioning this basic precept. Tomorrow there will be additional voices, and the day after that, a veritable chorus.

Realistically, we will continue to increase our consumption of electricity in the United States, and those of you who bear the responsibility for seeing to it that there is an adequate supply must, in my view, very quickly come to grips with the environmental crisis that faces you. The problems generally are more intense in the congested areas along the eastern and western seacoasts; but, if the problem has not come to your system yet, you can take bets on its doing so and you can also predict that it will come faster than perhaps you wanted it to. The point is that time is exceedingly short, and I would strongly encourage each of the systems, individually and on a joint basis, to analyze these problems and begin to provide workable solutions.

Let me offer for your consideration, in a very sketchy way, some approaches that occur to me to hold some hope. As I have indicated, I would tread the legislative path. The question is getting a little bit more attention in Congress these days, but I do not believe that, if I were managing a utility, I would wait for that particular salvation. I offer you the following suggestions:

1. Break away from the traditional approach of keeping long-range plans for construction of generating and transmission facilities super secret—even though controversy will be engendered by revealing them, recent experience indicates there is just as much controversy if you reveal your plans the day before construction is to commence.

2. Recognize the legitimacy of the people's concern for and interest in our environment—certainly there are some environmentalists and conservationists who are so extreme in their positions that accommodation with those positions is impossible, but that is not to suggest that the great bulk of concerned people do not appreciate the need to develop acceptable accommodations between

the need for power and the negative environmental by-products.

3. Encourage the various societies, associations, and organizations in your service area who are concerned with environmental matters to come together in a voluntary grouping so that your engineers and design people can work with them on an early and constructive basis—you may even find their contribution to be helpful and they may afford protection against spontaneous and less qualified critics.

4. Provide formal recognition of your concern for the environment by designating an assistant manager or a vice president for environmental matters—this not only will indicate organization concern, but will serve to channel injuries and advice to the appropriate office.

5. Additional recognition can come through appointment to your Board of Directors of local or national personalities identified with the conservation movement—their knowledge, understanding and familiarity with issues and people can be a positive force in the decision-making process.

6. Develop working relationships with those elements of universities in your service area devoted to environmental matters—where such disciplines are already established, you can use the benefits of their research and knowledge of local factors, and where they do not exist or are weak, try to help them achieve the capability of providing the soundest analytical foundation for decision-makers.

7. Give the earliest possible advice on system plans to all appropriate state and local agencies, including zoning authorities, pollution abatement agencies, regulatory bodies, aesthetic, historical, and scenic preservation agencies, as well as governors, mayors, county commissioners and other elected officials—they will increasingly feel the intense interest (and even heat) from the public and are entitled to be fully and promptly informed.

8. Examine your research budgets to see whether a greater effort is possible, particularly in such environment-protecting fields as more economical undergrounding of transmission lines, treatment of fuels before use, removal of pollutants after combustion—technological progress got us into some of these difficult environmental problems; we should be able to use some of our creativity and ingenuity to resolve those problems.

9. Publicize in every legitimate way actions taken by your system that demonstrate your sensitivity to the environmental problems—to the extent the electric utility industry intensifies its efforts to meet these challenges and so advises the consuming public, it will receive improved understanding and acceptance.

Conclusion.—Earlier I referred to the rivalries and tensions that have continued to exist between the various segments of the electric utility industry. In a very real sense I can see some progress being made in improved cooperation between the segments of the industry—I only wish that it were uniformly good across the country. It occurs to me, however, that one highly legitimate form of competition between the consumer-owned segments of the industry and the investor-owned utilities might be a contest to see which major group can first develop the means of responding to the nation's heightened interest in the environment and indeed some of the other problems that have been discussed today. The temptation to an old government employee such as myself to preach is very nearly irresistible. Thus, I would like to conclude with one observation that will be at least controversial and probably offensive: Utilities that are owned by their customers tend to believe that their hearts and their deeds must, because of that

fact, be pure—may I respectfully suggest that this is not necessarily true. As managers with the responsibility to meet all the legitimate needs of your customers who also happen to own your systems, you have a special duty and opportunity to provide leadership for the great industry of which you are a significant part.

[From *Electrical World*, Feb. 23, 1970]

NINE SUGGESTIONS FROM AN OLD PRO

Rarely less than forthright in speaking his mind on utility industry issues when he was chairman of the Federal Power Commission, Lee C. White appears no less candid in his present role as private citizen. We found real wisdom in nine suggestions he offered utility management earlier this month for coping with the environmental crisis, in an address before a utility group in Denver. These were his suggestions:

1. Break away from the traditional approach of keeping long-rang plans for construction of generating and transmission facilities supersecret—even though controversy will be engendered by revealing them. There is just as much controversy if you reveal them the day before construction begins.
2. Recognize the legitimacy of the people's concern for and interest in our environment. Certainly some environmentalists are extreme in their positions, but the great bulk of concerned people appreciate the need to develop acceptable accommodations between the need for power and the negative environmental byproducts.
3. Encourage the various societies, associations, and organizations in your service area who are concerned with environmental matters to come together in a voluntary grouping so that your engineers and design people can work with them on an early and constructive basis.
4. Provide formal recognition of your concern for the environment by designating an assistant manager or vice president for environmental matters. This will indicate organizational concern, and channel inquiries and advice to the appropriate office.
5. Additional recognition can come through appointment to your board of directors of local or national personalities identified with the conservation movement. Their knowledge, understanding, and familiarity with issues and people can be a positive force in the decision-making process.
6. Develop working relationships with those elements of universities in your area devoted to environmental matters. Where such disciplines are already established you can use the benefits of their research—and where they are weak try to help them achieve capability.
7. Give the earliest possible advice on system plans to all appropriate state and local agencies, including zoning authorities, pollution-abatement agencies, regulatory bodies, and aesthetic, historical, and scenic-preservation agencies, as well as governors, mayors, and county commissioners. They feel the intense interest (even heat) from the public, and are entitled to be fully and promptly informed.
8. Examine your research budgets to see whether a greater effort is possible, particularly in such environment-protecting fields as more economical undergrounding of transmission lines, treatment of fuels before use, removal of pollutants after combustion. Technological progress got us into some of these difficult environmental problems; we should be able to use some of our creativity and ingenuity to resolve them.
9. Publicize in every legitimate way actions that demonstrate your sensitivity to environmental problems. To the extent that the electric utility industry intensifies its efforts to meet these challenges and so ad-

vises the consuming public, it will receive improved understanding and acceptance.

For those who must bear the responsibility for seeing to it that there is an adequate supply of electricity in the United States, White had one more bit of advice:

"Come very quickly to grips with the environmental crisis that faces you . . . The question is getting a little more attention in Congress these days, but I do not believe that, if I were managing a utility, I would wait for that particular salvation."

This is very sound counsel.

MICHIGAN MARINE WINS NAVY CROSS

Mr. GRIFFIN. Mr. President, today I received word from the Department of the Navy that the Nation's second highest award for valor, the Navy Cross, will be presented to a young Marine from Michigan.

He is Pfc. Timothy S. Guarino, son of Mr. and Mrs. Tony Guarino, of 311 Richter Street, River Rouge, Mich.

I have been informed that Timothy Guarino, now returned to civilian life, will be decorated with the Navy Cross at appropriate ceremonies early next month in his hometown.

I ask unanimous consent that the citation which will accompany the award be printed in the RECORD.

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

THE SECRETARY OF THE NAVY,
Washington, D.C.

The President of the United States takes pleasure in presenting the Navy Cross to Private First Class Timothy S. Guarino, United States Marine Corps for service as set forth in the following

CITATION

For extraordinary heroism while serving as a Machine Gun Ammunition Man with Company G, Second Battalion, Ninth Marines, Third Marine Division in the Republic of Vietnam on 1 June 1969. Company G came under a vicious ground attack by a determined hostile force utilized satchel charges, automatic weapons fire and rocket-propelled grenades. While resolutely defending his position in a sector of the perimeter which had been penetrated by the enemy, Private First Class Guarino observed a wounded companion fall in a position dangerously exposed to the enemy advance. Completely disregarding his own safety, he fearlessly crossed the fire-swept area and carried his injured comrade to a place where medical aid was available. As he was assisting in treating the casualty, an enemy hand grenade landed beside the corpsman and the wounded Marine. Fully aware of the possible consequences of his actions and thinking only of the safety of his companion, Private First Class Guarino unhesitatingly knocked the corpsman to the ground beside the wounded Marine and valiantly threw himself over their bodies thus absorbing the full force of the grenade's detonation and sustaining extensive wounds. His heroic and bold efforts inspired all who observed him and saved the lives of two comrades. By his courage, selfless concern for his fellowman and unwavering devotion to duty in the face of grave personal danger Private First Class Guarino upheld the highest traditions of the Marine Corps and the United States Naval Service.

For the President,

/s/ JOHN H. CHAFEE,
Secretary of the Navy.

QUESTIONS ABOUT THE PRESIDENT'S EDUCATION PROPOSALS

Mr. HARRIS. Mr. President, the recent announcement by President Nixon relating to the Higher Education Opportunity Act of 1970 has prompted certain questions from school administrators and concerned citizens.

If the President's proposal were adopted, it appears that many of the objectives and desirable features of the national defense loan program would be killed. As I understand the President's proposal, there would no longer be any direct Federal loans and no longer would subsidies on interest for guaranteed loans be available to students.

While I would be the first to agree that we can improve our present efforts in providing an opportunity for all qualified students to pursue fully their educational desires, I have serious reservations about the President's proposal.

Mr. Elton G. Davis, director of financial aid at the University of Oklahoma, has agreed with the President's stated objective of making more loans available to students from low-income families, but has expressed concern that the President's proposal by creating more new programs may in fact end up being wasteful. Mr. Davis asked:

How can the government talk of a new program and ask support for new ideas, when they can't support the programs we have already established?

Comments made by Mr. Davis appear in the *Oklahoma Journal* of March 22, 1970. Since they reflect some of the questions being raised by the President's proposal, I think the column will be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

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

[From the *Oklahoma Journal*, Mar. 22, 1970]

OU OFFICIAL RAPS NIXON'S LOAN PLANS

(By Richard Boggs)

NORMAN.—President Nixon could help more needy students by directing educational assistance money into existing programs than by spending thousands creating new agencies, a University of Oklahoma student loan official said Saturday.

Elton G. Davis, OU director of financial aid, agreed with Nixon's recommendation to trim the fat and make loans more readily available to lower income families. But he added it would be a waste to establish new programs for this purpose.

"There is a heck of a cost involved in setting up the machinery for a loan program," said Davis.

"If he wants to set up a federal bank and spend all this money, fine. But by putting that money in established programs, a lot more kids could go to school.

"Dropping the limit from \$15,000 to \$10,000 would strap a lot of people," he said. "If the president wants to give those people from families of \$7,500 the same chance to go to college as kids from \$10,000 well and good.

"The irony is that generally the people who get our loans, some 75 per cent or more, are from families of less than \$7,500 already. Some of them are as low as \$3,000."

He said the maximum allowable on other federal programs, including the National Defense Loan program, is already \$9,000 annual

income and only \$6,000 if his wife does not work and there are no children.

"As for the bank loans in which the government pays all of the interest," he said, "some families making \$20,000 can qualify. The criteria is based on the adjusted gross income."

"Some families with \$20,000 income, heavily in debt or with a large number of children, are not in as good of shape for dishing out college money as other families with incomes less than \$10,000 per year."

"There is far more participation from banks in rural areas than in the metropolitan area," he said. "They know the people and know they will be customers when they get out."

Last year, the University of Oklahoma processed 1,432 applications for the guaranteed bank loans. Slightly more than half were approved by banks. Records showed confirmation of only 762 loans under the program.

The state Board of Regents for Higher Education showed 6,149 loans for all public and private schools in the state and for all Oklahoma students attending accredited out of state schools.

"They don't like to advertise it (the loan program) because they don't want the business," said Dr. E. T. Dunlap, the regents monitor for the program.

"In the three-year history of the programs, the regents have underwritten 13,125 loans totaling \$10,270,165.51."

Asked about the Oklahoma City banks, Davis said, "They are not too strong, not too strong. That's all I can say, they are not giving the program the support they should."

"I don't blame them for wanting a profit, they're in business to make money," he said.

"I think they should do this for the people of their community. Students will remember their bankers when they get their degree."

One Oklahoma City banker said they would not take his bank off the list of institutions making such loans.

Davis said all five Norman banks had given good support to the program and set an example of civic responsibility.

"There are a lot of other communities, mostly rural, which have supported the program," he said.

He said many students who didn't really need the money to go to school had applied and in some cases been granted loans.

"Some students borrow the money under the program, let the government pay the interest while they are in school and let daddy earn interest with it," he said. "The government should pinch up a little on that. There's far too much of it."

"We figure it takes an average of \$1,500 to go to OU for a year and we've been able to help every student that has applied to this office and who reflects a need whether with a loan or work or a scholarship," he said. "We try to keep the student from getting \$1,000 per year loan and building a huge debt."

"First of all, we want them to come to school with money from their summer work, and if he's willing to work when he gets here, we can put him on work study," he said. In that program a student works a maximum of 15 hours per week for tuition assistance.

"If he earns \$700 that way, that leaves \$800 and we can get qualified students an educational opportunity grant of half that and a loan for the balance," he said. "Even if we can't get the student qualified for the grant, a loan of \$800 per year is something he can live with and is much better than \$1,000 or \$1,500."

"How can the government talk of a new program and ask support for new ideas," Davis asked, "when they can't support the programs we have already established?"

He said most programs will face budget cutbacks in September.

"It's the third year in a row we've cut back on the National Defense loans," he said. "A lot of students will have to drop out of school, others won't get in."

THE CHICAGO BELARUSSIAN AMERICANS

Mr. SMITH of Illinois. Mr. President, we in the United States are indeed fortunate to be a nation of many peoples. Our national heritage is a tapestry woven from the riches of all of the cultures of the world.

My own State of Illinois is especially fortunate to have within her borders citizens who strive to preserve their cultural backgrounds and honor the homelands of their fathers.

Yesterday the Americans of Bielarussian descent celebrated the 52d anniversary of the Declaration of Independence of Bielarus. These fine Americans, enjoying the freedoms of this country, have not forgotten, and will not forget, the plight of their brothers enslaved behind the Iron Curtain.

Last year at this time, the Chicago Bielarussian Americans endorsed a resolution reaffirming their belief in the American democratic principles and requesting the assistance of the United States and the United Nations in assuring the return of liberty to the captive people of Bielarus.

Mr. President, I ask unanimous consent that the resolution of the Chicago Bielarussian Americans be printed in the RECORD.

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

A RESOLUTION BY THE CHICAGO BELARUSSIAN AMERICANS

We, Americans of Bielarussian descent, who have gathered this 29th day of March 1969, A.D., at 6:30 p.m., at the Bielarussian Cultural Center located at 3107 West Pullerton Avenue, Chicago, Illinois, to commemorate the Fifty-first anniversary of the Declaration of Independence of Bielarus (Byelorussia), do solemnly affirm and reiterate our position of previous years as follows:

Whereas, the people of Bielarus (Bielarussia), one of the first victims of the Russian Communist aggression, which two years ago marked fifty years of existence of their imperialistic and colonial state, have been forcibly deprived of their national sovereignty, their religious, political, cultural, and economic liberty, and are still subjected to inhuman policy of oppression, terror, mass deportation, Russification, economic slavery and colonial exploitation; and

Whereas, the Bielarussian people are strongly opposed to foreign domination and are determined to restore their freedom and sovereignty which they had rightly enjoyed for many centuries in the past; and

Whereas, with the attention of the world focused on the new African and Asian nations which were liberated from colonialism with the aid of the United Nations and have joined the community of free and independent states, the plight of the Bielarussian and other non-Russian nations enslaved in the U.S.S.R. have been neglected; and

Whereas, the present government of the Bielarussian S.S.R. and its United Nations delegation, who are not democratically constituted representatives of the Bielarussian nation but only the executors of the will of the Russian colonial administration, will not

and cannot, therefore, protect and defend the Bielarussian people; therefore be it

Resolved, that this Commemorative Assembly of the Fifty-First Anniversary of the Declaration of Independence of Bielarus appeal to the President, the Secretary of State, and members of the Congress of the United States of America with the request to do everything possible that the liberation of Bielarus and other countries subjugated by Communist Russia be included in the program of the American foreign policy; and be it further

Resolved, that the Government of the United States of America take appropriate steps through the United Nations and other channels to stop the Soviet Russia's policy of colonialism in Eastern Europe and force the Russians to pull out their armed forces from non-Russian lands and to institute free elections in Bielarus under the supervision of the United Nations, as it was already proposed in the resolution in the Senate of the United States by the Senator from Illinois, Everett M. Dirksen, on January 22, 1965; and be it further

Resolved, that we, Americans of Bielarussian origin and descent, reaffirm our adherence to the American democratic principles of government and pledge our support to our President and our Congress in their firm stand against the Communist aggression in Vietnam and in their efforts to achieve a lasting peace in the world, with freedom and justice; and be it further

Resolved, that the Bielarussians in the Free World, together with Americans of Bielarussian descent, are the sole and rightful spokesmen for the Bielarussian freedom cause and should be consulted in all matters regarding Bielarus; and be it further

Resolved, that the best name in English for the country of our ancestry is Bielarus and the adjective Bielarussian and that such terminology should be promoted along with the name Byelorussia, which is greatly disliked by all Bielarussian people everywhere.

BETTER CHOICES FOR NOMINATION TO THE SUPREME COURT

Mr. BAYH. Mr. President, during the debate on the nomination of Judge G. Harrold Carswell to the Supreme Court, I have, on numerous occasions, suggested that my opposition to the nominee is not based on the fact that he would be a "strict constructionist," but on other considerations. After a study of Judge Carswell's record and after listening to the testimony before the Committee on the Judiciary, I became convinced that Judge Carswell lacked the qualifications to sit on our Highest Court. At that time and on several subsequent occasions I said that there are numerous outstanding men and women the President might appoint who, while strict constructionists, have established records of judicial competence and professional distinction.

The current issue of Life magazine contains an article naming nine distinguished attorneys and judges who, the editors feel, would be better choices for nomination to the U.S. Supreme Court than Judge Carswell. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

DOES NIXON HAVE TO STAFF THE COURT WITH CARSWELLS?

Underlying the Senate's debate on the Supreme Court nomination of G. Harrold Carswell was a nagging question, is this the

best the U.S. can do? Richard Nixon's choice of Carswell was by no means a casual one. Unlike his predecessors, who frequently elevated cronies to the High Court, Nixon said he considers only nominees who are personally not close to him and have previous judicial experience. He also had another unproclaimed but plain, purpose: to pick a Southern conservative. The Nixonian approach (above) apparently involves painstaking examination of the nominee's mind, health and political bona fides, and finally the cosmetic touches which produce the Complete Associate Justice. It should work as well as any other. But has it? Even those who accept the proposition that a President has as much right to choose a "strict constructionist" as to fill a "Jewish seat" have been moved to wonder whether it ought not be possible to find someone with more positive qualities and credentials than Carswell. So LIFE asked a number of prominent judges, legal scholars and bar officials what they thought. Nine alternative candidates for the Court whom they often mentioned, or highly praised, follow:

HERE ARE NINE BETTER CANDIDATES

The jurists pictured here do not represent an attempt to make book on the particular individuals President Nixon will appoint to the Court. But most of them are the kind of people the President could feel comfortable in picking, if he widened his field of choice beyond narrowly geographic or partisan considerations. The list excludes men closely identified with Democratic administrations, such as Ramsey Clark and ex-Solicitor General Archibald Cox.

One of Nixon's criteria—that the Court needs to be balanced with appointees who are "strict constructionists"—need not disqualify all liberals. There are many judges who favor liberal social legislation and nonetheless have strong reservations about legislating by court decision.

Because they are for life, age is a question that always arises in connection with Supreme Court appointments. Some think that a man already past 60 would normally have insufficient time to make his mark on the bench. Except for James F. Byrnes, 62 when he was appointed by F.D.R. in 1941, no associate justice over 60 has been appointed to the Court since 1932. The Nixon administration is said to have made 64 its age ceiling, thus conceivably ruling out—as we have here—such respected federal judges as New York's Henry Friendly, 66, and Pennsylvania's William Hastie, 65.

All those listed are professionally active in the field of law, though no constitutional requirement or precedent says that a Supreme Court justice must be. In making future appointments (retirements from the present Court within the next few years could give him as many as three openings to fill) Nixon might look elsewhere. In the past, to solve a problem or to reward a friend, Presidents have named senators and congressmen, many of whom are lawyers.

Charles Breitler

Associate judge of the New York State Court of Appeals, 61. Outstanding on criminal law procedure. Like Chief Justice Warren Burger, a longtime prominent advocate of penal reform. Sensitive on civil liberties issues, but generally a strict conservative on the limits of court intervention. In a controversial 1961 decision, wrote that New York City could not deny American Nazi George Lincoln Rockwell his constitutional right to speak in public. A protégé of Tom Dewey. Republican.

Shirley Hufstедler

California-based circuit judge of the U.S. Court of Appeals, 44. Before taking up law practice, a teacher, a secretary and salesgirl;

now the highest-ranking and most highly regarded woman judge in the federal court system. Decisions widely praised for clarity and legal craftsmanship, as well as display of sharp intellect. Democrat.

Frank Johnson, Jr.

U.S. district judge for southeastern Alabama, 51. In 14 years of courageous frontline enforcement of the Constitution, applied the 1954 school desegregation decision to the Montgomery bus system, thus helped speed desegregation in all public facilities. Presided over the trial in which an all-white jury convicted three Ku Klux Klansmen in the murder of Viola Liuzzo. Sat on the courts that abolished the Alabama poll tax, and that handed down the nation's first statewide school desegregation order, first order requiring a state to reapportion voting districts and the first court-devised reapportionment plan. Scrupulously fair, an excellent craftsman. Republican.

William Coleman, Jr.

Philadelphia lawyer, 49. Distinguished as private attorney in respected law firm, but also as a strong force in NAACP Legal Defense Fund. Member of the Eisenhower Commission on the Causes and Prevention of Violence and of U.S. delegation to the United Nations. Twenty-two years ago was chosen by Justice Frankfurter to be first Negro law clerk in the history of the Supreme Court. Republican.

Paul Freund

Carl M. Loeb University Professor at Harvard, 62. Quite possibly the most brilliant constitutional scholar in the country; one of Harvard Law School's most gifted teachers since Felix Frankfurter; most frequently praised—and passed over—choice for the Court throughout the past decade. Judicially, a moderate conservative; agreed, for instance, when the Warren Court ordered reapportionment, but thought it applied the doctrine too inflexibly. Politically, a New Deal Democrat.

Edward Gignoux

U.S. district judge for the State of Maine, 53. Personally outstanding for his judicial temperament, effectiveness in working with other judges, remarkable courtroom courtesy. Holder of a compassionate viewpoint soundly expressed in opinions widely admired by colleagues. Is well known far beyond Maine partly because, his in-state case load being light, he frequently sits in on other district courts. Did stint in Dean Acheson's Washington law firm, Covington and Burling. Republican.

Bernard Segal

President of the American Bar Association, 62. Was a loquacious and energetic chairman of the ABA's influential watchdog on court appointments, the Committee on Federal Judiciary. Wealthy Philadelphia lawyer and an opponent of some forms of civil disobedience. But served as a co-chairman of Lawyer's Committee for Civil Rights under Law, which represented civil rights workers in Mississippi in the mid-1960s. Republican.

Herbert Wechsler

Harlan Fiske Stone Professor of Constitutional Law at Columbia University, 60. A leading scholar, with fine sensitivity to changing legal nuances in criminal law. Director of the American Law Institute, an important force for standardization and modernization of U.S. law and for improved administration of justice. Headed Institute's 10-year project to draw up the now widely used Model Penal Code. During World War II, U.S. Assistant Attorney, General in charge of the War Division, then adviser to U.S. members of the Nuremberg tribunal. Democrat.

Charles Alan Wright

Charles T. McCormick Professor of Law at the University of Texas, 42. Despite his youth, a legal scholar of national reputation. Author of a definitive work on federal courts. Member of the U.S. Judicial Conferences standing committee on federal court rules of practice and procedure, and governing council of the elite American Law Institute. Was vigorous supporter of Haynsworth. Would qualify as moderately conservative "Southern" appointee. Republican.

FROM O. WENDELL TO G. HARROLD—A JUDICIAL GENEALOGY

The Supreme Court seat for which Harold Carswell was nominated has made its share of history and headlines. Graced for 30 years by the wit and wisdom of Oliver Wendell Holmes it came to be known as the "Jewish seat" when Holmes was succeeded by Associate Justice Benjamin Cardozo (1932), Felix Frankfurter (1939), Arthur Goldberg (1962) and Abe Fortas (1965). When Fortas resigned over a financial scandal, Clement Haynsworth was nominated for the seat. The Senate rejected him on grounds of ethical shortcomings. Then came Carswell, for whom his most vocal Senate supporter, Nebraska's Roman Hruska, made the strange case last week: "Even if he were mediocre, there are a lot of mediocre judges and people and lawyers. Aren't they entitled to a little representation and a little chance? We can't have all Brandeises and Frankfurters and Cardozos and stuff like that there."

HISTORIC LAND REFORM IN VIETNAM

Mr. PEARSON. Mr. President, a historic but little noticed event took place on March 16 when the National Assembly of the Republic of Vietnam voted final passage of a massive land reform program which when fully implemented will provide for the free distribution of 3 million acres of land among 1 million South Vietnamese peasant farmers. This is one of the most encouraging bits of news to come out of Vietnam for a long time. If effectively implemented, and there is considerable evidence that it will be, it will do a great deal to complement the Nixon administration policy of Vietnamization. And certainly it will do as much as any other single reform to stabilize conditions in South Vietnam and to strengthen the capacity of that country to resist takeover either by the Vietcong or the North Vietnamese forces.

In the long and tragic history of our involvement in Vietnam there is no greater failure than the glaring absence of genuine major land reform. Providing the opportunity for South Vietnamese peasants to become landowners will not guarantee the survival of a non-Communist political regime in South Vietnam. But a study of modern world history clearly suggests that in semi-feudal, underdeveloped nations like South Vietnam conversion of peasants from tenants to landowners has been the absolutely essential first step toward achieving a more democratic, a more stable, and a more economically progressive society.

Mr. President, the significance of this land reform program, which is being signed into law today by President Thieu, was effectively described by an editorial

published in yesterday's Washington Evening Star. I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Washington Evening Star, Mar. 25, 1970]

There is a great predilection among the news disseminators of this country to point out, with appropriate expressions of horror, everything that is wrong with the government in Saigon. This is as it should be. President Thieu should be criticized for every repressive move he makes.

But an interest in Saigon's warts should not make it impossible to appreciate the occasional beauty spots that appear. And yet, to judge from the reaction to the passage of Thieu's land reform program, our sense of appreciation has become dulled. The final passage of the reform bill—the best news to come out of Vietnam since the end of the Japanese occupation—was, with a very few exceptions, overlooked.

The program is important for three reasons. First, it is right for the peasants and tenant farmers to own the land they till. Second, it can have a considerable beneficial impact on the popularity and the stability of the central government. Finally, it robs the Viet Cong of their major selling point.

The plan calls for the free distribution of 3 million acres of land among some 1 million families. It is—disregarding the Chinese communist program—the most massive land reform project in the Far East of modern history. And the Chinese program can, in common with all Communist land reforms, be logically disregarded in view of its temporary nature. The record shows that soon after the distribution all the land is reclaimed by the state.

There is little justification for cynicism about Thieu's intention to carry out the reform. The program was conceived by him and pushed through a reluctant assembly. Additional evidence of his sincerity can be found in the fact that he has already initiated the distribution of 150,000 acres of government-owned lands—a move that deprived some well-placed officials of a major source of income.

The plan will cost the Saigon government some \$400 million over the next eight years in payment to the former landowners. The United States has, so far, pledged \$40 million toward that cost. If more is needed it should be promptly forthcoming.

The total cost would be less than the cost to us of one week of the Vietnam war. When the land reform is carried out, it will seriously undermine the appeal of the Viet Cong and thus be a major incentive to them to seek an acceptable political settlement with Saigon. Washington, as a matter of enlightened self-interest, should give the program every bit of encouragement and support it needs.

ABA FAILS ON GENOCIDE

Mr. PROXMIRE. Mr. President, I invite attention to an excellent editorial published in the Milwaukee Journal of February 27, 1970. The editorial offers interesting and forceful insight into the ABA refusal to endorse the United Nations Convention on Genocide.

The editorial's analysis of the ABA failure in this important area goes right to the heart of the matter, and concludes that much of the crucial opposition to ratification came from an influential

bloc of southern, midwest, and western conservative delegates.

I am in firm agreement with the conclusion of this fine editorial:

It will be shameful if we continue to stand aside; and refuse to state officially that we oppose killing or harassing people on racial or other grounds. The Senate should ratify the treaty, as President Nixon asked, regardless of the narrow majority of ABA delegates who say "no."

Mr. President, I ask unanimous consent that the editorial entitled "ABA Fails on Genocide" be printed in the RECORD.

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

[From the Milwaukee Journal, Feb. 27, 1970]

ABA FAILS ON GENOCIDE

The American Bar Association House of Delegates rejected the recommendation of its Committee on World Order Under Law that it support ratification of the United Nations Convention on Genocide.

The Association was asked to agree that deliberate liquidation or harassment of any group for reasons of race, color, sex, or anything else is abhorrent. But Southern delegates and Mid-West and Western conservatives carried the day, as they have in the past. One reason, treaty supporters contend, is that some delegates feel that there are racial connotations to the agreement—that it is somehow aimed at those who don't want equal rights for Negroes in this country.

The extremes to which the arguments want are illustrated by Attorney Roy E. Willy, of South Dakota, who said: "The way to maintain peace is for the United States to remain strong and free. I come from foreign ancestry. I wouldn't be here if we didn't commit genocide by getting rid of the Indians . . ." The implication is that if some people climbed up over the bodies of others, such action should not be closed to others.

President Nixon, his Attorney General and many legal experts say that there is nothing in our Constitution contrary to the Genocide Convention. It has been ratified by 75 nations. It will be shameful if we continue to stand aside and refuse to state officially that we oppose killing or harassing people on racial or other grounds. The Senate should ratify the treaty, as President Nixon asked, regardless of the narrow majority of ABA delegates who say "no."

RAILROAD BOXCAR SHORTAGE

Mr. CURTIS. Mr. President, for many years—as long as I can remember—the Nation has been greatly handicapped by a shortage of railroad boxcars. For as many years, complaints have been followed by investigations but too little has been accomplished to correct the recurring serious problem.

Secretary of Agriculture Clifford M. Hardin testified before the Senate Committee on Commerce this week and stated the problem as it relates to agriculture. There can be no further excuse for allowing farmers, among others, to suffer continuing economic losses resulting from the boxcar shortage with the evidence now available to Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD, the testimony of Secretary of Agriculture Clifford M. Hardin, before a subcommittee of the Committee on Commerce.

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

STATEMENT OF THE HONORABLE CLIFFORD M. HARDIN

Mr. Chairman and Members of the Committee: The continuously growing shortage of railroad boxcars presents a serious threat to the economy of this Nation. It's especially bad for the agricultural sector. That's why I appreciate the opportunity to discuss this matter with your Committee today.

Many distinguished members of both houses of the Congress are deeply concerned about the critical situation regarding railroad movement of agricultural commodities.

The problem is simple. It involves a severe shortage of ordinary boxcars suitable for bulk movement of farm commodities from country points, especially during the harvest period.

The answer to the problem is complex: It involves money for equipment, changing railcar usage patterns, rising costs, and distribution of available equipment into agricultural areas at times of peak harvest demand.

The number of plain boxcars in use has declined annually for the past 11 years or more.

Between Jan. 1, 1959 and Jan. 1, 1970, this decline was a sharp 42.7 percent.

On Jan. 1, 1959, American railroads had 674,792 such boxcars; by Jan. 1 this year, this total had dropped to 386,499. Of these boxcars, the total of narrow-door boxcars suitable for grain hauling had declined to 180,574 as of terminals—increased from 58,383 on Jan. 1, 1959, to 125,867 on Jan. 1, 1970. However, these hopper cars are used for many purposes other than the transportation of grain and similarly-handled agricultural products. They have by no means met the current needs of the grain industry.

In addition to the shortage of ordinary boxcars, there is also a critical shortage of mechanical refrigerated cars for the movement of perishable agricultural products.

While the boxcar shortage has grown increasingly acute since 1959, the population of the United States has increased by more than 27 million persons. The need for adequate movement of the basic agricultural raw materials into the food production areas of our Nation increases daily.

Complicating matters even more are two strictly agricultural problems. One is the matter of greatly increased crop volumes which must be moved and the particularly sharp increase in fall-harvested crops.

Wheat production during the 1959-70 period has expanded from around 1 billion bushels annually to about 1½ billion; corn production has grown from around 3.8 billion bushels to around 4.5 billion; grain sorghum from 555 million bushels to more than 700 million; and soybean production has nearly doubled—to the point where it now exceeds 1 billion bushels annually. Furthermore, the percentage of the corn and grain sorghum crops moved off the farm has increased substantially.

For these four crops alone, the jump in annual output in 11 years has been nearly 2 billion bushels. An ordinary boxcar hauls around 2,000 bushels of grain. So the problem is clearly magnified. Instead of 288,293 fewer boxcars, we need many, many more. Of course, all of us know that we don't need a million more boxcars to move the extra 2 billion bushels increase in productivity. Much of the extra production is fed to livestock on farms, and much is moved by truck and barge lines. But the great bulk moves by rail. And need for suitable boxcars is the crux of the entire problem.

Complicating factors are present in this transportation problem.

Corn production patterns have changed in the last few years. In prior years, ear corn from the fields was stored for long periods in on-farm cribs. With the advent of picker-shellers, corn is now harvested in a relatively short time. There has been a marked increase in marketing of corn off the farm. The picker-sheller corn harvest requires immediate drying before moving into commercial markets. This has placed an additional heavy burden on the carriers.

Soaring production from our fields has also led to increased pressures to move agricultural products into export. These exports are essential to the health of our Nation's economy. They provide us with a major share of our favorable balance of payments in international trade.

Yet, today we are losing export markets. We are losing them because grain cannot be delivered to port when it is needed. For instance, we could have sold much more grain sorghum for export this year had it been possible to achieve timely deliveries.

Then there is the very personal matter of individual farmers losing grain because they have to pile it on the ground at harvest time. Merchants refuse to buy grain at country points because they cannot move it to markets, and because they cannot afford to pay current interest rates on money to carry grain inventories.

The Department has long been mindful of the steadily worsening railcar shortage, and we have done everything within our authority to help alleviate the problem.

Commodity Credit Corporation each year has carefully planned and accomplished the reconcentration of CCC-owned grain as far in advance of harvest season as possible in order that its grain would not compete with farmers' grain for the use of boxcars at peak periods. Last year, for example, the CCC movement was substantially complete by Oct. 1, thus avoiding the critical car shortage of the last quarter. Similarly, shipments have been moved this year as rapidly as cars could be obtained, and we hope to again see CCC grain out of the way before harvest.

USDA took the lead in the development of origin-sampling techniques utilizing automatic samplers at country origins. We hope to encourage the acceptance of origin grades throughout the industry. When this practice is adopted and accepted by the industry, the need for intermediate inspection of grain should be sharply reduced. This will reduce the traditional delay of cars at inspection points.

The Department recently reviewed its farm storage and drying equipment loan program and made changes which should encourage the expansion of on-farm storage and drying systems. This should help substantially to relieve the transportation burden at peak harvest periods. In some 20 years of operation, more than a billion bushels of farm storage facilities have been constructed under this program.

Finally, in considering the total U.S. agricultural picture—the sharply expanding need for transportation facilities and the failure of railroad carriers to provide suitable equipment—you can come to only one conclusion.

There is a disastrous breakdown in the agricultural rail transportation system.

What can be done about this crisis? Many efforts are being made to change the rules, regulations, and procedures in order to achieve better car utilization and distribution. These efforts are helpful and should be encouraged, but generally they strive towards greater use of a totally inadequate fleet of cars.

We favor ICC Order 252 which provides incentive per diem in emergencies and earmarks funds for the purchase of plain boxcars.

We favor the mandatory return of boxcars to western railroads.

We believe the problem can be solved on a long-term basis only when some method is developed to promote the construction of more boxcars.

ENVIRONMENTAL WARFARE IN VIETNAM: HAS TECHNOLOGY SHAPED OUR POLICY?

Mr. NELSON. Mr. President, in the last 9 years we have conducted a program, initiated on a modest scale and a humane basis, that has grown to the point where the United States has created a new instrument of large-scale force—environmental warfare. During this period 100,000,000 pounds of chemical herbicides have been sprayed on 5 million acres in South Vietnam, an area the size of the State of Massachusetts.

Disturbing facts have begun to filter through the thick screen of secrecy that inevitably covers military operations. Inadvertent crop damage, ecologic disruptions, often irreversible, and alleged cases of deformed babies and human deaths and illnesses have been reported.

The major defoliant in use in Vietnam is called "Orange," a mixture of 2,4,5-T and 2,4-D. Both are herbicides that have become the subjects of great controversy; 2,4,5-T was shown in a study contracted out by the National Institutes of Health to produce an extremely high rate of fetal deformities in the animals tested. Another series of tests should be completed soon. Preliminary results tend to fortify the earlier conclusions. Yet, the Department of Defense continues to use the highly questionable chemical on a large scale and to the best of my knowledge has not systematically investigated the claims that our defoliation program had caused deformities in Vietnamese babies.

In fact, when such information began to leak out of Vietnam the lid of secrecy was clamped down on the Saigon press. Reports of deaths and illnesses allegedly caused by defoliants, have also been hushed up. However, the State Department, late last year, released information that the United States has paid the South Vietnam Government \$3.5 million to settle claims for damage to private property including croplands. Many claims are still pending. This is just an indication of the extent of damage caused thus far.

The anticrop program continues even though the Department of Defense has admitted that at best it is difficult to determine whether crops are intended for fighting units or noncombatants. Dr. Jean Mayer, now the President's special adviser for nutrition, asserted in 1967 that the ultimate target of an anticrop campaign is the civilian population. Surely, no one can contest that fighting units will use all their power to survive. They can deprive local noncombatants of their food supply, if necessary.

We have defoliated areas along logistics routes, justified on the basis that ambushes are reduced or curtailed. A sad example of how man can easily let technology take charge is the use of chemicals along the entire 60-mile Rung Sat Canal that leads from the sea to Saigon. The reason for searing the edges

of the canal was to prevent attacks on ships. To date no ships have been sunk before or after defoliation. The military has admitted that a serious attack could be mounted along only 1 mile of the canal where it narrows. As a result, however, mangrove trees, once a vital part of the canal life system, have been killed on a massive scale.

Innumerable cases can be cited. Military restrictions have made it difficult, if not impossible, to objectively assess their impact. Yet, the burden of proof should rest on the shoulders of those who advocate these policies. Military benefits must greatly outweigh the harmful political, social, physical, as well as military side effects if there is even anything to the old claim that such a policy is justified.

If such proof is not available, which I believe is true, then the American people are witnessing another example of how technology determines policy instead of vice versa.

In 1962 Rachel Carson wrote "Silent Spring," a book that changed our attitudes toward technology and with it the course of history. She awakened a nation to the fact that a social price is paid for every step of technological progress. Now the Federal and State Governments are starting a continuous assessment of herbicides and insecticides. Their process of assessment leaves much to be desired but progress has been made. If the gallant lady were alive today she might be tempted to write a sequel to her classic, a Vietnam reader entitled "Silent Tet." The large-scale application of herbicides would give the songbirds still alive little to sing about and the demoralized Vietnamese little solace in the music of nature.

The use of herbicides clearly illustrates two themes that Miss Carson spotlighted in her book. First, technology drives policy. If we can do something then we will find the rationale to do it. Technology is irresistible. We developed herbicides and then decided to use them in Vietnam. In case after case, though, as with the B-52's, technology not designed for use in Southeast Asia has failed to accomplish our objectives. In fact it has often been counterproductive.

Second, we have looked to technology as a short cut that too often bypasses essential processes—be they biological, social, or political. The defoliation of forests, infiltration routes and base perimeters together with crop spraying have caused severe adverse affects.

Politically, we have boxed ourselves in with respect to the Geneva protocol. Those countries that have signed the protocol have sworn the first use of "asphyxiating, poisonous, or other gases, and of all analogous liquids, materials, or devices." So have we. Yet, a Swedish resolution, placed before the main political committee of the U.N. General Assembly, condemned the use of tear gas and defoliants in war. It was supported by 80 nations last December. Only the United States, Australia, and Portugal voted against the resolution.

We can hardly admit to a violation of the chemical and biological warfare

treaty that we will soon be asked to ratify. On the other hand, if we ratify the treaty with reservations, a majority of nations of the world could and most likely would immediately accuse the United States of violating the treaty.

Some Americans have clearly stated that the use of herbicides in Vietnam amounts to a war atrocity. There is good reason to believe that many high-level decisionmakers in the administration regret the day we sprayed the first ounce of herbicide on the first plant in Southeast Asia and are hopeful that the program will be permanently discontinued. This position fortifies the statements of those who have spoken out publicly.

The program that grew like Topsy has created long term biological, ecological, and political problems. Nine years and 100,000,000 pounds of chemicals later we are beginning to realize that American technology can drive policies, in foreign as well as domestic affairs, that are painfully expensive in the final accounting.

Mr. President, for these reasons I am strongly in favor of a cessation of the use and stockpiling of herbicides for military purposes by the Department of Defense.

The forcing function of technology has allowed the introduction of a new form of warfare—a type that is militarily ineffective, biologically and ecologically damaging, and politically explosive. We have to develop new attitudes so that we will not automatically equate technology with progress or efficiency and will not see it as a panacea to cure the problems of the Nation and of the world.

LENIN'S BIRTHDAY

Mr. ALLOTT. Mr. President, this year the United Nations is celebrating "International Education Year." As a part of this celebration, the U.N. is going to honor the 100th anniversary of Lenin's birth.

The birthday celebration for the late and unlamented dictator will include a UNESCO symposium on the theme "Lenin and the development of science, culture, and education." If the participants in this symposium are looking for positive contributions to any of those fields, it could be the shortest symposium in recorded history.

Lenin's conception of science was primitive. His dogmatic turn of mind made him incapable of appreciating the scientist's sceptical and inquisitive turn of mind.

Lenin's approach to cultural questions set a pattern for subsequent totalitarian regimes. He believed that all cultural matters should be ruthlessly politicized. Art became a tasteless instrument of politics, controlled by Communist Party operatives.

The original support for this symposium came from UNESCO. It was proposed by the Soviet Union to the UNESCO General Conference in 1968, not long after the invasion of Czechoslovakia; 26 other states backed the Soviet proposal. Of course, the United States

delegation opposed it, with great energy. During the debate, two other Member states joined us in speaking against the symposium.

In the vote on the proposal 48 member states voted for the symposium; the United States and six other member states voted against; 21 abstained; and 47 were recorded as absent.

After the vote was taken, the Assistant Director General of UNESCO made some remarks to the effect that the symposium will be conducted in a manner that respects free discussion and the honest pursuit of truth.

If that is the case, it will be ironic. Lenin never made any pretense of respecting free discussion or the honest pursuit of truth.

Lenin's approach to education was similarly a blend of the banal and the sinister. He was incapable of appreciating the distinction between propaganda, which attempts to enslave the mind, and education, which attempts to liberate the mind.

We wish the participants in the Lenin symposium all the best. They deserve our sympathy. What could be more tiresome than pondering Lenin's contributions to these matters?

The only thing that can be said for this symposium is that it is not especially expensive. Thus far, \$8,000 has been budgeted for it, out of UNESCO's regular budget of \$77.4 million. Still, \$8,000 spent honoring Lenin is \$8,000 too much.

It was after the vote at the UNESCO General Conference that the U.N. Human Rights Commission "welcomed" the Lenin symposium and asked the Chairman of the Commission to consult with UNESCO about sending a commission of representatives to the symposium. The U.S. representatives opposed this.

So this is where we stand. UNESCO will honor a dictatorial propagandist as a part of International Education Year. And the U.N. Human Rights Commission will volunteer to honor a mass murderer.

Of course, there is nothing the U.N. can do to rehabilitate Lenin. His name is odious wherever his deeds are known and men value freedom.

The only real loser in this sorry performance is the United Nations itself. We hope that in the future the members of that organization will spend their time pondering the world's problems, rather than wasting time honoring one of the men who got the world into its current dangerous mess.

Even if the United Nations cannot realistically expect to solve the world's problems, it can at least avoid birthday parties for infamous tyrants.

The U.N. can at least avoid actions which wound the feelings of the many millions of oppressed peoples who owe their oppression to Lenin's revolution. The U.N.'s decision to honor Lenin is an odious insult to those who live in Lenin's enduring prison, and to the memories of those many millions who have been murdered by the dictatorship which Lenin launched.

Mr. President, with this in mind I want to offer some especially warm words of

friendship to all Americans of Byelorussian origin. Today they celebrate the 52d anniversary of the proclamation of independence of the Byelorussian Democratic Republic.

Unfortunately, the only Byelorussians who can celebrate today are those who no longer live in Byelorussia. That Republic was an early casualty of the Russian Revolution and of Lenin's brutal policies regarding the rights of the various nationalities within the Russian Empire.

We sometimes forget how much controversy raged within Russia immediately after the revolution. In that period of great turmoil, the tiny Bolshevik party struggled to gain control of the seething nation.

In the first hours of triumph the Bolsheviks were not strong enough to govern in the manner of which they are most fond—unvarnished terror. The Bolsheviks understood that they could not launch their terror regime until they had lulled some of the fears of people who were hoping for the best from the revolution.

The Bolsheviks understood that many persons were particularly worried about what was called "the nationalities question." These people wanted some respect and autonomy for the many nationalities that had existed for centuries in the territory that was to be encompassed by the U.S.S.R. Thus Lenin's government adopted the rhetoric of tolerance toward the ancient peoples of the Russian Empire.

But this was mere rhetoric, accompanied by duplicitous and impotent constitutions. These constitutions granted rights on paper which were crushed in reality by the Red army and the secret police.

The last vestige of Byelorussian independence was extinguished in 1921. Since then the dream of Byelorussian independence has been faithfully cherished by those Byelorussians fortunate enough to have escaped the long night of tyranny that has descended on their native land.

This dreadful chapter in Soviet history should cause us to renew our dedication to the freedoms we enjoy, and to the hope that those who today are denied these freedoms may one day be rescued from oppression.

UNKNOWN UNKNOWNNS IN DEFENSE PROCUREMENT

Mr. PROXMIRE. Mr. President, the Washington Star for Wednesday, March 25, contains an article by Orr Kelly which combines an intelligent analysis of some of the major problems in defense weapons system procurement with the light touch of a professional writer.

Mr. Kelly writes about an article in the Harvard Business Review by Hudson B. Drake and Drake's Unk-Unk chart.

Unk-Unk's are not characters from George Orwell's "Animal Farm." Unk-Unk's are unknown unknowns, as compared with the "known unknowns" of defense procurement. He believes that one

of the major problems in defense contracting and a cause of the present scandalous system is the Unk-Unks. Contractors can anticipate that in certain areas there will be unknowns. These are the known unknowns. But what really baffles them, according to Drake, are the unanticipated unknowns which pop up during key phases of defense weapon system production.

The article proposes a number of reforms, many of which have considerable merit. However, I must say that I am unable to comprehend very clearly one key paragraph from Drake's article which prescribes reform in the following terms:

What is really needed is reformed policy that includes viable estimating procedures and a procurement policy for major system acquisitions that is consistent with the technical development process and the evolution of a sound technical baseline on which to formulate realistic estimates of cost and schedule.

Perhaps that paragraph should be added to the Unk-Unk's.

While this is not the place to outline the reforms needed in defense procurement in detail, my own view is that we must prevent buy in bidding—deliberate low bidding to get a contract.

We should institute day-to-day supervision of contract costs—called ditch-digging in the trade—rather than relying on some new contract system—such as total package procurement or PERT or PEP or value engineering. Essentially, these are gimmicks and public relations measures rather than fundamental means of checking costs and waste.

We need more production of prototypes before major production begins. The way to meet the problem of both known unknowns, and Unk-Unk's, is to build a prototype first.

If it does not fly, if the wings crack, if it fails to meet specifications, if it is too far advanced for the state of the art, all that has been lost are the funds for development and the prototype. That might be high, but it is a great deal less than the huge overruns we are now experiencing on the C-5A, Poseidon, MBT-70, and, in fact, every major weapon in the weapons system arsenal.

Finally, I would say we need to simplify our weapons. We are in trouble because weapons are asked to do too much. The black boxes, the compasses and radars and gyroscopes, and the weight produced a generation of weapons which are far too costly, are almost never delivered on time, and which do not function according to their specifications.

I commend the article and the problem of the Unk-Unk's to the readers of the RECORD. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington (D.C.) Star,
Mar. 25, 1970]

UNK-UNKS MAR DEFENSE CONTRACTS
(By Orr Kelly)

Anyone who wants to know what to do about cost overruns, poor performance and all those bugaboos of the military weapons

business should take a long look at Hudson B. Drake's UNK-UNK Chart.

Drake, director of the President's Commission on White House Fellows while on leave from North American Rockwell Corp., is the author of one of two recent articles in the Harvard Business Review that have received widespread attention in the defense industry.

Drake's article, in the January-February issue, is entitled "Major DOD (Department of Defense) Procurements at War with Reality." The other piece, "Anguish in the Defense Industry," appeared in the November-December issue and was written by Richard M. Anderson, director of H. R. Land & Co., a Los Angeles consulting firm.

Together, they give a broad picture of what is wrong with both the Defense Department and defense industry.

A large foldout chart showing how unknowns are gradually eliminated during the development of a new weapons system accompanies Drake's article.

There are two kinds of unknowns—known, or anticipated, unknowns, and unknown, or unanticipated, unknowns—referred to as UNK-UNKs.

The UNK-UNKs, obviously, can be more troublesome and more costly than anticipated problems simply because they are unexpected.

Such a problem has just occurred in the F-111 airplane. Even though the plane has been flying for several years, even in combat, the entire fleet, except for seven research planes, is now grounded because of a totally unanticipated problem with a new kind of steel used in the wing.

What Drake's chart shows is that, in the typical major development program, the UNK-UNKs normally don't rear their ugly little heads until well along in the program, when the system is being put together and tested. Most importantly, that is after the government and contractor have signed a contract agreeing on price and production schedule.

Drake thinks some of the things done under the Nixon administration are moves in the right direction—but he thinks much more needs to be done.

"What is really needed," he writes, "is reformed policy that includes viable estimating procedures and a procurement policy for major system acquisitions that is consistent with the technical development process and the evolution of a sound technical baseline on which to formulate realistic estimates of cost and schedule.

"Until this reform comes, a sense of emergency will permeate major-system work, and the public, conscious of this tension, will continue in its attitude of near panic."

While Drake's recommendations are directed primarily at the Pentagon, Anderson argues that the defense contractors had better shape up, too.

Some reforms instituted in the early 1960s by Robert S. McNamara were good, but he failed to bring the contractors along with him, Anderson feels. McNamara set up a "contract definition" program, for example, in which the goal was to work out on paper the broad outlines of a new program.

"More accustomed to constant fire fighting than thorough planning, the sizable contractor task forces assembled to accomplish this task often did not know how to go about their planning function," Anderson writes.

Because they did not do their planning well, he says, "it was a rare competition in which at least one of the contenders was not willing to revert to the habits of the old environment and bid whatever it took to win the award."

"In short, contractors often signed fixed-price, total-package contracts at prices below the expected costs, containing risks that were not thoroughly appraised, and for which

they lacked the management discipline necessary to perform the work in an efficient manner.

"With hindsight, such bidding appears incredibly naive. But at the time many experienced defense-industry managers thought it naive to do anything else."

This, one must remember, was written well before the president of Lockheed asked the Defense Department for financial help on four contracts—two of them total-package programs on which Lockheed was the prime contractor.

The danger now is that demands for reform will center on the wrong things rather than the real problems, with the result that the real problems will remain unsolved and that the country will lose the full advantage of the advanced technology that landed a man on the moon.

The loss will not be only in military and space technology but in those areas such as pollution control and surface transportation where the skills of the military-industrial complex might help us to keep this a livable world.

NOMINATION OF GEORGE HARROLD CARSWELL TO THE SUPREME COURT

Mr. GURNEY. Mr. President, the real issue in the current dispute over the confirmation of the nomination of a Supreme Court Justice is whether President Nixon will have the right to change the direction of the Court by appointing a strict constructionist, as he promised the American people he would do before his election.

In an effort to prevent the President from fulfilling this pledge, attacks have been made on the character, ability, and philosophy of, first Judge Haynsworth and now, Judge Carswell. Yet these attacks are basically unfair, because they are made in an effort to conceal the real reason for the opposition to President Nixon's nominees.

An editorial published in the Washington Daily News of March 23 puts the issues in the Carswell nomination in their true perspective. I ask unanimous consent that the editorial be printed in the RECORD, and commend it to the attention of Senators.

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

THE CARSWELL CASE

What must be remembered about these Senate battles over Supreme Court nominations is that a struggle of epochal proportions is under way as President Nixon attempts to use every opportunity to shift the U.S. Supreme Court to the right—as he pledged repeatedly in his campaign to do.

The northern Democrats, civil rights leaders and other liberals who liked the liberal expansionist rulings of the Warren Court of the past 17 years and want no change are fighting with every device at their command to block the President's intentions.

It is our belief that, along with other things, the American people in their 1968 presidential vote did opt for a change in Supreme Court direction, particularly in such fields as pornography and police powers, and for more consideration for the rights of victims versus the rights of criminals and protestors.

If opponents should succeed in blocking the current nominee, Judge G. Harrold Carswell, it's 10-to-1 they will face another fight against "a strict constructionist of the

Constitution" nominee. They are correct in attaching great importance to each Supreme Court nominee since President Nixon probably will have enough appointment opportunities to set the court's philosophy for years to come.

In our opinion, unless someone has "anti" evidence of a stronger nature than has so far been revealed, the nomination of Judge Carswell should be confirmed.

We believe Judge Carswell's word that he long since has shelved any tendency to racial prejudices he once might have had.

The other chief weapon being used against him, the claim he is some sort of a legal pygmy, seems mighty strained and contrived to us.

Judge Carswell may not be the greatest legal mind sitting on a lower federal court today.

But, as even his opponents know, some of the greatest justices in history came to the court without great legal reputations. And twice since his nomination has been before the Senate, the American Bar Association's standing committee on the federal judiciary has unanimously concluded that Judge Carswell is qualified as to "integrity, judicial temperament and professional competence to sit on the Supreme Court."

He served four years as a district attorney, 10 years as a federal district judge in Northern Florida and in June, 1969, was confirmed unanimously by the Senate for elevation to the Fifth Circuit Court of Appeals.

It is passing strange that if Judge Carswell's judicial record was as low-grade as opponents now claim, no voices of protest were raised when he was nominated to the appeals court—the nation's second highest court.

Most damaging specific development against him in our opinion has been the unexplained decision by the respected retired chief judge of the Fifth Circuit Court of Appeals, Elbert P. Tuttle, of Atlanta, that he could not testify in support of Judge Carswell's nomination. This after Judge Tuttle had sent a letter to the Senate Judiciary Committee offering to testify "to express my great confidence in him as a person and a judge."

Fifth Circuit Judge John Minor Wisdom of New Orleans has made clear, too, he is not supporting the Carswell nomination but also says he is not opposing him. Three other of Judge Carswell's colleagues of the Fifth Circuit have written glowing letters stating he is qualified in every way for the highest bench, but still others have not come to his support.

It is worth noting that opponents who are making so much out of the lack of unanimous support for Judge Carswell from his circuit court colleagues were totally unimpressed by the unanimous support given by his cohorts of the Fourth Circuit Court of Appeals for Judge Clement F. Hainsworth when he was an unsuccessful Supreme Court nominee before Carswell.

It also is worth noting that practically every senator now opposing Carswell opposed the Hainsworth nomination.

The Supreme Court desperately needs to be at full strength. Unless someone like Judge Tuttle has some strong evidence—and is willing to speak up—the Senate should confirm Judge Carswell and let the court get on with its work.

ISRAEL MUST BE ALLOWED TO DEFEND ITSELF

Mr. HARTKE, Mr. President, Monday's announcement by Secretary of State Rogers of the administration's decision to withhold sale of jet aircraft to Israel can only serve to encourage Soviet and Arab intransigence in the Middle East. It is a further sign—if any more were needed—

that this administration deludes itself into thinking that it can win some measure of Arab favor by vacillating and backtracking on its commitments to Israel.

There could hardly be a greater delusion. Arab leaders will settle for nothing less from the United States than a renunciation of our historic ties to Israel. That, of course, is unthinkable and, therefore, we can only be pursuing a will-o'-the-wisp in our pursuit of influence with Israel's mortal enemies.

At the same time, by causing Israel to question our constancy and determination, we run the grave risk of impelling that brave people to an act of desperation. We surely cannot expect them to watch unconcernedly as the Russians arm and rearm the Arabs with vast quantities of new weapons. Nor can we expect them to hazard their existence on our estimate of their needs. They must and will determine for themselves the risk to their very survival. And if, through our negligence, they decided that the arms imbalance appears to be growing too great in favor of the Arabs, we should not be surprised to see Israel launch another preemptive strike against their enemies.

And that would mean yet another renewal of full-scale war in an area that has known too much war during the last quarter century. I need hardly remind my colleagues how surpassingly dangerous to world peace would be that kind of outbreak, and how ruinous to the nations in the region.

Yet we are told that the precise purpose of America's policy in withholding arms from Israel is to prevent war, to stabilize the political situation. Mr. President, I can only characterize that view as fatuous. It completely ignores the psychology of the situation. It completely ignores the history of it. It concentrates instead on the kind of geopolitical abstractions that led German planners from one disaster to another during this century. It is a view so full of danger to our own vital interests in the Middle East that I find it hard to believe that it was formulated by American officials. But it was, of course, and that is the tragedy of it.

Mr. President, we had best stop deluding ourselves. We had best stop imagining that we can purchase the good will of those who revile us by playing games with the security of our one and only friend and ally in the region. We need, instead, to repeat over and over again—and back our words with actions—that we intend to continue to supply Israel with the tools of survival, so that neither the Arabs nor their Soviet manipulators will be able to suppose that time is on their side in the monstrous campaign to destroy Israel.

In the meantime, as a thoughtful constituent of mine, Mr. Barnett Labowitz, recently wrote me:

The U.S. should continue to counsel Israel in its use of military power, to generosity and humanity in its relations with the Arabs who live in the occupied territories, its concern for Arab refugees. No friend of Israel would wish other advice to be given.

Military strength, generosity, and humanity—that is the formula for lasting peace in the Middle East. I strongly urge

President Nixon and Secretary Rogers to do all in America's power to implement it.

DRUG ABUSE

Mr. SCHWEIKER, Mr. President, drug abuse and the related problems of physical and psychological damage caused by drugs is one of the most important problems confronting youth in our metropolitan areas. We in the Senate are especially fortunate that the distinguished Senator from Iowa (Mr. HUGHES) has given the problem his special attention. The Special Subcommittee on Alcoholism and Narcotics, chaired by Senator HUGHES, on which I am privileged to serve, is presently conducting hearings on this important problem, and the testimony provided by experts from all levels of Government and medical sciences has been invaluable.

Yet even as the hearings continue, and the problem gains increasing national attention, our treatment facilities for addicts are becoming overcrowded and frequently losing funds. The Surgeon General has certified only two States as having adequate treatment facilities: New York and California. My State of Pennsylvania has few treatment facilities adequately financed well enough to meet the growing needs among our youth.

Philadelphia's treatment facilities, for example, are constantly overcrowded. The March 15 edition of the Philadelphia Inquirer printed an excellent article about the growing problem of drug addiction among youth, and the difficulties of providing adequate treatment and care for them, and I request that this article be inserted at the completion of my statement.

The problem in Pittsburgh is equally bad. A study sent to me by Charles Cohen, a counselor at the Allegheny County Juvenile Detention Home in Pittsburgh, showed that 63 percent of children from 10 to 17 years old that he interviewed had experimented with drugs. These children are the victims of our inadequate facilities. For these children the future is not particularly bright, since they are awaiting disposition by the courts, and the courts have nowhere to send them for treatment if they have serious problems with narcotics.

It is my understanding, from discussions with officers of the court in Pittsburgh, that the problem among youth is becoming more acute rather than lessening. They are simply frustrated by the lack of treatment facilities for youth.

Pittsburgh is also an excellent example of the problem we face in the future. For whereas the city has inadequate treatment facilities, the television stations which usually reach the young have done an excellent job in exposing the problem. However, there is no single approach to this problem. We cannot have educational programs, without treatment facilities and expect to solve the problem. We must insure on-going treatment facilities to meet the problem.

Thus, it distresses me greatly that one of Pittsburgh's better facilities is in danger of being closed. The Hill House Rehabilitation Center which treats 700

addicts on Lomotil a nonnarcotic pill developed at the rehabilitation center in Waco, Tex., has lost its funds from the local CAP agency in Pittsburgh. I am sure that all individuals interested in the question of treatment facilities will be interested in an article from the March 22 Pittsburgh Press. I ask unanimous consent that it be printed in the RECORD.

Mr. President, I look forward to the Subcommittee on Alcoholism and Narcotics reporting significant proposals to help solve our drug abuse problem. It is a problem that must not be allowed to grow any greater.

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

CENTER LOSES FUNDS TO "INNOVATIVE" PROGRAM: SUCCESS PERILS DRUG ADDICT AID
(By Al Donalson)

Success is spoiling the Hill House Rehabilitation Center.

Funds for the drug rehabilitation facility on Wylie Avenue in the Hill District were recently canceled by Community Action Pittsburgh (CAP), the city's anti-poverty agency.

The center, which operates on a budget of \$100,000 a year and has 17 fulltime employes, may close.

CAP's action was explained by Robert Williams, the agency's director of planning.

"Federal funds channeled into the Pittsburgh area have dropped from \$6.4 million to \$4.5 million. National policy is to take money from programs which have been successful and distribute funds to those which have innovative quality," he said.

PROBE SLATED

All of this leaves Charles Mikell, the center's director, understandably upset. And one recent development in the local drug fight hasn't helped to soothe his ire.

He is very skeptical of the Allegheny County commissioners recently announced committee to investigate the drug problem in the county.

"At a time when most of us in drug treatment are fighting for our lives, the commissioners are going to waste the taxpayers money providing this panel with a staff that's going to make a study.

"We don't need studies, we need action," he said.

"While the commissioners are studying," he continued, "kids will be dying in alleys and on street corners from overdoses if this place closes."

The center, which opened in 1966, is now operating on contingency funds from the Community Chest. It presently has a caseload of 700 addicts and 80 alcoholics.

In addition, the center's kitchen serves a full dinner daily to about 80 local senior citizens.

"It's the only meal a lot of them get," said Mikell.

The basic treatment used in the center's health clinic, which is maintained by Mercy Hospital, is Lomotil, a nonnarcotic pill which alleviates the withdrawal pains of addicts trying to kick their habits.

It was developed at the federal rehabilitation center in Waco, Tex., and it is believed that Hill House is the only clinic in the country using it on a wide scale.

"We think we've been successful," Mikell said, "in terms of the number of addicts who realize they need help."

Addicts aren't solicited at the center—only those coming in on their own volition are admitted.

SUCCESS CITED

"If you want to look at it in more practical terms, addicts starting treatment with us use

from four to five bags of heroin a day. After being with us a while, we get them down to about one or two bags a month," Mikell said.

Although the majority of the patients are blacks from the Hill District, about 25 per cent are whites—some coming from as far as Greensburg.

Mikell feels that drug rehabilitation in this country has been hampered by the Harrison Act of 1914, a statute still on the federal lawbooks.

"This law made drug addiction a criminal offense rather than a medical problem. It is punitive not only to the pushers and the users, but also to doctors who try to treat addicts," he said.

Even though the center's future is uncertain, Mikell is confident that the facility will continue to operate.

"I'm hoping that either the Community Chest or Model Cities will finance us on a continuing basis. I have a lot of faith in the good will of people, and I refuse to believe that those of good will are going to let this place close," he said.

Tom Sheridan, the center's white clinical psychiatrist, feels deeply about the operation. "It would be very tragic if this place closes," he said.

"Believe me, if white parents from Mount Lebanon, Bethel Park, Shadyside and other middle class areas allow their children to come to the heart of the ghetto for treatment at a shoestring operation, we must be doing something worthwhile."

DRUG ADDICTION AMONG YOUTH GROWING HERE
(By Acel Moore and James Lintz)

Is Philadelphia experiencing an epidemic of juvenile drug addiction?

Court statistics reveal as little of the problem as the visible part of a floating iceberg does of its bulk, but the answer they indicate is a strong "yes."

Of course, every juvenile in court on a narcotics charge is not an addict, but at least he's somewhere along the trail that could take him there—and he's getting more company.

231 JUVENILES IN '68

In 1968, a total of 231 juveniles appeared in court on such charges, according to Dr. Leonard Rosengarten, director of the juvenile division of Family Court, a branch of Common Pleas Court.

The figure for the following year, 1969, was 403, Dr. Rosengarten said.

And for the first 71 days of 1970, there already have been 160 cases, forecasting by projection about 800 such cases this year, double those of last year and more than three times the 1968 total.

Two-thirds of this year's 160 juveniles are white, emphasizing the warning to middle-class white parents that "the drug problem is moving out of the ghetto." And almost half are heroin cases.

YOUNGEST ADDICT

Included in the 160 is the youngest heroin addict authorities can recall here—a 6-year-old Northeast girl who had been using five bags a day—at \$5 each.

But most juvenile addicts do not get into statistics, it is believed by authorities, because the nature of the problem is secretive, including a close-mouthed policy of users about sources and unwillingness of parents to air their children's affliction.

Juvenile addicts come to light almost always as a result of some other trouble. An example is a 16-year-old North Philadelphia boy who was arrested for burglary. It wasn't much of a burglary, and since he had no prior police record, he stood a good chance of getting off with probation.

However, before his case came up, his mother filed an incorrigibility petition, saying she was unable to control him and asking the court to put him in some institution.

WITHOUT A "FIX"

Just before his scheduled appearance in court, he told a social worker he was a heroin addict without a "fix," and asked for help to kick the habit.

A fair student and no problem until six months earlier, he had puzzled his mother with his sudden, steady deterioration in school performance and home behavior. When she filed the incorrigibility petition, she didn't know about his affliction. One of the things she had noted, however, was the disappearance of money and objects of value from her home.

The addiction was reported to the judge who, on recommendation of the public defender, committed the youth to Philadelphia General Hospital which has a drug-treatment center. The program is a painful three to five-day withdrawal or "drying-out" period.

He was transferred subsequently to Northwestern Mental Center where he was rejected, after evaluation, as an incurable addict since he required psychiatric and psychological therapy not available there.

The youth is now in Pennypack House, a detention center for juveniles in two wings of the adult House of Correction, awaiting disposal of his case.

INSUFFICIENT FUNDS

This is typical of Philadelphia's difficulty in coping with growing juvenile addiction. There are centers in the city, which offer treatment, but they are swamped by the numbers needing it. The juvenile problem always has been a stepchild, with insufficient funds and inadequate facilities.

But the price of whatever is necessary would be little, compared to the cost of the habit in money alone, according to figures compiled by a North Philadelphia osteopathic physician who has done considerable work in the field.

"The average heroin addict," said Dr. Frederick C. Hawkins Jr., "uses about seven bags a day to satisfy his craving, at a cost of \$5 a bag or a daily cost of \$35. This sum amounts to \$245 a week or \$12,740 a year.

"There are over 12,000 people in this city who have used an addicting drug more than three times in the last 30 days, and of this 12,000 there are more than 4000 hard-core addicts. The money required by 2000 addicts on half the hard-addict population to purchase heroin on a yearly basis is \$25,480,000.

"The new addict or the individual first experiencing narcotic addiction quickly will exhaust his financial reserves, dissipate all available funds and come to the point where he must steal or perform immoral or illegal acts to obtain money to finance his habit.

ADDICT WILL STEAL

"The usual course of events is that the new addict will steal from his family or friends. I have had numerous reports of families complaining of objects or money missing from the home with pointed suspicions that a particular family member or friend was the thief. (The mother of the 16-year-old boy noticed money and objects of value missing from her home without realizing why).

"The next step, once the pressure is insurmountable in the home, is that the new addict, by that time a hard user, resorts to performing an illegal act outside the family to get the money he needs."

One of the centers treating juvenile addicts is Gaudeniza House, 1934 W. Tioga St. Its president and director, John Ruocco, said he notices "a definite increase among teenagers using drugs," and that 10 adolescent addicts are now under treatment. They are subjected to complete withdrawal with no other drugs to ease the ordeal.

In addition, Ruocco said, there is a group of 50 who have been using drugs, but are not addicted yet. They are undergoing treatment on an outpatient basis.

Asked if he could estimate the number of juvenile addicts in the city, he put the figure at "a minimum of 15,000."

TEEN CHALLENGE

Another treatment center is Teen Challenge, 1620 N. Broad St., in a black neighborhood, where 90 percent of the patients are white, according to Sunday Bachman, business administrator of the religiously oriented center.

Miss Bachman said she hoped the racial proportions at the center would change "because we don't want people to think we're set up only for whites."

"In the last year," she said, "we've had more people wanting to enter our program than we can handle."

The system at Teen Challenge is the "cold turkey" withdrawal, finding the strength in religious conviction to "sweat it out" with no alleviating drugs.

There are boys' and girls' residences at Teen Challenge, each with a capacity of 20. Ages range from 15 to 25. Ten of the present 20 girl residents—all under 18—are "hard-core addicts," Miss Bachman stated.

The Young Great Society has a center for drug addicts in Mantua which has been in operation 15 months. There, a less dangerous drug, methadone is substituted for a more dangerous toxic one such as heroin.

Statistics to separate juveniles from adults have not been kept at this center, a spokesman said, "but we have treated over 1700 addicts in our 15 months."

During the last year, said Dr. Hawkins, 60 percent of his new male patients from 14 to 30 years of age have been drug addicts seeking help.

He disagrees with the methadone system, but administers large doses of tranquilizers to lessen the suffering during the withdrawal stage, almost enabling addicts to "sleep through" the worst part, he said.

Edward T. Kelly, regional director of the Bureau of Narcotics and Dangerous Drugs, a U.S. Justice Department agency, deals with sources rather than users, but said his observation leads him to believe use and addiction by juveniles and young adults may well have attained epidemic proportions here. He said he has noted "a definite increase in drug addiction among juveniles in a short period of time."

Kelly also said there is more heroin in the Philadelphia area now than last year. It has been coming here by way of New York from Europe, especially Marseilles France, he added.

WHERE HAVE ALL THE FLOWERS GONE?

Mr. HART. Mr. President, how many times must a nation be warned that it faces a society divided and torn?

How many times must we be told that men come in colors other than white?

How long must we ask that a black child be grateful to be told, "Don't believe them because they are lies"?

Mr. President, those are questions asked by a black who attended the recent gridiron dinner in Washington.

Those are questions any sensitive man must ask of a nation which, almost 200 years old, still refuses to ask where have all the flowers gone, still refuses to recognize that the missing flowers diminish each of us, each child, black or white.

The pen in the hands of a sensitive, wise man is still our best hope of healing the wounds which divide our Nation.

We should be grateful that men such as Roger Wilkins, a former Assistant Attorney General of the United States, has the patience to once more put pen

to paper to remind us of what the Kerner Commission told us, of the future the National Commission on the Causes and Prevention of Violence predict for us.

There are no flowers for any of us in that future.

Mr. Wilkins reminded all of us, kind men, good men, warm men, that we are running out of times we can turn our head and pretend we just do not see.

To help us all see more clearly, I ask unanimous consent that Mr. Wilkins' article entitled "A Black at the Gridiron Dinner," published in the Washington Post, be printed in the RECORD.

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

A BLACK AT THE GRIDIRON DINNER

(By Roger Wilkins)

When it was all over, a number of men had tears in their eyes, even more had lifted hearts and spirits, but a few were so dispirited that they went upstairs to get drunk. We had just heard the President and Vice President of the United States in a unique piano duet—and to many old Gridiron Dinner veterans, it was a moving show-stopper. To a few others, it was a depressing display of gross insensitivity and both conscious and unconscious racism—further proof that they and their hopes for their country are becoming more and more isolated from those places where America's heart and power seem to be moving.

The annual dinner of the Gridiron Club is the time when men can put on white ties and tails and forget the anxiety and loneliness that are central to the human condition and look at other men in white ties and tails and know that they have arrived or are still there.

The guests are generally grateful and gracious. But the event's importance is beyond the structures of graciousness because it shows the most powerful elements of the nation's daily press and all elements of the nation's government locked in a symbiotic embrace. The rich and the powerful in jest tell many truths about themselves and about their country. I don't feel very gracious about what they told me.

Some weeks ago, to my surprise and delight, a friend—a sensitive man of honor—with a little half-apology about the required costume, invited me to attend the dinner.

The first impression was stunning: almost every passing face was a familiar one. Some had names that were household words. Some merely made up a montage of the familiar faces and bearings of our times. There were Richard Helms and Walter Mondale and Henry Kissinger and George McGovern and Joel Broyhill and Tom Wicker and William Westmoreland and John Mitchell and Tom Clark (ironically placed, by some pixie no doubt, next to each other on the dais) and Robert Finch and Ralph Nader, and of course, the President of the United States.

One thing quickly became clear about those faces. Apart from Walter Washington—who, I suppose, as Mayor had to be invited—mine was the only face in a crowd of some 500 that was not white. There were no Indians, there were no Asians, there were no Puerto Ricans, there were no Mexican-Americans. There were just the Mayor and me. Incredibly, I sensed that there were few in that room who thought that anything was missing.

There is something about an atmosphere like that that is hard to define, but excruciatingly easy for a black man to feel. It is the heavy, almost tangible, clearly visible, broad assumption that in places where it counts, America is a white country. I was an American citizen sitting in a banquet room in a

hotel which I had visited many times. (My last occasion for a visit to that hotel was the farewell party for the white staff director and the black deputy staff director of the United States Commission on Civil Rights.) This night in that room, less than three miles from my home in the nation's capital, a 60 per cent black city, I felt out of place in America.

That is not to say that there were not kind men, good men, warm men in and around and about the party, nor is it to say that anyone was personally rude to me. There were some old friends and some new acquaintances whom I was genuinely glad to see. Ed Muskie who had given a very funny and exquisitely partisan speech (the Republicans have three problems: the war, inflation, and what to say on Lincoln's Birthday) was one of those. I was even warmly embraced by the Deputy Attorney General, Mr. Kleindienst, and had a long conversation with the associate director of the FBI, Mr. DeLoach.

But it was not the people so much who shaped the evening. It was the humor amidst that pervasive whiteness about what was going on in this country these days that gave the evening its form and substance. There were many jokes about the "Southern strategy." White people have funny senses of humor. Some of them found something to laugh about in the Southern strategy. Black people don't think it's funny at all. That strategy hits men where they live—in their hopes for themselves and their dreams for their children. We find it sinister and frightening. And let it not be said that the Gridiron Club and its guests are not discriminating about their humor. There was a real sensitivity about the inappropriateness of poking fun that night about an ailing former President, but none about laughing about policies which crush the aspirations of millions of citizens of this nation. An instructive distinction, I thought.

There was a joke about the amendments to the Constitution (so what if we rescind the First Amendment, there'll still be 25 left), and about repression (you stop bugging me, I'll stop bugging you), and there were warm, almost admiring jokes about the lady who despises "liberal Communists" and thinks something like the Russian Revolution occurred in Washington on November 15. There was applause—explosive and prolonged—for Judges Clement Haynsworth and Julius Hoffman (the largest hands of the evening by my reckoning).

As I looked, listened and saw the faces of those judges and of the generals and of the admirals and of the old members of the oligarchies of the House and Senate, I thought of the soft, almost beatific smile of Cesar Chavez; the serious troubled face of Vine Delora Jr., and the handsome, sensitive faces of Andy Young and Julian Bond of Georgia. All those men and more have fought with surely as much idealism as any general ever carried with him to Saigon, with as much courage as any senator ever took with him on a fact-finding trip to a Vietnam battlefield, or even as much hope, spirit and belief in the American dream as any Peace Corps kid ever took to the Andes in Peru. But the men I have named fought for American freedom on American soil. And they were not there. But Julius Hoffman was.

As the jokes about the "Southern strategy" continued, I thought about the one-room segregated schoolhouse where I began my education in Kansas City. That was my neighborhood school. When they closed it, I was bused—without an apparent second thought—as a 5-year-old kindergartener, across town to the black elementary school. It was called Crispus Attucks.

And I thought of the day I took my daughter when she was seven along the Freedom Trail, in Boston, and of telling her about the black man named Crispus Attucks who was the first American to die in our revolution.

And I remember telling her that white America would try very hard in thousands of conscious and unconscious ways both to make her feel inferior. And I remember the part in building America's greatness and to make her feel inferior. And I remember the profoundly moving and grateful look in her eyes and the wordless hug she gave me when I told her, "Don't you believe them because they are lies." And I felt white America in that room in the Statler Hilton telling me all those things that night, and I told myself, "Don't you believe them because they are lies."

And when it came to the end, the President and the Vice President of the United States, in an act which they had consciously worked up, put on a Mr. Bones routine about the Southern strategy with the biggest bofo coming as the Vice President affected a deep Southern accent. And then they played their duets—the President playing his songs, the Vice President playing "Dixie," the whole thing climaxed by "God Bless America" and "Auld Lang Syne." The crowd ate it up. They roared. As they roared I thought that after our black decade of imploring, suing, marching, lobbying, singing, rebelling, praying and dying we had come to this: a Vice Presidential Dixie with the President as his straight man. In the serious and frivolous places of power—at the end of that decade—America was still virtually lily white. And most of the people in that room were reveling in it. What, I wondered, would it take for them to understand that men also come in colors other than white. Seeing and feeling their blindness, I shuddered at the answers that came most readily to mind.

As we stood voluntarily, some more slowly than others, when the two men began to play God Bless America, I couldn't help remembering Judy Collins (who could not sing in Chicago) singing "Where Have All the Flowers Gone?"

So, later, I joined Nick Kotz, author of "Let Them Eat Promises" and we drank down our dreams.

I don't believe that I have been blanketed in and suffocated by such racism and insensitivity since I was a sophomore in college when I was the only black invited to a minstrel spoof put on at a white fraternity house.

But then, they were only fraternity brothers, weren't they?

RETIRED GENERALS SPEAK ON VIETNAM

Mr. FULBRIGHT. Mr. President, four distinguished retired generals have made timely and perceptive statements about the war in Vietnam. Two of these generals, David M. Shoup and Samuel B. Griffith II, have appeared in recent years as witnesses before the Foreign Relations Committee.

These statements by experienced and outstanding former members of the armed forces are relevant to our present difficulties and I urge Senators to take note of their views.

I ask unanimous consent that statements as they appear in the publication *Lithopinion* be printed in the RECORD.

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

[From the *Lithopinion*, spring 1970]

BEYOND THE CALL OF DUTY

(Four retired generals speak their minds about Vietnam.)

When is a peacenik not a peacenik? When is a hawk not a hawk? The bitter debate over our commitment to the war in Vietnam has resulted in stereotypes that make ra-

tional discussion of the conflict virtually impossible. Everyone who opposes the war has been pigeonholed as a "peacenik"—which, in the judgment of most people who use the term, is usually supposed to mean someone less patriotic than he should be. And everyone who favors our participation in the war is pigeonholed as a "hawk"—which, in the judgment of most people who use the term, is usually supposed to mean someone who is willing to drop hydrogen bombs to get it over with.

Lithopinion takes pleasure in disrupting these stereotypes by presenting a gallery of hawks who are peaceniks—that is, professional warriors of the highest reputation who believe this particular war is a stupid ordeal to which we have subjected our young men and our energies and finances long enough. In previous wars involving the protection of this country, they were the fiercest of hawks. But in this conflict, for reasons they will explain, they advise the sheathing of talons.

We recommend that special attention be given the opening article, written specifically at the invitation of Lithopinion, in which Brigadier General Samuel B. Griffith II, United States Marine Corps, Retired, urges unilateral withdrawal, if necessary—a unique and brave suggestion in itself; further, he explodes the domino theory which holds that if South Vietnam falls, all Asia will fall under the domination of Communist China. General Griffith argues that China is surrounded by hostile forces which are sufficient to contain her and, coincidentally, to explain her belligerent posture.

General Griffith, twice decorated with the nation's second highest medal for heroism, retired in 1956. As a member of the 1st Marine Raiders during World War II, he earned the Navy Cross and Purple Heart at Guadalcanal and the Army Distinguished Service Cross at New Georgia. After his retirement he received a Doctorate in Chinese Military History from Oxford (New College) in 1961. His latest book is *The Battle for Guadalcanal*, one of Lippincott's Famous Battles of History series. He has served as a research fellow in China studies at the Council on Foreign Relations in New York City. He is also a member of the Institute on Strategic Studies, London. As a recognized expert in Chinese and other Asian affairs, he has written for *The New Yorker*, *The Saturday Evening Post*, and *Foreign Affairs*. He has frequently lectured at the Armed Forces Staff College, Vassar College, the U.S. Naval War College, and West Point. He graduated from Annapolis in 1929. The citation for the Navy Cross reads in part: "On Sept. 27, 1942, with the only other field officer of the battalion killed that morning, and with his men greatly outnumbered and almost completely surrounded, Lt. Col. Griffith moved forward to a position where he could reconnoiter the ground in front of him in order to effectively employ the troops under his command. While in this position he was painfully wounded by an enemy sniper bullet. Refusing to relinquish command of his troops or leave them without a field officer to control the situation he returned to his post and personally directed the movements of the battalion throughout the remainder of that afternoon." The Army DSC, for action from July 7-10, 1943, on New Georgia, reads in part: "Lt. Col. Griffith frequently went alone on reconnaissance through areas covered by enemy fire as he skillfully led his battalion in its advance through swamp and dense jungle to its objective. Although his men had been without food or water for 36 hours, his fervent leadership infused them with fresh energy to deliver paralyzing blows in the final assault, during which four naval guns were seized and 350 of the enemy were killed." On his return to the U.S. he served as commanding officer of the candidate school at Quantico. Then he became commanding officer of the

21st Marines. The following is Griffith's thinking about America and Asia.

FOR BETTER OR FOR WORSE, the United States is a Pacific power, and will remain one for the indeterminate future. For this reason, our frustrating, bloody and costly experience in Vietnam imperatively dictates that President Nixon and his policy advisers give immediate priority to dispassionate and objective reassessment of United States security interests in Asia.

It should now be painfully apparent, even to the most belligerent and vociferous "hawks," that this nation, rich and powerful as it is, cannot afford a repetition of the Vietnam adventure, either in Southeast Asia or elsewhere.

Had such a realistic evaluation been made, even as late as early 1965, there is at least a good chance that the nation would have been spared the tragedy of the last five years. For there can be no question that any such appraisal would have emphatically indicated that American security interests in Vietnam were at best marginal, and could not possibly justify major commitment to a costly, protracted guerrilla-type war in the jungles, swamps and paddy fields of this small, poor, underdeveloped and strategically insignificant country on the rimland of Asia.

But for three full years after he launched the bombing campaign against the north, a campaign designed by "air power" proponents to hammer Ho Chi Minh's government into submission and force Hanoi to accept dictated negotiations, President Johnson unflinchingly responded to his field commanders' unceasing requests for more ground combat troops, more artillery, more planes, more helicopters—in fact, "more" of everything. And so the inconclusive war, which ravaged South Vietnam, disintegrated the fabric of its society, and dangerously polarized our own, dragged on.

ESCALATION CLOSED THE DOOR

During this time, Washington's thesis was that the preservation of South Vietnam as an independent non-Communist state was a matter of vital concern to us. Why this was so was never satisfactorily explained to the American people, who were constantly assured that the North Vietnamese threat to overthrow the inept, oppressive and corrupt government in Saigon would soon be beaten back. This assertion could always be substantiated by the contents of "captured documents," by Viet Cong defections, by prisoner interrogation, by "kill ratios." There was always "light at the end of the tunnel."

The Johnson thesis was not successfully challenged until the early spring of 1968, when the pressure of events made it inescapably apparent, even to an obtuse President determined to "nail the coonskin to the wall," that he had gradually led the nation into an untenable position; that the passage of time, our increasing involvement, and the consequent escalation of violence by both sides, had closed out alternative courses of action, and that no viable option remained but disengagement, negotiated if possible, unilateral if not.

President Nixon, who came to office unencumbered with the emotional fixation that held his predecessor in thrall, appreciated the fact that winding down the war was an urgent political necessity. He has, in fact, settled for what he optimistically hopes will be a stalemate.

At the same time, he has tried to make it clear that while the United States will assist Southeast Asian nations to repel external aggression, he does not propose to commit this nation again to a major land war in Asia. This is, of course, the bare bones of an Asian policy, which must be fleshed out in more specific terms.

THE COLLISION OF FEARS

During the coming decades, the major power factor in the Asian equation will be

the People's Republic of China, and any realistic reevaluation of our Asian security interests must take into account Peking's estimation of her own. Unfortunately, her conception of necessary security and our conception are almost entirely incompatible.

To appreciate this, one must look at the Asian environment in which China will be required to operate, not from the point of view of Foggy Bottom, but as it is seen by those who make policy in Peking. This environment—which decisively affects Peking's official pronouncements, her propaganda themes for internal and external consumption, and her domestic and foreign policy lines—appears to her to be essentially hostile and threatening.

Deterioration of the transitory fraternal Sino-Soviet relationship has probably reached the point of no return. Certainly, events of the past decade have exorcised the disturbing spectre of a monolithic Eurasian Communism directed from the Kremlin. What we see now is a clash of nationalisms, which neither adversary bothers any longer to disguise in ideological terminology. Each side dislikes, distrusts and fears the other.

Along 4500 miles of a disputed northern border, the Soviet Union has deployed powerful ground, air, rocket, armored and airborne forces poised to strike at China's burgeoning nuclear installations in the western province of Sinkiang and to attack her vulnerable and irreplaceable heavy industrial complexes in the three northeastern provinces (Tung-pai).

USSR AND USA "IMPERIALISM"

The Chinese response to this show of force, with its incipient threat, has been to charge that the "socialist imperialists" (the USSR) and the "capitalist imperialists" (the USA) are "colluding to isolate and contain China." Fanciful as this charge may appear to be in both Washington and Moscow, the danger seems very real to the Party's Military Affairs Commission (MAC) in Peking, which has recently ordered the armed forces alerted, the militia into intensive training, and directed that a variety of passive defense measures be undertaken without delay. In fact, the People's Republic today is on a war footing, and is behaving as if a Russian attack were imminent.

Bordering the Yalu, south of Manchuria, lies North Korea, governed (or misgoverned) by an erratic dictator, Kim Il-sung, subservient to Moscow and since 1966 recipient of Soviet economic and military aid, and beneficiary of a bilateral defense treaty with the Soviet Union. This relationship does not conduce to allay Peking's apprehensions. Nor can she derive much comfort from Kim Il-sung's announced intent to unify Korea in the face of a known U.S. commitment to defend the integrity of the Republic of Korea.

Japan, another Asian ally of the United States, has made tremendous progress in every field. Her technological and industrial achievements during the past twenty years are equalled only by those of West Germany, and have made her the leading power in Asia, a position the Chinese aspire to attain for themselves. Here, as in South Korea, American atomic military power is deployed, alert to strike Chinese targets.

IT'S NOT TEMPTING CHINA

To the south lies Taiwan, bound to the United States by bilateral aid and defense treaties. Taiwan, considered a province of China by both Generalissimo Chiang Kai-shek and his enemy, Mao Tse-tung, is a galling thorn in Peking's side, and "liberation" of Taiwan has since 1949 been a priority policy objective of the mainland government. There is no possibility that this ambition can be realized so long as the United States continues to give its support to the Nationalists.

Further to the south, the Philippines, long considered by Peking a fertile ground for a "People's Liberation War," is tied by treaty to the U.S. and provides basing facilities for both the U.S. Navy and Air Force. There the government, suspicious of the resident Chinese minority and envious of its dominant position in the mercantile field, has taken suppressive measures to reduce its importance and influence.

Chinese reaction to the American presence in South Vietnam reflects a basic anomaly. For while Peking is anxious to see Party Chairman Mao Tse-tung's thesis on "Wars of National Liberation" ultimately confirmed there, and the Americans driven out, the Maoists who control policy are content to sit on the sidelines and contemplate with satisfaction the spectacle of America pouring resources into a war that doctrine correctly assured them the "Imperialists" could not win. History now confirms Mao Tse-tung's speculation to the effect that the Americans would eventually "get tired" in Vietnam and would "go away."

Hanoi, in desperate need of both Chinese and Soviet aid to prosecute the war in the south, is anxious to preserve political integrity and freedom of action. In this political balancing act, the North Vietnamese have found a responsive ally in the Soviet Union, which is quite as determined to contain the spread of Chinese influence in Asia as we are.

PEKING MISSES THE BOAT

For Peking, theoretically neutralized Laos is a question mark, as indeed it is for us. With continuing North Vietnamese infiltration, and the gradual spread of Pathet Lao control, it seems inevitable that a major portion of this politically confused nation, an artificial entity if there ever was one, will eventually be dominated by Hanoi. This will not necessarily be to Peking's advantage.

Cambodia, which fears both the Vietnamese and the Thais, also fears Chinese influence, however indirectly exerted. This fragile political structure, governed by the benevolent but wily and intensely nationalistic Sihanouk, might have been fair game for a Peking-engineered coup some years ago. The opportunity has passed.

Thailand, superficially secure from Chinese-inspired revolutionary machinations, has received considerable amounts of U.S. economic and military aid. Her hostility to China is as undisguised as are her pro-American sentiments. Here, the United States enjoys basing rights and deploys strategic aircraft capable of delivering nuclear weapons to any target in the People's Republic. A pro-Peking Thai National Liberation Front operates in the northern provinces, but poses no real threat to the government in Bangkok.

Burma has had her own experience with the militant Maoist, but whether she will be able to maintain her independent position is an open question. She is a susceptible target for a Chinese-supported "War of Liberation."

REDS GOOF IN INDOCHINA

South of the Himalayan arc lies a hostile India, recipient of economic and military aid both from the U.S. and the USSR and deeply suspicious of Peking and Peking's friend, India's enemy, Pakistan. The three tiny and militarily impotent Himalayan states, Nepal, Bhutan and Sikkim, could not resist Peking if she should decide to take them over. Nor could India protect them.

Elsewhere in Asia, Peking has no friends. The attempted coup in Indonesia (which she certainly inspired, but probably did not trigger), ruptured the Peking-Djakarta axis and resulted in a bloody shambles in which tens of thousands of pro-Maoists were exterminated. The Chinese were quick to accuse the CIA of promoting this blood bath, which wrote *finis* to Peking's efforts to acquire an

ally whose unique strategic position would have immeasurably enhanced Chinese potential to affect the course of Asian history to her advantage.

The expressed or implied hostility of the great majority of her neighbors, most of whom are supported by the United States, is not the only factor that the Chinese must take into account as they assess the Asian environment. For over the eastern horizon the U.S. Seventh Fleet, a nuclear-armed striking force, cruises, and in the depths of the Polar seas, submarines, with missiles targeted, wait.

BASICALLY, CHINA IS PRUDENT

The Chinese are unable to influence this environment in any substantive way. This impotence, and the frustration it induces, are best reflected in the bellicose verbal barrages directed against both the Soviet Union and the United States. But, despite the ferocious rhetoric, Peking's policy has on the whole been distinguished by a realistically prudent assessment of her own vulnerabilities and of the overwhelming strength of her adversaries.

Peking's policy has been, and for a long time to come will continue to be, the avoidance of a direct confrontation with either the U.S. or Soviet Union. But she will certainly encourage, and where possible support, proxy "Wars of National Liberation" in the areas she defines as "Storm Centers of World Revolution," i.e., Asia, Africa and Latin America. This is a "low risk" policy which at the very least will discomfort the United States and which may produce disproportionate dividends.

China's belligerent propaganda, combined with our own cumulative frustration in Vietnam, impelled the Johnson administration in late 1967 to try to persuade the American people that Peking, not Hanoi, was our real enemy. The President viewed with horror the prospect of the Chinese swallowing Hawaii and taking over California; his Secretary of State conjured the fearsome picture of "a billion Chinese . . . armed with nuclear weapons," and the Vice President pointed to Peking as "headquarters" of a militant, aggressive Asian Communism determined to overrun Southeast Asia.

FIRST THINGS FIRST IN CHINA

It is certainly true that by 1980 there will be a billion Chinese, and that Peking will then have at its disposal a nuclear arsenal, given peace in Asia. The prospect of Chinese armadas headed for San Francisco is of course pure fantasy, and whether Peking is "headquarters" of an "Asian-Communist Movement" determined to capture Southeast Asia is at least arguable.

In this context, it may be relevant to point out that Peking has profound, complex and possibly insoluble domestic problems that will require her urgent attention and absorb her energies for some considerable time to come. She has not now, nor will she have in the foreseeable future, the military capability to "overrun" Southeast Asia.

Nevertheless, geographic proximity, historical association and many cultural similarities account for a legitimate Chinese interest in Southeast Asia. No Peking government would be happy to see United States influence paramount in the area while its own was completely excluded. This is not to imply that I believe the Chinese will attempt to "take over" that part of the continent by force of arms. But it can mean in the future a continuing and frequently abrasive political, psychological and economic struggle between China and the United States. It will be a problem for both to keep this struggle within bounds, for there can be no military solution.

It seems clear that any realistic reevaluation of American security interests in Asia will clearly indicate which areas, if any, are truly vital, which important, which mar-

ginal and which unimportant. Our problem has been a failure to discriminate. It was this failure that drew the nation step by step into the morass of Vietnam, from which President Nixon is now attempting to gradually extricate us. This will be a prolonged process, and will require patient determination—not, unfortunately an American characteristic.

MAOISM ISN'T "WAVE OF FUTURE"

The primary definition of the word *vital* as given in the Funk and Wagnalls Standard College Dictionary is: "necessary to existence of continuance; essential." It taxes the imagination to conceive that the continuance of our free American society could depend on the existence of an artificial state in South Vietnam. Yet this was the conviction that obsessed President Johnson, and the loaded phrase "vital security interest" was repeatedly used by administration spokesmen to justify a course of action that became daily less acceptable to the American people.

We do, of course, have important interests in Asia. It is to our best interest to encourage the development there of stable, viable, democratic societies capable of protecting themselves against internal subversion by parties either of the left or the right. But we have learned, or should have, that massive intervention is not the answer. We may indeed ask whether a society unable or unwilling to protect itself from subversion is worth a salvage effort, particularly if that effort threatens in the process to tear our own apart.

During the coming decade, China's capacity to directly influence the course of history in Asia will be negligible. Maoism has been rejected by every Asian nation, with the possible exceptions of North Korea and North Vietnam, as unsuitable and irrelevant. It is not "the wave of the future."

What Asian societies seek, and what we should assist them to find, is expression of their own, unique character. Japan has reached this point; India, Indonesia and some of the smaller nations are striving to reach it, and with our aid and encouragement, will.

It is equally to our interest to take steps that will allay Peking's apprehensions of our intentions. Neutralization of Southeast Asia, with both China and the United States among the guarantors, would be an important ultimate goal.

General David M. Shoup, U.S. Marine Corps, Retired. Among his decorations is the Congressional Medal of Honor, won for gallantry which, according to Pentagon sources, "was largely responsible for the final decisive defeat of the Japanese forces" at the bloody battle of Tarawa Atoll in 1943. His citation reads: "Although severely shocked by an exploding enemy shell soon after landing at the pier and suffering from a serious, painful leg wound which had become infected. Shoup fearlessly exposed himself to the terrific and relentless artillery, machinegun, and rifle fire from hostile shore emplacements. Rallying his hesitant troops by his own inspiring heroism, he gallantly led them across the fringing reefs to charge the heavily fortified island and reinforce our hard-pressed, thinly held lines. Upon arrival on shore, he assumed command of all landed forces and, working without rest under constant, withering enemy fire during the next two days, conducted smashing attacks against unbelievably strong and fanatically defended Japanese positions despite innumerable obstacles and heavy casualties." Under Presidents Eisenhower and Kennedy, Shoup was commandant of the Marine Corps. Kennedy referred to him as "my Marine." Here is Shoup on the Vietnam war:

"In all of my studies and all of my associations over the years with hundreds of flag officers of the Army, Navy, Air Force, and Marines, always the conclusion after

every study, every discussion was that under no circumstances should we get engaged in a land warfare in South Asia, in Asia, on the Asian mainland. If my memory serves me as well as I hope it does, in addition to those people I have personally heard three Presidents say the same thing, and yet there we are, bogged down in the same manner that had been predicted over the last 25 years at least by all those military people who studied the situation and who advised against it.

"When we were in Laos, this same thing [getting bogged down in a land war] would have happened except it was a provable situation that we could not logistically support the number of armed forces organization that would be required to fight this out in Laos. We couldn't do it. But then the next time a confrontation possibility came to pass, and we had the seashore on our flank, increasing our capabilities of logistics support, we went right at it. I do not know why.

"The first reason we were given for being in South Vietnam was so that the South Vietnamese might determine their own destiny without outside interference, and at the very time this was given as a reason the people we were fighting were almost 99 percent South Vietnamese.

"It has always been my contention that this was a civil war amongst South Vietnamese, and if we leave them alone to solve their own problems in the manner that they want to solve them they would be proud of their solution, support whatever conclusions they finally came to, and go ahead in the business of being a nation. Instead of winning the minds and hearts of the South Vietnamese, we have rather closed their minds and broken their hearts. There is a great deal of that. They don't like us meddling in their business and they don't like us trying to tell them what kind of a house they ought to live in, what kind of bandage they ought to put on their foot, and all the rest of it. They would like to live the way they want to live.

"The second reason we were given for being in South Vietnam was that if we don't stop them there, the Communists will soon attack Pearl Harbor or crawl up the beaches of Los Angeles. It is ludicrous to think that just because we lose in South Vietnam that very soon somebody is going to be knocking at the doors of Pearl Harbor. The third reason we were given was the containment of China. Although the United States has an interest in what happens in Vietnam and other parts of Southeast Asia, it is not vital to the security of the United States.

"You cannot defeat the armed forces of North Vietnam—which is the nation we are at war with, whether declared or not—by winning, so-called, in South Vietnam. It is not possible because the big army of North Vietnam is not there. If you poured sufficient troops in and if you also violated the sovereignty of Laos and Cambodia, you could probably drive the North Vietnamese out of South Vietnam in time. But even then you have not defeated the nation or the armed forces of the nation. If we invade North Vietnam with an idea of defeating militarily the armed forces of that nation, and by such action the Chinese Armed Forces come into the war on an all-out basis we cannot win a ground warfare against China without nuclear weapons.

"What do we win if we win? The gain, no matter how greatly it may be embellished, will never equal one/one-thousandth of the cost.

"Have we during this conflict, except indirectly, harmed the two great Communist—so-called Communist—powers? Have we caused them any problems? Very few. And are those two great Communist nations causing us trouble? If they are, we are not harm-

ing them. They are harming us by using up our men, money and materials.

"As for China, from my experiences over parts of five years in China and what I know of conditions there today, I'm sure that more Chinese know where tomorrow's food is coming from than ever in the history of living man. And to what must go the credit? The system they're serving under. The alienation of the friendship of the great and wonderful Chinese people will surely vie for decades to come as the greatest blunder this country ever made in her relations with other nations, unless the final results from our Vietnam commitment overshadow it."

Brigadier General Robert L. Hughes, U.S. Army, Retired. A member of General MacArthur's staff in World War II, he wears the Silver Star, Bronze Star with Oak Leaf Cluster, Combat Infantry Badge, and Purple Heart (he was badly wounded on New Guinea). Hughes, on the Vietnam war:

"Those who have died in Vietnam have died in support of an unstable foreign government that is maintained only by the strength of the United States. . . . We are prosecuting an immoral war in support of a government that is a dictatorship by design. It represents nothing but a ruling clique and is composed of morally-corrupt leaders who adhere to a warlord philosophy.

"We are losing the flower of American youth in a war that could stretch into perpetuity. We cannot be sure of the security of villages three miles from Saigon because we can't tell the good guys from the bad guys. This is one hell of a war to be fighting. We must disengage from this tragic war. There is not a piece of real estate over there that has any particular strategic value to the U.S."

Brigadier General William Wallace Ford, U.S. Army, Retired. He is one of the few who can say that he fought every day of both World War I and World War II. In the second of these conflicts, he was artillery commander of the 88th Division as it slugged its way across France, Belgium and Germany. Says General Ford:

"In my judgment, the war in Vietnam is wrong politically, militarily and morally. On the foreign side it is isolating us from the sympathies of most of the world. The countries of Europe, to whose support we rallied in two World Wars, now either openly condemn us or turn their heads as in shame and embarrassment for a friend who has committed an ignoble act.

"This war is wrong politically because it seeks to fight ideas with bullets. We must find better ways to fight Communism than by trying to shoot it out of a country where it seems to have more appeal than what we offer here at home. This effort to impose our style of government and society upon a little undeveloped country, half-way around the world, which clearly has no enthusiasm for it, is an exercise in the arrogance of power which has brought down great empires. It will bring us down if we persist.

"This war is wrong militarily because it runs the risk of involving us in a great land war in Asia, which we could not possibly win, or, worse yet, a nuclear war, which *no one* could win.

"This war is wrong morally because it violates our basic doctrine as to self-determination by peoples, violates sober international commitments, offers to the world and to ourselves excuses which cannot bear the light of examination, and forces into its support vast numbers of our people who believe it wrong and suffer an agony of conscience.

"The most unbearable cost is that the war in Vietnam is shattering the unity of our nation. By coercing into support of the war vast numbers of people who have strong conscientious objections to it, by drafting their sons and brothers and husbands to kill and be killed against their profound convictions,

we are doing injury to our national spirit that will be difficult to repair.

"Well, what to do? How do we get out of this mess?"

"The way to stop the war is simply to stop fighting. Let us not worry about losing face in offering peace. France was in almost exactly the same position in Algeria some years ago, but finally decided that her effort was not only wrong, but futile. She got out. No one has reviled her for her action. Russia overplayed her hand in Cuba, and was forced to withdraw. No one calls Russia a paper tiger.

"Nations all over the earth have dreamed great dreams around the American Image. For their sake, but even more for ours, let us hope they will again."

ANALYSIS OF JUDGE CARSWELL'S RECORD

Mr. BAYH. Mr. President, the Ripon Society and the Law Students Concerned for the Courts yesterday released the most thorough analysis yet presented of Judge Harrold Carswell's judicial record.

A earlier study prepared by these groups had been criticized by the Justice Department as "unreliable" because it included only Judge Carswell's published opinions and excluded his unpublished ones. In response, these young lawyers conducted a survey of every appeal to the fifth circuit between the years 1959 and 1969—nearly 7,000 cases.

Mr. President, I believe that the results of this study cast grave doubt on the qualification of Judge Carswell for the High Court. Of the 122 cases—reported and unreported—decided by Judge Carswell over the 11-year period and appealed to the fifth circuit, over 40 percent were reversed. Of the 67 district court judges in the fifth circuit with 20 or more decisions appealed, Judge Carswell ranks 61st—that is, in the bottom 10 percent—in rate of affirmance.

But the most startling fact revealed by this study is that Judge Carswell's performance worsens as time goes on. Grouping his decisions chronologically, the judge was reversed on 25 percent of his first 30 appeals, 33 percent of the next 30 appeals, 48 percent on the next 31 appeals, and 53 percent of the last 31 appeals. This compares to an average rate of reversals for all fifth circuit district judges varying only slightly over the 11-year period from a high of approximately 30 percent to a low of 23 percent.

I do not believe the Senate should confirm for the Supreme Court the nomination of a man with such an undistinguished record. And I am deeply troubled at the concept of a Supreme Court Justice who is increasingly unable to follow existing precedent—increasingly determined to impose his own views of the law in the face of superior decisions to the contrary. I cannot believe that the Senate can support for the Supreme Court a judge who not only has a mediocre record, but who becomes less and less able the longer he serves on the bench.

I ask unanimous consent that the entire analysis by the Ripon Society and Law Students Concerned for the Court be printed in the RECORD.

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

ANALYSIS OF JUDGE CARSWELL'S RECORD

The following is a brief summary of the purpose, methods, and results of a study of the judicial record of Judge G. Harrold Carswell by the Law Students Concerned For the Court.

I. PURPOSE

The Law Students Concerned for the Court released a statistical study of the judicial record of Judge Carswell at a press conference in Washington, D.C. on March 5. The study used five objective criteria to compare the record of Judge Carswell with that of the other judges in the 5th Circuit District Courts and the District Judges of the country as a whole. Probably the most important criteria was the reversal rate of those decisions appealed from Judge Carswell's 84 opinions printed in F. Supp. Of these decisions, 17 were appealed and 10 were reversed—a rate of 58.8%—almost three times the national average. This result was disregarded by a Justice Department spokesman as unreliable since it represented only a small portion of Judge Carswell's total record. (Washington Post, 3/6, p. A-15.)

This response led the Law Students Concerned for the Court to issue a challenge to Attorney General John Mitchell. The challenge was a request that the Attorney General publicly set a minimum standard of ranking by reversal rate which a nominee to the Supreme Court ought to have. The challenge was issued in a letter to the Attorney General which was also released to the press on March 11. (See Attachment No. 1) In accordance with this challenge, the Law Students vowed to examine every 5th Circuit appellate decision for the last twelve years in order to record every single appeal from Judge Carswell's decisions as a District Judge thereby setting forth the complete record as apparently required by the Justice Department.

While no response to the challenge was received, the Law Students proceeded with their second study. The results, we think, add new substance to the record of Judge Carswell. While they are most consistent with the previous statistical study and with the statements of Dean Bok of Harvard, Dean Pollak of Yale, and Prof. Van Alstyne of Duke, among many who have registered their dissent to this nomination, this new study is revealing in its own right. The results strongly indicate that Judge Carswell most assuredly fails to present the credentials expected of a Supreme Court nominee—and in fact, is quite far removed from such credentials.

II. METHODS

This study includes an examination of every 5th Circuit appellate decision beginning with volume 252 of the Federal Reporter, Second Series, and continuing up to volume 419, the most recent one. Every 5th Circuit decision was recorded on a card, as was the name of the District judge who wrote the opinion from which the appeal was taken. Only those decision for which a District judge was named, which included almost all of them) were recorded. Appellate rulings on decisions by administrative agencies (eg NLRB) were disregarded.

The appellate rulings were tabulated in three categories: (1) affirmances, (2) reversals, and (3) those affirmed in part and reversed in part. Judgments vacated were treated as reversals. Whenever necessary the appellate decision was closely read in order to determine whether the decision below was essentially affirmed or reversed.

The study was basically looking to see if the ruling on a point of law by the District judge was allowed to stand by the Court of Appeals. Every effort was made to fairly place a decision in one of the above categories. Judgments modified were not recorded as such, although if the modification was clearly a reversal then it was placed in that category.

Appellate decisions were all shepardized although only those rulings amounting to an affirmance or reversal or part thereof were counted. "Cert. Denied," "U.S. Appeal Pending" and "modified" (unless dispositive) were not recorded. Shepardizing being completed, the decisions were then sorted and tabulated by the judge using the three categories mentioned.

III. RESULTS

A. Reversal record

Judge Carswell had 122 decisions appealed to the Fifth Circuit or the Supreme Court. 70 of these were affirmed—46 were reversed—with 6 being affirmed in part/reversed in part. Judge Carswell's reversal rate was 40.2% applying our method of giving each reversal in part the value of one-half a full reversal (with the affirmed in part likewise counting for one-half.) This method of treating AIP/RIP results was judged to be most representative and a fair one. Judge Carswell's reversal rate is almost a full ten percent greater than the Fifth Circuit District Judge average as a whole of 30.0%.

B. Percentile rank of Judge Carswell by reversal rate

Looking at all Fifth Circuit District Judges with 20 or more decisions appealed, Judge Carswell ranked in the lowest 10% of reversal rates (i.e. having one of the highest rates). He stands 61 out of 67 judges in order of increasingly high reversal rates. Among those judges with 30 or more and 50 or more decisions appealed, Judge Carswell ranked in the lowest 15% of District judges in the Fifth Circuit. Among judges with 75 or more, and 100 or more decisions appealed, Judge Carswell ranked in the bottom quarter. He stands well below the median in all categories.

C. A chronological look at Judge Carswell's reversal rate

Judge Carswell's record shows an increasing number of reversals, the longer he sat on the District bench.

Among his first 61 opinions there were 42 affirmances, 18 reversals, and 1 AIP/RIP for a reversal rate of 30.0%. Among his next 62 opinions, there were 28 affirmances, 28 reversals, and 5 AIP/RIP which gave him a reversal trend of 50.0%.

Dividing Judge Carswell's opinions into fourths, the pattern becomes clearer. The number of his reversals increases steadily from 7 to 10 to 13 to 16 while the number of affirmances decreases. The reversal rate increases from 25% to 33% to 48% to 53% for the last thirty-one decisions appealed.

LAW STUDENTS CONCERNED FOR THE COURT, COLUMBIA LAW SCHOOL, New York, N.Y., March 11, 1970.

HON. JOHN MITCHELL, Justice Department, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: In response to the Justice Department's criticism that this group's statistical study of Judge Carswell judicial record is invalid because it considers only his printed decisions, this letter both defends the findings announced last Thursday and respectfully challenges you to agree to recommend withdrawing his name if his total record is found to fall below the percentile of judges—which you are hereby asked to designate in advance—who alone should be appropriately considered for elevation to the Supreme Court.

In order to avoid the slightest question regarding sampling, this group hereby commits itself to perform such a further study, certified under oath, by devoting whatever time and manpower is necessary to consider every single decision, published or unpublished, by Judge Carswell and every other district judge between 1958 and the present which was appealed in the Fifth Circuit Court of Appeals. We submit that you cannot in good faith continue to recommend that Judge Carswell

sit in judgment on the highest court if his record on the lowest federal court does not meet the level which you deem to be appropriate.

As you recall, our group found that Judge Carswell ranked far below the average of all other federal judges on each statistical criterion which was applied to all of his 84 printed decisions and to a sample of 400 printed decisions of other judges. The findings we released last Thursday at our press conference together with the Ripon Society at the New Senate Office Building showed:

1. Carswell was reversed on 58.8% of the appeals from all of his printed decisions, which is practically 3 times the 20.2% average for all federal district judges and 2½ times the 24.0% for district judges in the Fifth Circuit.

2. As a percentage of all his printed decisions, Carswell's rate of reversal was still twice as high as both the national and Fifth Circuit district judge average, 11.9% as against 5.3% and 6.0%, respectively.

3. Throughout the period he sat, Judge Carswell's decisions were accorded relatively little authoritative weight by other judges: each of his opinions was cited by all other U.S. judges less than half as often, on the average, as those of all district judges and Fifth Circuit district judges.

4. Carswell's opinions were about two-fifths as thoroughly documented with case authority, and less than one-third with secondary source authority, as the average of all district judges.

5. Carswell's average opinion was less than half as extensive as the average for all other district judges.

A spokesman for your Department questioned the reliability of our findings on Judge Carswell's performance because they were based only on his *printed* decisions. He said: "No affirmance-reversal statistics based on that small a portion of any judge's decisions are reliable, even assuming the raw figures to be accurate." As to that final little innuendo, incidentally, our work sheets were and remain open to the inspection of both the press and your office and we trust that if you seriously question the accuracy of our raw figures you will produce those you believe to be correct.

Printed decisions, as you are surely aware, constitute a judge's principal—and indeed his only visible—contribution to the law. Further, judges select for publication in Federal Supplement (and West Publishing Co. additionally requests) decisions of more than routine nature—those of some importance, interest or novelty. The overwhelming majority of cases which judges elect not to publish, West has told us, are ordinary judgments upon jury trials, orders and decisions turning on questions of fact rather than on serious questions of law.

In view of those circumstances, and in fact that the work of a Supreme Court Justice is deciding and explaining not ordinary questions of law and fact but important questions of law which are novel and unsettled, how can your Department maintain that Judge Carswell's entire printed record of 84 decisions is an unreliable basis for measuring his judicial performance? President Nixon asked the Senate to "look at his record . . . as a Federal judge," and Senator Ervin has said, "I think we can judge a man's judicial past on the basis of the opinions he has written." If we cannot depend on the entire printed record, what can we depend on? Moreover, on what basis have you recommended his nomination?

Although we have confidence in the accuracy of our earlier findings that Judge Carswell falls drastically below the average level of performance of federal judges, we respectfully extend to you the challenge mentioned above: Tell us the percentile of federal judges—top 2%, top 10%, top 25%, whatever—which you think should alone be considered for possible elevation to the

Supreme Court. We will examine every one of the ten or fifteen thousand Fifth Circuit and Supreme Court decisions on appeals from decisions, printed or unprinted, of district judges in Judge Carswell's Fifth Circuit. We will preserve a card record of each case and certify under oath as to our methods and results. Judge Carswell's complete record on appeals will be measured against the complete record of each other judge during the same period.

Let the total record be determinative. Commit yourself to recommend Judge Carswell's withdrawal if his record fails to meet that which you designate in advance as a minimum standard. As a Supreme Court Justice he would be called upon to decide wisely those most complicated questions with few clear guideposts and with strongly competing principles which constitute the Court's work. You must certainly agree that as a district judge, charged with the duty of finding and applying better demarcated law on more elementary issues, Judge Carswell must not have been found to have erred more consistently than that number of other judges which you deem appropriate.

We hope that you will accept our respectful challenge, and that we may have your early reply.

Respectfully yours,

ALAN C. ZETTERBERG,
(For the committee).

APPELLATE DECISIONS OF JUDGE CARSWELL'S
DISTRICT COURT OPINIONS IN CHRONOLOGICAL
ORDER (CITED FROM F.2d)

("A"—Affirmance; "R"—Reversal; "AIP/RIP"—Affirmed in part & Reversed in part)

- 266-792 A
- 267-834 R
- 268-422 A
- 269-83 A
- 272-574 R
- 274-68 R
- 274-685 A
- 276-203 A
- 276-919 A
- 276-924 A
- 279-19 A
- 279-561 A
- 281-789 A
- 282-942 R
- 283-4 R
- 283-244² A
- 283-245 A
- 286-697 AIP/RIP
- 287-701 A
- 288-620 A
- 291-422 R
- 292-153 A
- 295-370 A
- 296-37 A
- 296-50 R
- 296-898 A
- 297-339 A
- 302-307 A
- 303-278 A
- 303-576 A
- 304-160¹ A
- 304-459 A
- 304-878 A
- 306-182 R
- 306-433 A
- 306-862 R
- 308-728 A
- 308-807² A
- 313-783 A
- 316-189 A
- 318-713 A
- 322-576 V
- 324-178 A
- 324-804 A
- 325-162 R
- 327-549 R
- 330-337 A
- 333-307 A
- 333-630 R
- 334-243 A
- 335-592 A
- 338-62 A

- 338-53 A
- 341-351 A
- 341-535 A
- 341-914 A
- 344-958¹ V
- 345-795² R
- 346-433 R
- 349-873 V
- 351-311¹ R
- 351-950² A
- 354-1006¹ A
- 356-660 A
- 356-771 R
- 356-921 A
- 361-443 A
- 362-352 A
- 362-493 R
- 363-439 A
- 365-457 AIP/RIP
- 365-478 R
- 369-940 R
- 371-139 R
- 371-395 V
- 374-123 A
- 377-861 A
- 380-182 R
- 380-489 AIP/RIP
- 380-915 V
- 381-734 A
- 382-852 AIP/RIP
- 384-882 A
- 384-363 A
- 386-520 AIP/RIP
- 387-70 R
- 388-977 R
- 390-662 A
- 390-872 A
- 391-13 R
- 391-248 R
- 391-921 R
- 394-153 R
- 394-492 A
- 395-211 A
- 395-675 A
- 397-810³ R
- 398-507 R
- 398-1011 R
- 399-142 R
- 399-417 R
- 399-478 R
- 400-264 A
- 400-548 R
- 401-769 A
- 402-63 R
- 402-755 A
- 405-1206 A
- 406-724 R
- 407-189 A
- 407-348 A
- 409-225 A
- 412-644 R
- 412-851 A
- 414-428 R
- 414-657 A
- 414-739 AIP/RIP
- 415-393 R
- 415-799 A
- 417-905 R
- 417-991 R
- 417-1041 A

Total, 122 Opinions.

First 33 Decisions: 7R, 1AIP/RIP.
Last 33 Decisions: 18R, 1AIP/RIP.

Among first 61 opinions:

42A 18R/V 1AIP/RIP

Among second 61 opinions:

28A 28R/V 5AIP/RIP

First half reversal rate: 30%.

Second half reversal rate: 50%.

Dividing opinions into fourths:

1-30 31-60 61-91 92-122

A: 22 20 14 14

R: 7 10 13 16

AIP/RIP: 1 0 4 1

Rev. Rate: 25% 33% 48% 53%

Note increasing amount of reversals and increasingly high reversal rate.

("V" is counted as "R")

(An "AIP/RIP" is counted as one-half a reversal and one-half an affirmance in the above percentages.)

RANKING OF ALL 5TH CIRCUIT DISTRICT JUDGES BY REVERSAL RATE

[Every appeal from all decisions of every judge, 1958-69]

Rank—Minimum number of appeals					Percentile (on reversals) and judge	Number of appeals	Percent reversed	Rank—Minimum number of appeals					Percentile (on reversals) and judge	Number of appeals	Percent reversed				
100	75	50	30	20				100	75	50	30	20							
Above median:								Below median:											
					1. Cassibry, Fred J.	21	9.5								27	35. Crowe, Guthrie	30	26.8	
					2. Mitchell, Lansing L.	24	10.4								24	28. 36. Guinn, Ernest	53	28.4	
					3. Ainsworth, Robert A.	62	13.7								17	25	29	100	28.5
					4. Edenfield, Newell	27	14.8								18	26	30	125	28.5
					5. Sloan, William B.	108	15.3										31	47	28.8
					6. Scott, Charles R.	45	15.6										27	216	29.9
					7. Jones, Warren L.	95	15.8										28	74	30.3
					8. Smith, S. O., Jr.	78	16.7										32	116	31.4
					9. Eaton, Joe	29	17.2										33	158	31.4
					10. Christenberry, Herbert	231	17.5										34	126	31.7
					11. Estes, Joe E.	80	18.1										35	191	32.6
					12. Dyer, David W.	90	18.4										36	69	32.6
					13. Thornberry, Homer	21	19.0										37	150	32.7
					14. Hunter, Edwin F.	96	20.8										38	103	33.0
					15. Garza, Reynoldo G.	67	22.4										39	22	34.0
					16. Taylor, William	29	22.4										40	160	34.0
					17. Wright, J. Skelly	143	22.4										Bottom 25 percent:		
					18. Hooper, Frank A.	177	22.8										51. Choate, Emmett C.	363	35.2
					19. Pittman, Virgil	28	23.2										52. Fisher, Joe E.	141	35.8
					20. Brewster, Leo	90	23.3										53. Ellis, Frank B.	49	36.3
					21. Hannay, Allen B.	83	24.1										54. Lynne, Seybourne	109	37.1
					22. Morgan, Lewis	125	24.1										55. Elliott, J. Robert	99	37.4
					23. Roberts, Jack	56	24.1										56. Thomason, R. E.	71	37.4
					24. Bottle, William A.	178	24.5										57. Suttle, Dorwin W.	53	37.8
					25. Atkins, C. Clyde	46	25.0										Bottom 15 percent:		
					26. Connally, Ben C.	156	25.0										58. Whitehurst, George W.	78	37.8
					27. Putman, Richard J.	52	25.0										59. DeVane, Dozier A.	38	38.1
					28. Noel, James L.	56	25.0										60. Allgood, Clarence W.	86	39.0
					29. Mehrtens, William O.	73	26.0										Bottom 10 percent:		
					30. Krentzman, Ben	23	26.1										61. Carswell, G. Harrold	122	40.2
					31. Young, George C.	73	26.1										62. Cox, William H.	196	40.6
					32. Clayton, Claude F.	137	26.2										63. Sheehy, Joe W.	109	41.7
					33. Simpson, Byron	142	26.4										64. Davidson, T. Whitfield	142	41.9
					34. Russell, Dan M., Jr.	30	26.7										65. Mize, Sidney C.	106	43.8
																	66. Scarlett, Frank	224	45.7
																	67. Thomas, D. Holcombe	171	47.4

TABULATION OF DECISIONS ON EVERY APPEAL FROM EVERY DECISION OF EACH JUDGE IN THE DISTRICT COURTS OF THE FIFTH CIRCUIT—1958-69

Judge	Total number of decisions	Decisions		Affirmed in part, reversed in part	Reversal rate (percent)	Judge	Total number of decisions	Decisions		Affirmed in part, reversed in part	Reversal rate (percent)
		Reversals	Affirmances					Reversals	Affirmances		
Ainsworth, Robert A.	62	8	53	1	13.7	Hooper, Frank A.	177	38	134	5	22.8
Allgood, Clarence W.	86	32	51	3	39.0	Hughes, Sarah T.	116	33	76	7	31.4
Allred, James V.	22	7	14	1	34.0	Hunter, Edwin F.	96	20	76	0	20.8
Arnou, Winston E.	13	4	9	0	30.8	Ingraham, Joe M.	216	63	150	3	29.9
Atkins, C. Clyde	46	10	33	3	25.0	Johnson, Frank M.	191	61	127	3	32.6
Atwell, William H.	18	9	8	1	52.8	Jones, J.	95	13	78	4	15.8
Barker, William J.	11	4	6	1	41.0	Justice, William Wayne	2	2	0	0	100.0
Battisti, Frank J.	2	0	2	0	0	Keady, William C.	8	3	5	0	37.5
Bell	2	1	1	0	50.0	Kellam	2	1	1	0	50.0
Blumenfeld	3	1	2	0	33.3	Kannerly, Thomas M.	2	0	2	0	50.0
Boldt	2	0	2	0	0	Karr	0	2	0	0	0
Bowen	4	1	3	0	25.0	Krentzman, Ben	23	6	17	0	26.1
Boote, William A.	178	39	130	9	24.5	Lawrence, Alexander A.	4	1	3	0	25.0
Boyle, Edward J.	13	1	11	1	11.5	Lieb, Joseph P.	158	47	106	5	31.4
Brewster, Leo	90	17	65	8	23.3	Lynne, Seybourne H.	109	37	65	7	37.1
Cabot, Ted	47	13	33	1	28.8	Martin	14	8	5	1	60.7
Carswell, G. Harrold	122	46	70	6	40.2	Major	13	4	8	1	34.7
Cassibry, Fred J.	21	2	19	0	9.5	Mathes	11	2	8	1	22.7
Cecil	9	4	5	0	44.5	McRae, William A.	150	45	97	8	32.7
Christenberry, Herbert W.	231	37	187	7	17.5	Mehrtens, William O.	73	17	52	4	26.0
Choate, Emmet C.	363	119	226	18	35.2	Mitchell, Lansing L.	24	2	21	1	10.4
Clayton, Claude F.	137	34	99	4	26.2	Mize, Sidney C.	106	44	57	5	43.8
Comiskey, James A.	10	1	8	1	15.0	Morgan, Lewis	125	29	93	3	24.1
Connally, Ben C.	156	37	115	4	25.0	Nixon, Walter L.	2	1	1	0	50.0
Cox, Allen	6	2	3	1	41.7	Noel, James L.	56	13	41	2	25.0
Cox, William H.	196	75	112	9	40.6	Pittman, Virgil	28	6	21	1	23.2
Crave, Guthrie	30	8	22	0	26.8	Putnam, Richard J.	52	13	39	0	25.0
Davidson, T. Whitfield	142	56	79	7	41.9	Reeves, Albert L.	17	4	9	4	35.3
Davis, T. Hoyt	8	4	4	0	50.0	Rice, Ben H., Jr.	103	33	68	2	33.0
Dawkins, Benjamin C.	126	38	84	4	31.7	Rizley	3	0	1	2	33.3
DeVane, Dozier A.	38	13	22	3	38.1	Rives, Richard T.	4	0	3	1	12.5
Dooley, Joe B.	74	20	49	5	30.3	Roberts, Jack	56	13	42	1	24.1
Doyle	2	0	2	0	0	Rubin, Alvin B.	18	2	16	0	11.1
Duncan	4	0	4	0	0	Russell, Dan M., Jr.	30	8	22	0	26.7
Dyer, David W.	90	15	72	3	18.4	Scarlett, Frank M.	224	98	117	9	45.7
Eaton, Joe	29	5	24	0	17.2	Scott, Charles R.	45	5	36	4	15.6
Edenfield, Newell	27	4	23	0	14.8	Seals, Woodrow B.	19	2	17	0	10.5
Elliott, J. Robert	99	34	59	6	37.4	Simpson, Bryan	142	36	103	3	26.4
Ellis, Frank B.	49	16	31	2	36.3	Singleton, John V., Jr.	17	8	8	1	50.0
Estes, Joe E.	80	12	63	5	18.1	Sheehy, Joe W.	109	43	61	5	41.7
Fisher, Joe J.	141	47	87	7	35.8	Sloan, William B.	108	14	89	5	15.3
Fulton, Charles B.	100	26	69	5	28.5	Smith, Orma B.	2	1	1	0	50.0
Garza, Reynolds G.	67	12	49	6	22.4	Smith, Sydney O., Jr.	78	12	63	3	16.7
Grooms, Aalan Hobart	125	34	88	3	28.5	Soloman	3	0	3	0	0
Gravett, Henry H.	18	4	14	0	22.2	Spears, Adrian A.	69	20	44	5	32.6
Guinn, Ernest	53	14	37	2	28.4	Stephenson	2	1	0	1	75.0
Hannay, Allen B.	83	18	61	4	24.1	Suttle, Dorwin W.	53	20	33	0	37.8
Heebe, Frederick	15	3	12	0	20.0	Sweeney	4	2	2	0	50.0
Henderson, Albert J.	4	2	2	0	50.0	Taylor, William M., Jr.	29	5	21	3	22.4
Henley	3	0	3	0	0	Thomas, Daniel Holcombe	171	76	85	10	47.4
Hitchson	2	1	1	0	50.0	Thomason, R. E.	71	25	43	3	37.4
Hoffman	5	0	5	0	0						
Holland, John W.	5	0	2	3	0						

TABULATION OF DECISIONS ON EVERY APPEAL FROM EVERY DECISION OF EACH JUDGE IN THE DISTRICT COURTS OF THE FIFTH CIRCUIT—1958-69—Continued

Judge	Total number of decisions	Reversals	Affirmances	Affirmed in part, reversed in part	Reversal rate (percent)
Thornberry, Homer	21	4	17	0	19.0
Tuttle	2	0	2	0	0
Underwood, E. Marvin	7	6	1	0	85.8
Vaughn	150	51	102	7	34.0
West, E. Gordon	78	28	47	3	37.8
Whitehurst, George W.	3	0	3	0	0
Whitfield	6	1	5	0	16.6
Woodward, Halbert O.	7	5	2	0	71.5
Wilkin	143	29	108	6	22.4
Wright, J. Skelly					

Judge	Total number of decisions	Reversals	Affirmances	Affirmed in part, reversed in part	Reversal rate (percent)
Wyche	10	7	3	0	70.0
Young, George C.	73	19	54	0	26.1
All others	54	11	40	3	23.2
Page total	127	30	94	3	
Grand total	6,942	1,943	4,719	280	30.0
Carswell (repeated)	122	46	70	6	40.2

LOW CASELOAD, HIGH BACKLOG FURTHER EVIDENCE OF CARSWELL INADEQUACY

The "Reversal Trend" Graph [not printed in the RECORD] presents the most striking evidence of Judge Carswell's lack of legal accomplishment. The following facts illustrate that this reversal trend is no fluke.

1. Judge Carswell's rate of reversal on cases appealed dramatically increased during his tenure as Federal District Court Judge in the Fifth Circuit. In his first 30 appeals he was reversed on 25%. In his last 31 appeals, before his appointment to the Fifth Circuit Court of Appeals, he was reversed on 53.2%.

2. Simultaneously, his caseload decreased and his backlog increased. His rate of appeals per thousand cases terminated rose almost parallel with the national average, and slightly more strikingly than the other judges of the Fifth Circuit District Courts.

A. CASELOAD (BASED ON NUMBER OF CASES COMMENCED)

Judge Carswell began with a caseload of 353 when he was appointed to the bench of the Northern District of Florida in 1958. In terms of caseload, he was 11th of 16 districts in that circuit. In 1966, he was 17th of 17 districts in the same circuit, and remained so through 1968, despite the fact that Winston G. Arnow was appointed as a second Federal District Judge in the Northern District of Florida. (In light of the consistently light caseload, it is interesting that another judge was appointed at all.)

B. APPEALS PER THOUSAND CASES TERMINATED

Judge Carswell's high reversal rate, it would seem, cannot be explained by any supposition that only his wrong decisions were appealed from. In fact, Judge Carswell was appealed from slightly more often than the average rate for all Fifth Circuit Districts from 1958 to 1969, and on a parallel with the national average during the same time period. It might be thought that with such a light caseload and with more time therefore to work on opinions, Judge Carswell's decisions would have been less frequently appealed.

C. BACKLOG (CASES APPROPRIATE FOR TRIAL AND PENDING)

In 1958, Judge Carswell inherited a backlog of 126 cases. By 1966, his caseload (353 in 1958) had shrunk to 193 (17th of 17 districts in the Fifth Circuit), but his backlog had risen to 282. By June 19, 1969, the date to the Fifth Circuit Court of Appeals, with the appointment of a second judge in his Northern District of Florida, Judge Carswell's caseload was 160, but the backlog for the Northern District had dropped to 120. Furthermore, while the average caseload in Fifth Circuit District Courts was substantially higher than in Judge Carswell's court, the average backlog was lower. While the average caseload in Fifth Circuit District Courts increased, Judge Carswell's caseload decreased. While the average backlog in Fifth Circuit District Court decreased, Judge Carswell's backlog more than doubled.

CONCLUSION

In fiscal 1968, his last full year on the District Court, Judge Carswell handled 38% fewer cases than the average Federal District judge and 45% fewer cases than the average

Federal District Judge in his own Fifth Circuit. Nonetheless, Judge Carswell's civil cases, taking the median, were 75% more delayed in reaching trial than the United States average, and 133% more delayed than civil cases in the Fifth Circuit District Courts. Examining the most serious cases (those 10% delayed the longest), Judge Carswell's docket averaged 21% more delay than the national average and 42% more delay than the other Fifth Circuit District Court cases.

In light of these statistics, the assessment of mediocre is perhaps a charitable one. The statistics developed by the Law Students Concerned For the Court clearly reflect negatively on Judge Carswell's qualifications for the Supreme Court. The Supreme Court docket is well known to be most burdensome in terms of both caseload and complexity of issues presented.

It might also be pointed out that Canon Seven of the American Bar Association Code of Judicial Ethics states:

"A judge should be prompt in the performance of his judicial duties, recognizing that . . . habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court."

Moreover, bearing in mind that 10% of the civil cases in Judge Carswell's court were more than 47 months old (3 yrs. 11 mos.) before they reached trial, it should be noted that the declared policy of the Federal Judiciary is that "every case pending three years or more and appropriate for trial be regarded as a judicial emergency."

These facts are uniquely relevant now, when the issues of law and order and due process are so important to the fabric of American life, when it is so important to restore confidence in the legal process.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. CRANSTON). As in legislative session, the Chair lays before the Senate the pending question, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. The report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance on elementary and secondary education, and for other purposes.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, will the Senator from Indiana yield for a unanimous-consent request? Mr. BAYH. I yield.

SUPREME COURT OF THE UNITED STATES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the further consideration of the nomination of Mr. George Harrold Carswell.

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

In executive session, the Chair lays before the Senate the pending business which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. The question is, Will the Senate advise and consent to the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, yesterday the Senate unanimously agreed to vote on April 6 on a motion to recommit the nomination of Judge Carswell, pursuant to the unanimous-consent agreement as set forth on page 9314 of the CONGRESSIONAL RECORD. Pursuant to that unanimous-consent agreement, where there is reference to a motion to be made by the Senator from Indiana, with the understanding that the vote will come on April 6 on the motion to recommit, at this time I do hereby move that the nomination of Judge G. Harrold Carswell be recommitted to the Committee on the Judiciary.

The PRESIDING OFFICER. The motion is in order.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, would that still be subject to a motion to table?

The PRESIDING OFFICER. Under the same conditions as set forth in the unanimous-consent agreement. That is correct.

(The following proceedings, which occurred earlier today, are printed here by unanimous consent.)

Mr. FULBRIGHT. Mr. President, since the conclusion of hearings and the report of the Judiciary Committee on the nomination of Judge Carswell to be an Associate Justice of the Supreme Court, a number of additional questions have been raised concerning Judge Carswell's qualifications. These are questions which the Judiciary Committee did not have the opportunity to consider.

I refer particularly to the uncertainty which has arisen regarding the willingness—or lack of willingness—of Judge Carswell's colleagues on the Fifth Circuit Court of Appeals to endorse his nomination. The record, as we know, contains a

letter from former Chief Judge Elbert P. Tuttle offering to testify on the nominee's behalf. This letter is also cited on page 5 of the committee's report. On March 17, the senior Senator from Maryland informed the Senate that he had received three telegrams from Judge Tuttle indicating that he was no longer prepared to testify in support of Judge Carswell. It is not clear why Judge Tuttle has changed his mind, although it would be useful to the Senate to have this explained before the nomination is brought to a vote.

According to television and press reports, another of Judge Carswell's colleagues, Judge John Minor Wisdom, actively opposes the nomination. According to these reports, Judge Wisdom blocked a letter of endorsement from the entire fifth court bench by advising his colleagues that, if such action were taken, he himself would send a personal letter to the Judiciary Committee opposing the nomination.

Mr. President, I wish to emphasize that I have great respect for the President's prerogative in the nomination of high officials in the judicial and especially the executive branches of our Government.

Officials in the executive have a direct responsibility to the Chief Executive and generally hold office at his pleasure. On the other hand, Justices of the Supreme Court are appointed for life, they usually serve long after the President has retired, and they have a constitutional responsibility to support, to defend, and to interpret the Constitution and not necessarily support the policies of any Chief Executive. Therefore, the Senate has a special responsibility to exercise its independent judgment in confirming a Justice of the Supreme Court.

Other questions have arisen which the Judiciary Committee did not have the opportunity to consider. There have been several allegations of bias against certain attorneys on Judge Carswell's part. The meaning of the endorsement of the nominee by the Federal Judiciary Committee of the American Bar Association has been called into question by a group of distinguished lawyers, including the president of the New York Bar Association and the deans of leading law schools. In addition, the press reported yesterday, I believe, that the Philadelphia Bar Association—I think unanimously—opposes this nominee. These developments, I again emphasize, have all occurred since the Committee on the Judiciary considered this nomination.

Mr. President, it is no fault of the Judiciary Committee, or of the nominee, that the matters were not brought forth for orderly, thorough examination before the nomination was reported to the Senate. Nonetheless, they raise questions which I—and, I would guess, other Members of the Senate—wish to have clarified before voting on the nomination. I would think it unfortunate if Senators were forced to rely on press reports, television interviews, and an incomplete correspondence for highly pertinent information on the merits of this nomination.

I should like to make it clear that I myself am undecided, as of now, how I will

cast my vote. I most emphatically do not share the lack of enthusiasm in some circles for the appointment of a southern judge. I applaud and appreciate the President's reported desire to nominate a judge who would give the Court regional balance. There are many eminent jurists in the southern part of the United States, and I have the fullest confidence in the ability of any of a number of them to serve with distinction on the Supreme Court.

Nor do I share the distaste which I have heard expressed for a "strict constructionist." I have, indeed, welcomed reports that the President sought a nominee who would practice judicial restraint. There is much to be said for a stricter construction of the Constitution than has been in favor in recent years—in both domestic and, I might say, in foreign affairs. In short, Mr. President, I consider myself a strict constructionist, especially in regard to the effect of the Constitution with respect to this body in our governmental system.

On these and other grounds, I thought the President's first nomination a satisfactory one and I cast my vote in favor of Judge Haynsworth. Before voting on the present nominee, I would very much like to have further information on the questions which have arisen since the nomination was reported on February 27.

This information can best be provided through the orderly procedures of the Judiciary Committee. I intend to support, therefore, Mr. President, the motion that the nomination of Judge Carswell be recommitted to the Committee on the Judiciary for such further consideration and action as the committee and its chairman may think appropriate.

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

Mr. FULBRIGHT. I yield.

Mr. BAYH. I listened with a great deal of interest to the statement of the distinguished Senator from Arkansas; and I must say that, being a bit familiar with the currents that are running across the country, I salute him for such a courageous approach to this matter.

I thought the Senator from Arkansas made two salient points: First, to draw a distinction between the Presidential prerogative so far as appointing members of his administration—teammates, if you please—with whom he must work, on one hand, and the responsibility of initiating nominations to the Supreme Court of men who will be there long after any of us, either he or any of us in this body, have the opportunity to serve.

The second matter that I thought was appropriate was the fact that by recommitment, the Senator from Arkansas pointed out the fact that there is a continuing search right now to differentiate between fact and fiction, to try to find out what was said and what was not said, to try to refine into the most minute details all the facts involved in the judge's background and what his qualifications are.

I ask unanimous consent to have printed at this point in the RECORD an article by Mr. John MacKenzie relative

to one of these facts, quoting a distinguished attorney from Washington, Charles A. Horsky, who is a member of the ABA panel, and an article by Mr. Fred Graham in the New York Times yesterday, about certain facts relative to the golf course case that I think would be important for us all to study.

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

[From the New York Times, Mar. 25, 1970]
JUSTICE RUTLEDGE'S SON QUESTIONS CARSWELL STAND; VOICES DOUBTS ON HIGH COURT NOMINEE'S STATEMENT ABOUT FORMING OF PRIVATE CLUB

(By Fred P. Graham)

WASHINGTON, March 24.—The credibility of Judge G. Harrold Carswell's testimony about his role in the formation of a segregated private golf club has become a major issue in the battle over confirmation of his nomination to the Supreme Court.

Senator Birch Bayh, Democrat, of Indiana, released today a telegram from Neal P. Rutledge, a Miami lawyer who is the son of the late Justice Wiley Rutledge of the Supreme Court. Mr. Rutledge questioned Judge Carswell's testimony that he had not heard that a reason for forming the private club to take over Tallahassee's golf facilities was to prevent desegregation of the facilities.

Judge Carswell was United States Attorney for the Tallahassee area in late 1955 and early 1956, when the country club was formed and acquired the municipal facilities. He is now a member of the United States Court of Appeals for the Fifth Circuit.

CALLED "COMMON KNOWLEDGE"

His signing of the club's charter of incorporation, in his capacity as an incorporator and a director, has been construed by his critics as an indication of segregationist sentiment. He has told the Senate Judiciary Committee that the segregation motive "was never mentioned to me—I didn't have it in my mind, that is for sure."

Mr. Rutledge declared in his telegram that he lived in Tallahassee during much of this period and that "it was common knowledge in the community there at that time, and especially among the members of the bar," that the dominant motive for forming the private club was to prevent desegregation.

"It is impossible for me to believe that any prominent member of the Tallahassee community at that time, such as then United States Attorney Carswell, was not fully aware" of this motive, Mr. Rutledge said.

Charles A. Horsky, a Washington lawyer who serves on the American Bar Association committee that found Judge Carswell "qualified" for the Supreme Court, has told friends and associates here that some of the nominee's testimony on Jan. 27 seemed inconsistent with a discussion the two men had the previous night.

Mr. Horsky reportedly went to Judge Carswell's hotel room the night of Jan. 26 to ask about the nominee's role in forming the club, which was not disclosed in the press until the next morning.

QUESTIONED BY COMMITTEE

According to Mr. Horsky's associates, who would not be quoted by name, Judge Carswell at first insisted that he had only contributed \$100 to help improve the club's facilities.

Then Mr. Horsky reportedly spread copies of the incorporation documents on the bed and pointed out Judge Carswell's signature on them. Judge Carswell then reportedly conceded that he had been an incorporator.

Before the Senate Judiciary Committee the next morning, when he was first asked about the club, Judge Carswell appeared uncertain about his role in it. He testified he had "hurriedly" read the news accounts that

morning and had asked someone to make a telephone call to get more facts.

"I can only speak upon my individual recollection of this matter," he said. He added, "I was never an officer or director of any country club anywhere."

Asked if he had served as a director, as alleged in the press, he answered, "No, sir; nor in any other official capacity."

Then Senator Roman L. Hruska, Republican of Nebraska, asked, "Were you an incorporator of that club, as was alleged in one of the accounts I read?"

"No, sir," Judge Carswell replied.

Later that morning, Senator Edward M. Kennedy, Democrat of Massachusetts, brandished what appeared to be a copy of a corporate charter and asked Judge Carswell, "Did you in fact sign the letter of incorporation?"

"Yes sir, I recall that," the nominee answered.

When Senator Kennedy asked what he recalled about it, Judge Carswell replied, "They told me when I gave them \$100 that I had the privilege of being an incorporator. They might have put down some other title, as if you were potentate or something."

TESTIMONY OF JUDGE DISPUTED

(By John P. MacKenzie)

Supreme Court nominee G. Harrold Carswell told two American Bar Association representatives that he was an incorporator of a segregated Tallahassee country club on the night before he swore to the Senate that he had no such role.

The secret meeting in a Washington hotel on Jan. 26, which was acknowledged yesterday by authoritative sources in and out of the ABA, was followed within hours by a letter from the ABA's judiciary committee informing the Senate that Carswell was rated "qualified" for the court vacancy.

No one familiar with the meeting could account for Carswell's flat "No, sir" when he was asked under oath by Sen. Roman L. Hruska (R-Neb.) whether he had served in 1956 as an incorporator of the Capital City Country Club, thereby helping to convert a public facility to a private club at a time when the courts were ordering the desegregation of public golf courses.

The incorporation papers were uncovered by members of the Washington Research Project Action Council, a civil rights organization, Joseph L. Rauh Jr., co-chairman of the Leadership Conference on Civil Rights, which opposes Carswell, delivered copies to Charles A. Horsky, Washington lawyer and the District of Columbia member of the ABA's judiciary committee.

The full committee had met on Sunday, Jan. 25, but adjourned without announcing whether it rated the nominee qualified. The role of Judge Carswell in the country club episode reportedly was part of the committee's unfinished business.

Horsky and fellow committee member Norman P. Ramsey of Baltimore then located Carswell at a downtown hotel and showed him the documents.

Judge Carswell reportedly then acknowledged that he was one of the club's incorporators.

The committee's chairman, Lawrence E. Walsh of New York, confirmed yesterday that the meeting between Carswell and the two ABA representatives occurred. He refused to elaborate.

Reports of Carswell's involvement in the Tallahassee golf club's changeover from public to private facility were aired in the morning newspapers of Jan. 27, when Carswell's confirmation hearing began before the Senate Judiciary Committee.

Carswell told the senators he had "read the story very hurriedly this morning," adding "I had someone else make a phone call to get some dates about this thing." He then flatly denied to Hruska that he had been an incorporator of the golf course.

Pressed by Sen. Edward M. Kennedy (D-Mass.), who was holding a copy of the incorporation papers, about whether he ever signed letters of incorporation, Carswell replied:

"Yes, I recall that," and went on to give this explanation:

"They told me when I gave them \$100 (to help build a clubhouse) that I had the privilege of being called an incorporator. They might have put down some other title, as if you were a potentate or something. I don't know what it would have been."

Throughout his testimony Carswell, a 50-year-old judge of the Fifth U.S. Circuit Court of Appeals, repeated that he was among many Tallahassee residents solicited for a club refurbishing project that, so far as he knew, had no racial aspect.

Asked whether he had "any idea that that private club was going to be opened or closed" to Negroes, Carswell replied, "The matter was never discussed."

"What did you assume?" asked Kennedy. "I didn't assume anything," the nominee replied. "I assumed that they wanted the \$100 to build a clubhouse."

Did he think blacks could belong? "Sir, the matter was never discussed at all."

Kennedy tried once more. "What did you assume, not what was discussed?"

Carswell replied, "I didn't assume anything. I didn't assume anything at all. It was never discussed."

It was learned yesterday that the question of Carswell's candor with the Senate Judiciary Committee was discussed last month when the ABA group again took up the case. After a secret meeting that lasted several hours, the ABA reaffirmed unanimously its opinion that Carswell was qualified for the high court.

Mr. BAYH. I salute the Senator from Arkansas for this very courageous statement.

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

Mr. FULBRIGHT. I yield.

Mr. HARRIS. Mr. President, I join in the comments of the distinguished Senator from Indiana about the statement just made by the distinguished Senator from Arkansas.

I, too, have felt very strongly, as the Senator knows, that there are certain matters in connection with this nomination which ought to be considered again by the Judiciary Committee; and I have therefore felt, as the Senator from Arkansas has stated, that that would be a proper course for the Senate to take.

I point out, as did the Senator from Indiana, that in addition to the matters which the Senator from Arkansas has mentioned, the matter of the Tallahassee golf course also has been of concern to me and I think might be considered further by the Judiciary Committee.

For those reasons, I hope that such a motion, when made, will prevail; and I agree with the Senator from Arkansas.

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

Mr. FULBRIGHT. I yield.

Mr. CRANSTON. Mr. President, I, too, salute the Senator from Arkansas for his statement, for his cautious approach to this nomination.

As a westerner, I want to say that I wholeheartedly concur with the right of the South to be represented on the Court, and with the right of the President to nominate a strict construction-

ist. I agree that there are many men in the South who are eminently qualified to serve on the Court, and I would be glad to support such a nomination.

At one point in his remarks, the Senator from Arkansas referred to reports that the Philadelphia Bar Association had gone on record against Judge Carswell. I would like to verify that they have indeed done so. I have in my hand—I will place it in the RECORD—the statement of the Philadelphia Bar Association against Judge Carswell. It was unanimous. According to the Philadelphia Enquirer, this is the first time that the Philadelphia Bar Association has gone on record in regard to a Supreme Court nomination. The San Francisco Bar Association, likewise, went on record a few days ago against the nomination.

Mr. FULBRIGHT. I did not know that.

Mr. CRANSTON. These are two great American cities where the bar associations have joined the growing list of bar associations which have locally gone on record against the nomination.

Mr. President, I ask unanimous consent that the resolution of the Philadelphia Bar Association and the resolution of the San Francisco Bar Association against Judge Carswell be printed at this point in the RECORD.

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

RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS OF THE BAR ASSOCIATION OF SAN FRANCISCO, FRIDAY, MARCH 20, 1970

Whereas the Bar Association of San Francisco has a policy of recommending and supporting for judicial office those judges and members of the bar who by their character, temperament and experience have demonstrated their special qualifications for judicial office, and opposing the selection for judicial office of those persons who do not possess these qualifications; and

Whereas the members of this Association, as lawyers, are particularly concerned with the status of the Supreme Court of the U.S. as an institution and as a symbol of justice particularly in this day of great scepticism about the ability of the judiciary to deal with current crises; and

Whereas the Directors of this Association recognize the right of the President of the U.S. to appoint to the Supreme Court of the U.S. persons of competence who reflect his judicial and political philosophy, but believe that standards of professional aptitude and experience should be maintained on that court as well as on others; and

Whereas the Directors of this Association have considered the qualifications of G. Harrold Carswell as a lawyer and judge;

Now therefore be it resolved that the Directors of the Bar Association of San Francisco recommend that the nomination of G. Harrold Carswell as an associate justice of the Supreme Court of the U.S. be withdrawn or disapproved on the basis of his lack of qualifications to sit on that court.

RESOLUTION UNANIMOUSLY ADOPTED BY THE BOARD OF GOVERNORS OF THE PHILADELPHIA BAR ASSOCIATION ON MARCH 23

Whereas, there is no more compelling occasion that calls for the public expression of informed opinion by the organized bar than the occasion of an appointment of a Justice of the Supreme Court of the United States.

Whereas, the testimony and statements of leading legal scholars and lawyers raise serious questions as to Judge Carswell's legal ability and judicial stature to serve upon the highest court of our land;

And whereas, the evidence raises serious questions as to Judge Carswell's sensitivity to human and individual rights;

Now therefore be it resolved that the board of governors of the Philadelphia Bar Association hereby urges the Senate of the United States to refuse its consent to the nomination of G. Harrold Carswell to be an associate Justice of the Supreme Court of the United States.

Mr. CRANSTON. I would like to add that the Vermont Bar Association also has gone on record against Judge Carswell.

Mr. FULBRIGHT. I thank the Senators from California, Oklahoma, and Indiana for their kind remarks.

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

Mr. FULBRIGHT. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. It was with interest that I listened to the statement of the Senator from Arkansas, and I appreciate the very deep interest and the deep thought that he has devoted to it.

I might say, in regard to the news story of Mr. MacKenzie, which has just been inserted in the RECORD, there has already been ample coverage of these facts. It was discussed thoroughly before the Judiciary Committee during the hearings:

On one occasion, the Senator from Nebraska asked the nominee a question, as follows:

Were you an incorporator of that club, as was alleged in one of the accounts I read?

Judge Carswell said:

No, sir.

I do not know whether he misunderstood the question or if he was asked whether he actually drew the articles or what the role was. The fact is that later in the testimony—I believe it was pages 32 and 33—there was a full explanation by the nominee Carswell. I shall go into this in greater detail at a later time. We are on limited time now, I understand.

A full analysis of Mr. MacKenzie's article has been furnished to the editor of the Washington Post in a letter which I, along with Senators GURNEY, ALLOTT, and DOLE, signed. I ask that the letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., March 26, 1970.

The Editor,
The Washington Post,
Washington, D.C.

DEAR SIR: It is often said that the most desperate charges are made in the closing days of an election. If this has any application to Supreme Court nominees, then the article on your front page yesterday must be an indication that we are approaching a vote on the nomination of Judge Carswell.

We have no quarrel with the one half of the truth which you have told. It is true, as your article states, that Judge Carswell met with representatives of the American Bar Association on the night before his hearing and was shown (but did not examine) a copy of the articles of incorporation for the country club which had been prepared and signed fourteen years earlier. It is true that in the opening minutes of the hearings Judge Carswell responded to a question of Senator Hruska by stating that he was not an incorporator of the country club. It is true that this reply was in error.

The other half of the truth which you have carefully concealed from your readers is that Judge Carswell immediately corrected this misstatement. Less than five minutes later Senator Hruska asked, "Could the stock that you received on this occasion have borne the label, 'incorporator,' indicating that you are one of the contributors to the building fund for the clubhouse?" Judge Carswell responded, "Perhaps, I have no personal recollection." (Judge Carswell had not recently seen the stock certificate.)

Whatever confusion might have been created by his earlier reply was again laid to rest less than an hour later that same morning before the noon recess when the following exchange with Senator Kennedy took place.

"Senator KENNEDY. Did you in fact sign the letter of incorporation?"

"Judge CARSWELL. Yes sir. I recall that."

"Senator KENNEDY. What do you recall about that?"

"Judge CARSWELL. That they told me when I gave them \$100 that I had the privilege of being called an incorporator." (See Hearings, p. 32.)

As if this were not enough, the earlier reply was again corrected that afternoon when Judge Carswell told Senator Bayh, "No. 2, what I have to say about the matter is that whatever the records show and whatever capacity it may be listed that I am in, whether it be director, president, incorporator, or potentate, as I tried to suggest earlier, I had no conversations with anyone about any activities of that organization in any manner at all."

In fact, the corporation whose charter Judge Carswell signed never functioned. It never operated at all. It was replaced by a non-profit corporation which was formed later.

This is brought out at pages 36 and 37 of the hearings:

"The CHAIRMAN. You bought a share of stock in a country club?"

"Judge CARSWELL. Yes sir."

"The CHAIRMAN. Did that corporation ever operate a country club?"

"Judge CARSWELL. Never operated at all."

"The CHAIRMAN. Never operated at all?"

"Judge CARSWELL. Never operated at all."

"The CHAIRMAN. In fact, it was a corporation organized for profit, wasn't it?"

"Judge CARSWELL. That is my understanding, Senator. It was organized for profit and then, later, a nonprofit Corporation was formed, in which I had no part as a director."

"The CHAIRMAN. That was a corporation that operated the country club?"

"Judge CARSWELL. That is the one that got the title to the property that has been the subject matter for discussion."

"The CHAIRMAN. Yes."

Our criticism of your most recent attack on Judge Carswell, however, is much more fundamental. Since Judge Carswell first appeared before the Senate Judiciary Committee on January 27, everyone has known of the existence of his initial reply and his later clarification that day and the following day. Your reporters were there at the hearing on those days and, since the Post at that time did not suggest that Judge Carswell "misled" the Senate Judiciary Committee, it was doubtless conceded that Judge Carswell had merely made an inadvertent misstatement which he immediately corrected. The notion that Judge Carswell's conflicting statements about a transaction consummated fourteen years ago, based on memory and a glimpse at one of the documents the preceding evening, show an intent to deceive is one which most informed people would not share. Thus the only conceivable basis for the Post's rehashing this two-months-old story on page one simply won't wash.

The same members of the American Bar Association Committee who met with Judge Carswell the night before the hearing later

voted to reaffirm their opinion that Judge Carswell was qualified for the Supreme Court. In continuing to support Judge Carswell, they obviously were aware that Judge Carswell had immediately corrected his initial reply and had continued to correct it throughout the rest of his testimony.

Now, however, the Post strenuously attempts to transform this two-months-old testimony into a news story. By referring to the initial reply in the leading sentence on the front page and by burying the one later clarification which you quote at the end of the article on page 12, you manage to leave an entirely inaccurate impression of Judge Carswell's testimony.

It is disappointing that you did not see fit to be more fair and honest.

Sincerely,

EDWARD J. GURNEY,
ROMAN L. HRUSKA,
GORDON ALLOTT,
ROBERT DOLE,

U.S. Senators.

Mr. HRUSKA. Mr. President, as is pointed out, all these things were laid before the American Bar Association committee. They were thoroughly considered in the light of his record, and they reaffirmed unanimously the initial decision of the committee.

Mr. FULBRIGHT. I did not insert that story in the RECORD.

Mr. HRUSKA. I know the Senator did not.

Mr. FULBRIGHT. I did not know about the story. But I did not believe that Judge Tuttle's position had been made clear.

I noticed a letter from the chairman of the Judiciary Committee a few days ago—I think it was Sunday—to the editor of the Post, in which he said that the record, so far as he knew and so far as the committee's records show, had only the letter from Judge Tuttle saying that he supported the nominee. Unless the Senator from Maryland is grossly misinformed, this no longer stands. So I think this is a matter on which the record is not at all clear. That is what I made reference to.

After all, Judge Tuttle is a key figure, having been the Chief Judge of this district, and a man of great reputation and prestige in the area. I think this is a matter of great importance, and it ought to be cleared up.

Mr. HRUSKA. Mr. President, we could go on ad infinitum if we are going to say, "Well, that story has been told; let us get another one."

The fact when the nomination was sent up, Judge Tuttle wrote a handwritten letter and that letter is in the record.

Mr. FULBRIGHT. That is correct.

Mr. HRUSKA. The committee has heard nothing from him since. It is to be presumed that, inasmuch as he has been in this picture by reason of telephone calls from both sides, and many people are involved in it, and if he does not express any indication of wanting to amend or revise his testimony, he does not intend to do so. Are we to hold this record open indefinitely for all the judges and all the witnesses, to give them a chance to change their minds? I do not think that is reasonable to expect.

The Supreme Court has had eight members on it since last May, and we are engaging in what is not a filibuster, to be sure. It is extended debate. Thank

goodness we have a date fixed for the vote on the motion to recommit and for a vote on the nomination.

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

Mr. FULBRIGHT. I have the floor. I would like to make this comment.

I hope the Senator did not get the impression that the situation regarding Judge Tuttle is the only reason that has developed—that is, the indecision as to where he stands. It is only one of the more important ones. The Senator has confirmed the fact that the record of the committee stands as it was at the time they reported the nomination. But I must say that I have sufficient respect for the integrity of the Senator from Maryland that he would not say this on the floor, that he had received telegrams and information to the contrary, if it were not so. I think that should be cleared up, but let me make it clear, that it is one of the incidents which I think need clarifying.

The other developments, many of which have come since then, such as the expressions by the Philadelphia Bar and, as I am just told, by the Vermont Bar, and the San Francisco Bar, were not considered by the Judiciary Committee. In a matter of this kind, there is a great distinction between a judge being considered and a prospective Cabinet member.

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

Mr. FULBRIGHT. Thus, I submit there is a great difference.

If I have any more time I yield to the Senator.

Mr. HRUSKA. Mr. President, I ask unanimous consent to yield 3 additional minutes to the Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. Mr. President, referring to the position of the Vermont Bar—

Mr. FULBRIGHT. If the Senator will allow me to interject, the Senator from California (Mr. CRANSTON) stated to me a moment ago that he had the information that the Vermont Bar had come out against Judge Carswell.

Mr. AIKEN. May I make this explanation: The Vermont Bar, as I have been advised, had its annual meeting last Friday with 240 members present.

Early Friday afternoon, an attempt was made to bring up the Carswell nomination, but the motion to discuss the Carswell nomination failed.

By 4 o'clock, 140 of the 240 members had left, and the matter was then brought up and Mr. Carswell's nomination was disapproved by a vote of 70 to 30, with 140 absentees.

Mr. FULBRIGHT. That clarifies it.

Mr. AIKEN. I will say, however—I do not say I approve or disapprove of the action taken on Judge Carswell—but I will say that the conservative element of the Vermont Bar elected all the officers this year, whereas last year, it was just the opposite. Thus, the Senator from Arkansas can draw his own conclusion as to what the situation is in the Vermont bar.

But there were 240 good lawyers, and unfortunately—

Mr. FULBRIGHT. That was not stated

by this Senator, but by the Senator from California.

Mr. AIKEN. I understand. But there were 140 of them who went home to do the milking, or something else, leaving behind 100 politically astute lawyers who then proceeded to bring the Carswell resolution up a second time. [Laughter.]

Mr. FULBRIGHT. I want it to be clear that this has become such a controversial matter, with so many communications coming in on the subject from my own State, that I believe it would be much wiser for the committee to take another look at it, and then for us to pass upon it. Without further consideration by the Judiciary Committee, it seems to me it would be unwise to conclude action on this nomination.

Mr. TYDINGS. Mr. President, earlier this week I addressed myself to the question of whether Judge Carswell has the ability to put aside his own prejudices and biases so as to be able to approach every case with a fair and open mind. Stated another way, the question is whether regardless of the color of one's skin or one's social or economic class, every man may expect and in fact has received a fair trial in Judge Carswell's court.

Mr. President, if the hallowed principle of equal justice under law is not to become an empty slogan, we cannot condone one single instance of overt judicial favoritism, intolerance, or hostility. Justice in every case must be, in actuality and appearance, even handed.

Thus, if but one lawyer had come forward to report a case in which Judge Carswell manifested from the bench an antagonism toward or bias against the rights of a litigant who was black or poor, this alone would have raised serious doubts as to whether he has the requisite judicial temperament to sit on any Federal court not to mention the highest court of our land.

The case against this nomination does not rest on only one instance of highly improper judicial conduct. No less than seven lawyers who were involved in civil rights cases before Judge Carswell have already spoken of his blatant inability to divorce himself from his personal bias.

Time and again lawyers have stated that Judge Carswell has comported himself in a matter which demeans the Federal judiciary and is totally at odds with the basic principles of fairness upon which our judicial system is founded. The regrettable experiences of Prof. Leroy Clark, Prof. John Lowenthal, Norman Knopf, Ernst Rosenberger, and Theodore Bowers evidence a pattern of conduct on the part of Judge Carswell that is deserving of censure, not reward; deserving of admonishment, not elevation to the Supreme Court.

It is indeed shocking to contemplate the statements of those members of the legal profession who have actually practiced before Judge Carswell in cases involving the rights of the poor, the blacks, and the disadvantaged.

Prof. Leroy Clark:

The most hostile federal district court judge I have ever appeared before with respect to civil rights matters.

Florida attorney, Theodore R. Bowers:

Judge Carswell is the most prejudiced judge before whom I have had the honor to practice.

Prof. John Lowenthal:

I can only describe (Judge Carswell's) attitude (in voter registration case) as being extremely hostile.

Justice Department Attorney Norman Knopf:

Judge Carswell made clear . . . that he did not approve of any of this voter registration going on.

Florida attorney, Maurice Rosen:

The reputation of Judge Carswell among attorneys handling civil rights cases . . . was that they could not expect to win a civil rights related case before him.

Florida lawyer, James Senderlin:

Judge Carswell could not be relied on for a fair, impartial and equitable disposition of civil rights matters.

Mr. President, yesterday I received telegrams from two more members of the Florida bar who, on the basis of their personal experiences in Judge Carswell's court, have decided to speak out against this nomination. The telegrams come from Judge James W. Matthews, associate municipal judge for the city of Opa Locka, and Judge Harold L. Braynon, municipal judge for the city of Miami.

Judge Matthews, who has been a member of the Florida bar for over 11 years and who has served as an assistant U.S. attorney for the southern district of Florida, states in his telegram:

I have practiced in Judge Carswell's court while he served as the United States District Judge. I believe that Judge Carswell has shown bias toward civil rights litigants on many occasions. While trying a particular case in Judge Carswell's court, it was quite evident to me that my client's were not accorded equal treatment. Judge Carswell gave every indication of his distaste for handling civil rights matters. I am of the opinion that Judge Carswell cannot be completely objected (sic) in the handling of civil rights cases, if his nomination to the Supreme Court is confirmed. I feel confident that most black lawyers practicing in the State of Florida would go on record as being opposed to his confirmation. Harrold Carswell is not the type or caliber jurist to serve as an Associate Justice on the Supreme Court of the United States. I strongly implore you to vote against his confirmation.

Judge Braynon, who has been a member of the Florida bar for 8 years and has served as an assistant to the attorney general of the State of Florida for 2 years, states in his telegram:

I have been present in the United States District Court, Northern Division, while Judge Carswell presided on many occasions. It is my firm belief that his attitude toward civil rights cases and the lawyers that handle those cases was indeed outright hostile. His reputation among black lawyers in the State of Florida is not at all good. I would urge you and other well thinking Senators to vote against his nomination to the Supreme Court of this great country.

Mr. President, the statements from these two judges together with the testimony and statements of others who have been treated unjustly in Judge Carswell's court, carry one clear message: Judge Carswell does not have the ability to divorce his personal bias from his judicial conduct, he does not possess the fair and

open mind which is an absolute prerequisite for a Justice of the Supreme Court, and his nomination should be defeated.

Mr. President, I ask unanimous consent that the complete telegrams from which I read portions be printed at this point in the RECORD.

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

MIAMI, FLA.,
March 25, 1970.

Senator TYDINGS,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

SENATOR TYDINGS: I am a member of the Florida Bar and have been for over 11 years. In addition thereto, I have served as an assistant to the United States attorney for the Southern District of Florida for a period in excess of two years. I have practiced in Judge Carswell's court while he served as the United States District Judge. I believe that Judge Carswell has shown bias toward civil rights litigants on many occasions. While trying a particular case in Judge Carswell's court, it was quite evident to me that my client's were not accorded equal treatment. Judge Carswell gave every indication of his distaste for handling civil rights matters. I am of the opinion that Judge Carswell cannot be completely objective in the handling of civil rights cases, if his nomination to the Supreme Court is confirmed, I feel confident that most black lawyers practicing in the State of Florida would go on record as being opposed to his confirmation. Harold Carswell is not the type or caliber jurist to serve as an Associate Justice on the Supreme Court of the United States. I strongly implore you to vote against his confirmation.

JAMES W. MATTHEWS,
Associate Municipal Judge for the City
of Opa Locka.

MIAMI, FLA.,
March 25, 1970.

Senator TYDINGS,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

SENATOR TYDINGS: The possible confirmation of Harold Carswell as an Associate Justice of the United States Supreme Court makes it necessary for me to make my position known to the United States Senate. I have served as an assistant to the attorney general of the State of Florida for two years and have been a member of the Florida Bar for 8 years. I have been present in the United States District Court, northern division, while Judge Carswell presided on many occasions. It is my firm belief that his attitude towards civil rights cases and the lawyers that handle those cases was indeed outright hostile. His reputation among black lawyers in the State of Florida is not at all good. I would urge you and other well thinking Senators to vote against his nomination to the Supreme Court of this great country.

HAROLD L. BRAYNON,
Municipal Judge for the City of Miami.

Mr. HRUSKA. Mr. President, in connection with the nomination of Judge Carswell, I have received a letter from an eminent authority in jurisprudence and law. It comes from Prof. Charles Alan Wright, at the University of Texas at Austin, at the school of law there.

First let me read from the statement of Charles Alan Wright when he testified in the Haynsworth nomination, which is to be found at page 591 of the Haynsworth hearings:

For more than twenty years my professional specialty has been observing closely, and teaching and writing about, the work of

federal courts. From 1950 to 1955 I was a member of the faculty at the University of Minnesota Law School and I have been at The University of Texas since that time. I was a visiting professor at the University of Pennsylvania Law School in 1959-60, at the Harvard Law School in 1964-65, and at the Yale Law School in 1968-69. I regularly teach courses in Federal Courts and in Constitutional Law, a seminar in Federal Courts, and a seminar on the Supreme Court. Since 1964 I have been a member of the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States and prior to that time was a member of the Advisory Committee on Civil Rules. I was Reporter for the recently-completed Study of Division of Jurisdiction between State and Federal Courts made by the American Law Institute.

My writings include a seven-volume revision of the Barron and Holtzoff Treatise on Federal Practice and Procedure. That set of books is now being supplanted by a new treatise on the same subject. Publication of the new treatise began in February of this year with my three volumes on criminal practice and procedure, and the first of the volumes on civil litigation, which I am writing in collaboration with Professor Arthur R. Miller, was published in April. In addition I am the author of a one-volume hornbook, *Wright on Federal Courts*, a second edition of which is now at the publisher's, and, in collaboration with two others, am the author of the Fourth Edition of *Cases on Federal Courts*.

Professor Wright is an eminent and highly respected figure in the practice and teaching of law. He is a legal scholar. He sent me a letter on March 18, 1970, which I received 2 or 3 days later.

I ask unanimous consent that the full text of the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. HRUSKA. Mr. President, the letter states in part:

I have known Harold Carswell for eight years and argued a case before him prior to that time. I have also had the benefit—as I suspect many of the professors who oppose him have not—of reading every word of the hearings with regard to his nomination as well as the Report of the Judiciary Committee and the statements of individual views that accompany it. I studied with particular care the testimony of Dean Pollak and Professor Van Alstyne. They are good friends of mine for whose judgment I have the utmost respect. In this particular instance however their views do not persuade me that there is any sufficient reason for refusing to confirm Judge Carswell.

The critical comments about Judge Carswell's ability have rested almost entirely on a reading of his opinions. I do not think that this is a fair measure of a judge and especially not of a district judge who writes opinions in only a tiny proportion of the matters he hears. As I have read these criticisms of Judge Carswell I have been reminded of Justice Frankfurter's comments about Chief Justice Morrison R. Waite in Frankfurter's book *The Commerce Clause* (1937). At page 76 Professor Frankfurter, as he then was, said of Waite that "to deny him significance is to allow the pedestrianism of his opinions to obstruct understanding of a great judge. History ought not to reflect contemporary misjudgment, due in no small degree to Waite's lack of the grand manner, his total want of style. The touch of the commonplace about him was, indeed, the key to his appointment as Chief Justice." and Frankfurter said:

Then he goes on to say, later in his letter:

I read with care in the Congressional Record for March 13th the name of those who had signed the statement urging rejection of the nomination. After twenty years of law teaching I know how easy it is to get law professors to sign petitions and statements. My expectation is that most of the law professors who signed the statement did not support Richard M. Nixon for President. I further believe that most of them based their judgment entirely on what they read in the press and that they have not studied Judge Carswell's work or the record of the hearings.

I hope that the nomination will be confirmed.

Respectfully yours,
CHARLES ALAN WRIGHT.

Mr. President, I think he says much in this two-page letter. It is my hope that our colleagues in this body will read the letter thoughtfully and be inspired by it.

EXHIBIT 1

THE UNIVERSITY OF TEXAS AT
AUSTIN SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

HON. ROMAN L. HRUSKA,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HRUSKA: I have followed with interest and concern the controversy that has developed about the nomination of Judge Carswell for the Supreme Court. I was asked to testify before the Judiciary Committee on his behalf. Unfortunately the hearings came at a time when I was sick in bed and in any event I doubted whether my support would be useful after the vigorous role I had taken—and am still taking, see my letter to the editor in the March issue of the American Bar Association Journal—about Judge Haynsworth.

I have recently had called to my attention an article that appeared in *The Washington Post* a month or more ago. In it the following sentence appeared: "Opponents point out that of three legal educators who testified in favor of Haynsworth, one made a special trip to Washington to testify against Carswell and the other two have made no public comment on the nomination. It is plain that I am one of the "other two" referred to and I should be very unhappy if my silence were thought to mean that I do not support the nomination.

I have known Harold Carswell for eight years and argued a case before him prior to that time. I have also had the benefit—as I suspect many of the professors who oppose him have not—of reading every word of the hearings with regard to his nomination as well as the Report of the Judiciary Committee and the statements of individual views that accompany it. I studied with particular care the testimony of Dean Pollak and Professor Van Alstyne. They are good friends of mine for whose judgment I have the utmost respect. In this particular instance however their views do not persuade me that there is any sufficient reason for refusing to confirm Judge Carswell.

The critical comments about Judge Carswell's ability have rested almost entirely on a reading of his opinions. I do not think that this is a fair measure of a judge and especially not of a district judge who writes opinions in only a tiny proportion of the matters he hears. As I have read these criticisms of Judge Carswell I have been reminded of Justice Frankfurter's comments about Chief Justice Morrison R. Waite in Frankfurter's book *The Commerce Clause* (1937). At page 76 Professor Frankfurter, as he then was, said of Waite that "to deny him significance is to allow the pedestrianism of his opinions to obstruct understanding of a great judge. History ought not to reflect contemporary misjudgment, due in no small degree to Waite's lack of the grand manner his total want of style. The touch of the commonplace about him was, indeed, the

key to his appointment as Chief Justice." Again at pages 110 and 111 Frankfurter said:

"No doubt Waite had neither the power nor the subtlety of Marshall and Taney. He was not of their flight. Yet he belongs to the great tradition of the Court. For he was true to De Tocqueville's admonition against confounding the familiar with the necessary, and thereby escapes inclusion among those to whom Mr. Justice Holmes referred when he wrote, 'It is a misfortune if a judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong.' Waite's temperament was staid, and his imagination was never ignited by the spark of genius. But he did not confine the Constitution within the limits of his own experience, nor did he read merely his own mind to discover the powers that may be exercised by a great nation. The disciplined and disinterested lawyer in him transcended the bounds of the environment within which he moved and the views of the clients whom he served at the bar. He brought to the Court no emotional commitments compelling him to translate his own economic or political convictions into constitutional commands."

(This marks the end of the proceedings which were ordered to be printed at this point by unanimous consent.)

Mr. HARRIS. Mr. President, I join in the motion just made by the distinguished Senator from Indiana. I think it is a worthy motion, as I stated earlier this week in the Senate and earlier today in connection with the statement of the distinguished Senator from Arkansas.

I hope that even those who have been proponents of this nomination will now, as I said when I first suggested this course last week, join in this motion because I think there are matters which deserve consideration again in connection with this nomination by the Committee on the Judiciary.

I commend the distinguished Senator from Indiana for the very excellent leadership which he has shown in regard to this entire matter and for making the motion which he has just placed before the Senate.

Mr. BAYH. Mr. President, I appreciate the kind remarks of my colleague and good friend from Oklahoma.

I would like to point out that, indeed, it was the Senator from Oklahoma who had expressed earlier concern about this nomination and who suggested this vehicle as one which might come closer to solving the problem of this nomination than other parliamentary vehicles available to us.

I appreciate the Senator's comments on my leadership. I am frank to say that this is leadership which is not at the top of the priority list as far as the various opportunities we have in the Senate. If one believes in the advice and consent responsibility of the Senate, as the Senator from Indiana does and, as I think most Members of this body do, I do not believe we should rubberstamp nominations from the President. That is why I have felt it necessary on two occasions to help in some small way to suggest to the President that we could get a better man.

I would like to make one further observation. It seems to me that this motion to recommit, although it can be interpreted in a number of ways, indeed, does

give us an opportunity to express deep reservation and concern to the President about this nomination to the Supreme Court. This motion to recommit gives us an opportunity to say to the President, "Mr. President, take another look. Voluntarily remove us and yourself from this very controversial and questionable position. Find us another man on whom we can readily agree and who most of us will feel is qualified to serve on the highest court of our land."

I think this can be realistically interpreted as a good-faith effort to get the President, on his own initiative, to solve this problem before the Senate has to speak generally on it.

I yield the floor.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, as the junior Senator from Alabama understands, even though the motion to recommit has been made, in no event will there be a vote on that motion prior April 6, after the argument for that day has been concluded.

The PRESIDING OFFICER (Mr. CRANSTON). As provided in the unanimous-consent agreement, that is correct.

Mr. ALLEN. Also, since a motion to table is not debatable, and since debate is guaranteed under the unanimous-consent agreement, no motion to table would be in order until the debate has been concluded.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Presiding Officer.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the nomination of Judge Harrold Carswell be laid aside now and the Senate proceed in further consideration of the conference report on H.R. 514, as in legislative session.

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

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate, as in legislative session, resumed the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

AUTHORIZATION TO SIGN DULY ENROLLED BILLS DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Vice President, the President pro tempore, or the Acting President pro tempore be authorized to sign duly enrolled bills during the adjournment of the Senate.

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO ON TUESDAY, MARCH 31, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the disposition of the reading of the Journal, the able Senator from Ohio (Mr. Young) be recognized for not to exceed 30 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD of West Virginia. Has the requisite time under paragraph 3 of rule VIII, the so-called germaneness rule, now expired for today?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. I thank the Chair.

SALUTE TO PAUL H. DOUGLAS ON HIS 78TH BIRTHDAY

Mr. PROXMIRE. Mr. President, today is the 78th birthday of Paul H. Douglas, our friend and former colleague who brought to the Senate of the United States a massive intellect, courageous action, and incisive judgment. He was the noblest Athenian of them all.

Allen Nevins said of him:

Of all our Senators, none has written a more consistently elevated record of public service; none has so clearly combined intellectual distinction—technical expertness—with practical legislative power; none has set so high a moral tone.

Paul Douglas was the LaFollette and Norris of our time. Those men were his two senatorial heroes, and the inspiration Paul drew from them served the Nation well. Along with portraits of Abraham Lincoln, Jane Addams, John Peter Altgeld, and Clarence Darrow, they graced the walls of his senatorial office.

While most men are fortunate to distinguish themselves in a single career, Paul Douglas has distinguished himself in many.

He first of all was a teacher and economist. Along with Charles W. Cobb he produced a unique and seminal contribution to economics in the work "The Theory of Production"—the Cobb-Douglas Production Function—which first appeared in the American Economic Review in March 1928. His book, "The Theory of Wages" won for him an international prize and is one of the classic works in the literature. It graces the Oxford syllabus on economics along with the works of Keynes, Marshall, Pigou and Hicks, and Joan Robinson. His teaching career at the University of Illinois, Reed College, and the University of Chicago

was capped when he was elected president of the American Economic Association at the end of World War II.

In the 1920's and 1930's he distinguished himself as a great private citizen. Almost singlehandedly he brought down the Insull traction empire which had corrupted both the business and the political life of Chicago and of Illinois. The result was the Illinois Utilities Act which he drafted.

He served with distinction as an arbitrator in the printing industry. He served on the Illinois Housing Commission. He was an expert consultant on unemployment to Franklin Roosevelt. He helped draft the original social security law. He was one of the first men who recognized and spoke out against the threat which Hitler and fascism posed to the security of the United States and to the freedom of the world.

In his private role in these years, Paul Douglas fought for consumer issues before there was a consumer movement. He was a conservationist before the word "environment" became popular and the word "ecology" was even known.

He proposed family allowances and minimum family incomes decades before those questions were placed on the agenda of public needs.

During World War II, he elected another career and gained yet further distinction. He prevailed upon his friend, Col. Frank Knox, then Secretary of the Navy, to waive his poor eyesight and, at age 50, Paul Douglas joined the Marine Corps as a private. He went through boot training at Parris Island and was chosen the top boot in his class. He chose to become a combat Marine, rose to the rank of lieutenant colonel, was twice wounded in combat at Peilieu and Okinawa, and was awarded the Bronze Star for gallantry in action. At Okinawa, he deliberately forsook the safety of a behind-the-lines command post, volunteered as a stretcher bearer at the Naha-Snuri line where the battle was raging, was wounded and almost lost his left arm, and nearly bled to death when he ordered the other men evacuated first. According to the eyewitness testimony of the chaplain who was there, he told the Navy doctors and corpsmen at the front line medical station he was "Private" Douglas to prevent them giving him special treatment because of his rank. Such is the stuff of which Paul Douglas is made.

He entered on a fourth career—a political career—first as alderman from the Fifth Ward in Chicago, where he earned a deserved reputation as a fearless, independent minded, maverick in the Chicago City Council, and in 1948 as U.S. Senator from Illinois.

In the Senate he distinguished himself again. He introduced and nursed through the legislative process a vast quantity of legislation—the major features of the landmark 1949 Housing Act, railroad retirement legislation, the 1955 Minimum Wage Act, the Union-Management Pension and Welfare Fund Act, the depressed areas bills, a series of civil rights provisions over the sternest opposition any Senator can encounter, the bill to save the Indiana dunes, and dozens of others.

But men are known for the bad bills they stop and for the causes they espouse

as well as the legislation they put on the law books.

The 1960 study of prices, wages, and growth by the Joint Economic Committee was the blueprint for the economic policies of the first 6 years of the 1960's—policies which combined a vast increase in economic growth, a major reduction in the level of unemployment, and the most stable price levels of any industrial country in the world.

He was the first Senator to mount a major campaign against the loopholes in our tax laws.

He, along with a handful of others, of which I am proud to include myself as one, stopped the attack on the equal representation opinion of the Supreme Court and preserved the concept of one man, one vote.

He was the architect of the Federal Reserve-Treasury accord.

He applied benefit-cost analysis to public works projects before benefit-cost analysis became popular.

The number of times he stopped new tax loopholes, prevented an economic subsidy to a special interest group because their advocates knew that he would be watching for it on the floor, or stripped a measure of its facade and exposed its real fabric to public debate, are legion.

As Allen Nevins—a truly great historian—said:

He has sometimes been on the unpopular side; he has sometimes been on the losing side; but he has always been on the just side.

A number of instances which exemplify Paul Douglas' Senate career spring easily to mind. In 1953, Paul Douglas and Lister Hill were leading the fight against the massive giveaway of offshore oil to the States who were much easier prey to the oil companies than the Federal Government. They contended that the area beyond the 3-mile limit belonged to the Federal Government and the people of the United States. By holding firm on this issue they forced the proponents of the bill to accept an amendment reserving title to the oil beyond the 3-mile limit to the Federal Government.

It now turns out that the vast abundance of oil is found there. At last count some \$4 billion had accrued to the Treasury of the United States from leases and royalties, most of which would otherwise have ended up in the treasuries of the major oil companies.

Paul Douglas proved by that act alone that a liberal need not be a wastrel.

In 1960, he and the Senator from New York (Mr. JAVIRS) introduced a bill to provide Federal registrars to register disenfranchised Negroes in those States where they have actually been prevented from voting. That bill was killed by the leadership of the Senate. The ineffective system of court appointed referees continued.

But 5 years to the day after that bill had been killed by the majority and minority leadership of the Senate, an almost identical measure was sent to the Senate by the President of the United States, and was embraced by the minority leader, the same two men who had killed it 5 years before. It became law.

That exemplified the intellectual power

and eventual success of causes which Paul Douglas championed. And much the same is true of his championship of consumer causes—especially truth in lending—and his fights on military waste.

Finally, his one-man fight to save the Indiana Dunes for the people of the United States against every conceivable powerful economic group one could imagine, was a modern saga of David and Goliath.

He often said:

As a young man I wanted to save the world. In my forties, I wanted to save the United States. But in my sixties, I felt the most important thing I could do was to save the Dunes.

Paul Douglas did all of these things and more. But with it he combines a warm heart and a forgiving countenance. While no man has ever demanded a higher level of ethical conduct from himself, no man understands so well and is more forgiving of the weaknesses and shortcomings of others. While he never boasted of it, dozens of men in personal or financial difficulty constantly turned to him and were in turn helped by him. At any one time there was a cadre of human beings whose lives had been seared by the harshness of events whom he was helping with funds, encouragement, and human compassion.

He combines with a massive intellect, a warm heart, and compassionate spirit which is unique among men.

Since leaving the Senate he has continued his careers. He taught at the New School for Social Research. He has headed a consumers group to support the closing of tax loopholes, and he has published one book and has finished another.

For 2 years he headed the National Commission on Urban Problems. In the hot summer of 1967 the Commission held hearings in the ghettos of 2 dozen American cities while the civil disorders of that year followed and preceded it. The Commission published more than 20 detailed studies on every aspect of the housing problem and concluded with a massive report, "Building the American City," which is a gold mine of background, information, and recommendations on the ills of American housing and urban development.

Throughout all these careers, Paul has had with him his lovely and charming wife, Emily Taft Douglas. Distinguished in her own right as an author, and as an actress and artist, she was a Member of Congress as Congresswoman at Large from Illinois before Paul Douglas was elected to the Senate. Paul often said that he was first elected on a case of mistaken identity when the citizens of Illinois thought they were voting for his wife rather than for him. And he has claimed that while many wives have succeeded their husbands in public office, this is the first time a husband has succeeded his wife.

Paul Douglas, we salute you on this your 78th birthday. May your careers continue to flourish.

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

Mr. PROXMIRE, I yield.

Mr. HART. Mr. President, I am delighted that I happened to be in the

Chamber when the able Senator from Wisconsin expressed his birthday good wish to Paul Douglas. I could not have expressed it as eloquently, but I hope the Senator from Wisconsin will let me add a footnote to that birthday card. It speaks my sentiments, also.

Mr. PROXMIRE. I might say that of all the Senators now serving in the Senate, there is no one Paul would rather have congratulate him than the distinguished Senator from Michigan.

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

Mr. PROXMIRE. I yield.

Mr. NELSON. Mr. President, I am delighted that I happened to walk into the Chamber when the senior Senator from Wisconsin was making his remarks about former Senator Paul Douglas.

I endorse everything the Senator from Wisconsin has said about Senator Douglas. I have known him since 1949. I think it can be correctly stated that he is one of the handful of distinguished and great statesmen of the 20th century, and his valuable contribution to the dialog about the issues that confronted the country and the world over the years that he spent in the Senate is unmatched by anybody else I know.

I might add that on top of it all, he was a man of great integrity and a man of great courage.

I am pleased to join the Senator from Wisconsin in the fine tribute he has made here today.

Mr. PROXMIRE. I thank my colleague from Wisconsin.

I want to recall once again the fact that Senator Paul Douglas was a conservationist—as I said, an ecologist, before that word was known. The Senator from Wisconsin has become the real champion in this country, in my view, of conservation, especially with the measures he has introduced this year; but for a long time this has been true.

I know that Senator Paul Douglas will be extremely grateful to my colleague for his fine tribute.

Mr. NELSON. He was a great and thoughtful conservationist. His last great fight on the floor of the Senate—and great success, of course—was the passage of the Indiana Dunes bill, for which he fought for many years against some of the most powerful forces in this country, and he finally achieved a victory of great consequence to the whole country.

MAN AND HIS ENVIRONMENT

Mr. NELSON. Mr. President, we are only now beginning to understand the subtle but unbreakable bond between man and his environment. As we confront the specific scars of physical degradation about us and learn of the multitude of individual environmental insults which occur each day, we must carefully consider the role that man and his activities have played in producing this deterioration.

For almost 100 years, we in the United States have been pursuing a policy of industrialization and urbanization. We have measured our success quantitatively and the mystical indicators in this quest have been the gross national product and the Dow-Jones industrial average. Un-

fortunately, in our myopic pursuit of ever-increasing levels of production and consumption we failed to detect and concern ourselves with the corresponding decrease in quality of life. And so today, we find ourselves in the position of having to cope with the accumulated costs of years of unrestricted environmental despoilation.

In the headlong search for plenty, we are learning that we are ending up with less. We are discovering that man cannot live or act apart from his environment. The seemingly unrelated actions of another day and another place are erupting in a continuum of environmental abscesses: we sprayed the field to kill the pests and introduced a long-lived poison into our soil, water, and bodies; we mined the coal to produce the power and feed the machines, and raped the landscape and gave our streams acid indigestion; we rushed to put up the suburbs and slashed away the ground cover and silted our waterways; we elevated the automobile to almost religious significance, and multiplied the number of efficient pumps for pouring toxic substances into the air; and we channel industrial technology into creating new consumer products and processes, and multiplied the number of chemical contaminants that can foul our air, water, land, and even food.

The list of such shortsighted, terricidal actions is vast, and they all bore the label—"Progress." The boastful nature with which these actions were initially proclaimed reminds me of the traveler in Shelley's poem "Ozymandias," who came across a broken statue of the ancient king in the desert wastes. On the pedestal the traveler found these words: "My name is Ozymandias, king of kings: Look on my works, ye Mighty, and despair!" And the traveler saw that "Round the decay/Of that colossal wreck, boundless and bare/The lone and level sands stretch far away."

Will it be that the enduring monument to our acts of past bravado shall be the endless wasteland, the wastes of the productive-consumptive society stretching far away—without a man to record the scene in verse?

It is to be hoped that the new awareness of the ecological bonds between man and his environment, and increased knowledge of the burdens imposed by past actions, will lead this country to a new operating ethic, and will establish quality of life as a primary goal for all our people. There are some encouraging signs that this may occur. In particular, I have found an understanding, an awareness, and a desire among our younger citizens for environmental improvement. It is to be hoped that with their energy, dedication, and above all, greater ecologic knowledge, they may be able to persuade their elders to alter old attitudes.

But the movement to change ingrained patterns and habits will not be easy. In Sunday's New York Times, Mr. Tom Wicker gives thoughtful consideration to the momentum which propels narrow-viewed industrial and environmental actions.

Mr. President, at this point I ask unanimous consent to have Mr. Wicker's

March 22, 1970, article entitled "In the Nation: All Is Not Gold, Etc." printed in the RECORD.

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

IN THE NATION: ALL IS NOT GOLD, ETC.

(By Tom Wicker)

One airline now has asked for, and another is considering, a surcharge to be imposed on transcontinental passengers flying the big new 747 jet planes. This makes again the necessary, if bitter, point that even in the age of technology things are not always what they seem, and even less what they are predicted to be.

The 747, to which the public is now being seduced by the usual overblown advertising, was developed to carry larger payloads more economically and thus—so everyone was assured—to reduce long-haul fares. The craft's performance apparently justifies the expectation, but the public may have to pay the surcharge anyway.

UNEXPECTED COSTS

The trouble is that no one realized that the huge new plane would run up the cost of ground operations by as much as 30 per cent; or, if anyone did realize it, no one scrupled to warn the public or temper the advertising wind to the shorn lamb. So it may be a long time, if ever, before the passenger gets all the promised benefits of the 747.

It will be well to bear this in mind as pressures continue for the even newer supersonic jets. And the ironic lesson of the 747 surcharge—that technological and industrial achievements can bring unexpected and unwanted side effects—is being frequently taught in far more dangerous ways. But it is much less frequently heeded.

Both President Nixon and the relevant committees of Congress, for instance, are pledging to build sewage-treatment plants everywhere they are needed. The major issue seems to be how much money will be required for this quick response to the current environmental interest, and what share of it the Federal Government ought to pay. Few question what the money will be spent for.

In fact, if a great many more large sewage-treatment plants of the usual kind are to be built, with the treated matter carried off to the nearest waterway, an increase in eutrophication of our lakes and streams will follow. This is the process in which the treated matter stimulates the growth of algae, which chokes the water and crowds out other species.

SEWAGE EXPERIMENT

The March issue of Environment Magazine makes this point in a report on an interesting experiment at Pennsylvania State University, where a "living filter" for sewage has been successfully developed. In this experiment, the treated matter was piped away and sprinkled on the earth. The result was an increase in agricultural productivity, a consequent decline in the need for chemical fertilizers (another water pollutant), a rise in the water table from a source that otherwise would have been carried by stream flows to the sea, and an ultimate ability to use the waste as drinking water.

The report warns that this plan is more adaptable to small-city and suburban needs than to metropolitan areas, but it makes the necessary points that in complex environmental questions a variety of aspects—not just economics or convenience—has to be considered, and that now, not when it is too late, is the time to re-evaluate present concepts of sewage disposal.

LESS POWER NEEDED

The same issue of the same magazine raises even more challenging questions: Do we really need all the electric power we're producing and planning to produce? Is what we're planning to do with the power worth the consequences?

Electric-power production is doubling every ten years. At that rate, by the year 2000, power plants of all kinds will raise by twenty degrees the temperature of the total volume of water running over the surface of the United States each year. The amount of carbon dioxide (from fossil plants) and radiation (from nuclear plants) in the air may have drastic effects on the global climate and on all living species.

Since orders for new plants placed in the seventies will account for about half the expectable generating capacity in the year 2000, now is again the time to determine whether all those plants really have to be built. Population increase and over-all economic expansion do not require it. By far the major user is the primary metals industry, and aluminum production alone accounts for 10 per cent of industrial-power consumption.

BEER-CAN POLLUTION

This suggests at once that the aluminum beer can, a litter problem itself, is also a major air and water polluter through power-plant waste. By designing automobiles—an even bigger disposal problem—to be easily reclaimed by manufacturers, energy requirements for their production could be reduced dramatically because making reclaimed steel requires only about a quarter of the energy it takes to make it from ore.

There are many other ways to hold down the need for electric-power production—recycling paper back to its producers, for instance. Heedless acquiescence in more and more plants turning out more and more energy only means more and more poisoning of the environment—a surcharge that, ultimately, no one can afford.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair.

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

(At 1 o'clock and 59 minutes p.m., the Senate took a recess, subject to the call of the Chair.)

At 2 o'clock and 8 minutes p.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. BYRD of West Virginia).

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senate will be in order. The Senator from South Carolina (Mr. THURMOND) is recognized.

JAMES J. KILPATRICK'S ARTICLE ON 18-YEAR-OLD VOTE

Mr. THURMOND. Mr. President, James J. Kilpatrick is a venerable journalist who has observed the Washington scene for some time. His views are respected by people of all political persuasions and his column is widely read. On Tuesday, March 17, one of his articles entitled "The Senate and the Vote for 18-Year-Olds" appeared in the Evening Star newspaper.

Mr. Kilpatrick makes note of the fact that the Senate traditionally has been the house of Congress that served as a brake on the rash and reckless excesses of the House of Representatives. However, he points out that with the coming of the legislation providing for the 18-

year-old vote by act of Congress, the Senate looks more like a Cub Scout den.

He chides the Senate for careening down the legislative highway and drag racing with the law of the land.

Mr. President, Mr. Kilpatrick's discussion of the applicable constitutional law is accurate and to the point, with the point being that Congress cannot by its own action set the voting age for any State.

Mr. President, this article should be read by each Member of this body. Mr. Kilpatrick has held a mirror before the Senate and has in this article reflected its image, which to his eye seems to appear slightly psychedelic.

Mr. President, I ask unanimous consent that the article "The Senate and the Vote for 18-Year-Olds" be printed in the RECORD.

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

THE SENATE AND THE VOTE FOR 18-YEAR-OLDS

(By James J. Kilpatrick)

There was a time, thought it is getting harder and harder to recall it, when the United States Senate served as a sober brake upon the reckless driving of the House. The Senate was the upper chamber; its members were older; and because of their six-year terms, they were not so vulnerable to the voters' passing fancies. The House might be ruled by impetuous youths; the Senate would restrain them.

No more. In its top-down dash to achieve 18-year-old voting by simple statute, rather than by constitutional amendment, the Senate is careening down the legislative highway with 500 horses, dual carbs, racing stripes, and an air scoop on the hood. This is the Senate? The chamber looks more like a Cub Scout den, voting on when to eat the weenies.

This impetuous misadventure becomes all the more bizarre when one looks at some of the drivers. Barry Goldwater! That old states righter! And Dominick of Colorado! He is one of the soundest conservatives in the body. Boggs of Delaware! More than 60 members—maybe 70—are prepared to ram this doubtful piece of legislation into law. What has come over the Senate?

From time immemorial, the fixing of a minimum age for voting has been regarded as a matter plainly within the reserved powers of the states. The notion that the Fourteenth Amendment vests such authority in the Congress would stagger the sensibilities of those who framed and ratified that amendment a hundred-odd years ago.

Indeed, the forgotten second section of the 14th Amendment implicitly recognizes 21 as the accepted minimum age for voting. This section provides for a reduction in a state's representation in Congress if the state denies the vote "to any of the male inhabitants of such state, being 21 years of age." Everything in our constitutional history confirms the rule that age is one of those "qualifications requisite for electors" that each state may decide on its own.

It is not necessary to look back to Reconstruction days. Over the past 30 years, more than a score of states have exercised what they understand to be their exclusive power in this field. Georgia went to 18-year-old voting in 1943, Kentucky in 1955. Alaskans now vote at 19, Hawaiians at 20.

Through the old-fashioned devices of referenda, the people steadily are making their wishes known. Oklahoma rejected the 18-year-old idea as far back as 1952. South Dakota said no in 1958. Idaho rejected a 19-year-old minimum in 1960. Within the

past two years, voters in Hawaii, Michigan, New Jersey and Tennessee have refused to accept the 18-year-old proposition, and voters in Maryland, Nebraska, North Dakota and Ohio have said no to 19.

Does all this make no impression on the Senate? Eleven other states have scheduled referenda this year on a lower age for voting. The most elementary principles of comity and federalism suggest that Congress wait upon these expressions from the states. No hearings have been held in committee. What's the mad rush? Where's the fire?

On the merits of 18-year-old voting, to be sure, Goldwater and his bedfellows make a persuasive case. It does seem absurd, when you think about it, to cling to an age limit derived, if I am correctly informed, from 18th Century laws of inheritance.

Eighty percent of today's 18-year-olds are high-school graduates. They work, pay taxes, drive automobiles. Nearly a million young men, 18 to 21, are serving in the armed forces. And 18-year-olds are tried in our courts as adults.

The proposition is plausible that 18-year-olds should have a right to vote. I have nothing against it beyond my politically misanthropic instincts which tell me, here and elsewhere, the less democracy the better.

But there are right ways and wrong ways of seeking change. If two-thirds of the senators are so confident of their judgment, why don't they whip up a constitutional amendment, abide by the speed limits, and stop this drag-racing around with the law of our land?

THE STRANGE NOMINATION OF MR. SONNENFELDT

Mr. THURMOND. Mr. President, on March 11 the list of nominations received by the Senate included the name of one Helmut Sonnenfeldt of Maryland for appointment as a Foreign Service officer of class I.

This is a most unusual appointment. The Foreign Service is supposed to be composed of career diplomats who have served their country around the world and have their special status recognized through the Foreign Service rating system. The rating of FSO I is normally the highest rank which a career diplomat can achieve aside from the exceptional positions of Career Minister and Career Ambassador, reserved for a handful of the most distinguished members of the corps. Thus, it appears that we have Mr. Sonnenfeldt entering the Foreign Service at the highest rank normally achieved by others after years of service abroad. Thus, this unusual appointment threatens the status and achievement of the many dedicated Foreign Service officers who have served with distinction. It is an affront to the career system and a threat to the stability of impartial ratings and of the morale of those who have worked their way up through the ranks to achieve their present positions.

Mr. Sonnenfeldt's appointment is especially outrageous in view of the fact that at the present time, due to the economy measures being taken throughout the Government, the Foreign Service Corps is currently affected by a reduction in force of approximately 10 percent. This means that about one out of 10 of every career Foreign Service officer reviewed for promotion is "selected out"—that is, severed from the Service. So at the very time when many Foreign Service officers are being severed from the Service because of the high rate com-

pelled by the reduction in force, Mr. Sonnenfeldt, who has never served abroad, is entering into the Foreign Service Corps at the highest possible level.

Mr. President, as I have pointed out, this is a highly unusual situation. In fact, it is a unique situation. I am informed that in the fiscal year of 1970—that is, since June of last year—only three men have made lateral entry into the Foreign Service; two of them at the relatively low class III level and only one at the class I level. That sole individual is Mr. Sonnenfeldt.

We can see, therefore, that Mr. Sonnenfeldt is an exceptional case who is given special treatment at a time when many others are losing their jobs.

I have mentioned that Mr. Sonnenfeldt has never been abroad. I have received information concerning Mr. Sonnenfeldt's personnel history. Originally, he was in civil service status—and in 1965 he was converted from a GS-15 to Foreign Service Reserve Officer II—maximum U.S. duty.

The FSRO was originally conceived by Congress as a means for the temporary use abroad of persons who were particularly qualified in one aspect or another and whose qualifications filled a need for a particular job overseas.

At this period, Mr. William Crockett, who was then Deputy Under Secretary for Administration in the State Department, began to use this wise provision of the law as a means for enlarging his domestic staff without specific congressional authorization. He invented the category of FSRO—maximum U.S. duty—meaning a Foreign Service officer would never be assigned to foreign service. Those who accepted such a service would enjoy a higher pay scale than in civil service, without having the burden of serving abroad. On Mr. Crockett's part, it relieved him of observing civil service regulations with regard to job rights and categories.

Mr. Sonnenfeldt thus entered the Reserve Officer Corps under this highly unusual situation as a FSRO class II—maximum U.S. duty. I am told that in 1967 he was promoted to the rank of FSRO I—maximum U.S. duty—by a special panel dealing only with officers of this unusual category. The same panel recommended that he be converted from FSRO I to FSO I; that is, to permanent status. But the board of examiners reportedly refused to do so because he had not personally applied for the job, and there was no certificate from the Director of the Foreign Service that he was needed. It is significant that, if he had personally applied, then he would have been liable for duty overseas.

Under these circumstances, he was appointed to the National Security Council staff in 1969 in what is essentially a political policymaking position. From the prestige status of this political appointment, he applied for conversion to FSO I in September 1969. He is, in effect, starting at the top. It is hard to escape the assumption that questions of political influence have overshadowed the merit system of the FSO.

It is particularly interesting that Mr. Sonnenfeldt received this special treatment, despite the fact that his wife is

known as an antagonist to the present administration. I find it very disturbing that a top assistant in the National Security Council staff, responsible for formulating and advising on our international policy, should be chosen from a milieu which is antagonistic to the work of the President. I do not question the right of Mrs. Sonnenfeldt to engage in political activity, but the question arises whether she acted with the approval or at the direction of her husband. Under the Hatch Act, no Government employee may do indirectly what he is forbidden to do directly. In any event, I find it particularly strange that a top policy adviser is picked from such a political context and, on top of that, given preferential and unusual treatment which threatens the justice and fair workings of the Foreign Service Corps.

In this regard, an article appeared in the Sunday Star last week which discusses Mrs. Sonnenfeldt's political activities. Mr. President, I ask unanimous consent that the article "Offbeat Washington" by Vera Glaser and Malvina Stephenson be printed in the RECORD.

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

[From the Washington Sunday Star, Mar. 22, 1970]

(By Vera Glaser and Malvina Stephenson)

OFFBEAT WASHINGTON: TWO WIVES

Two Democratic wives of high administration officials worked hard to defeat Richard Nixon in 1968.

Now they're "lying low" as off-year election races warm up in another test of his popularity.

The attractive young matrons are Mrs. Helmut Sonnenfeldt, whose husband is a top member of Dr. Henry Kissinger's National Security Council staff in the White House, and Mrs. Robert J. McCloskey, wife of the deputy assistant secretary of state for press relations.

"There is a whole crew of democrats still in key positions in the Nixon administration. It makes me very pleased," said Mrs. Rowena Hoover, executive secretary of the Democratic headquarters in nearby Montgomery County, where the two women have been stalwarts.

"They helped carry the county for the Humphrey-Muskie ticket by 7,400 votes," she recalled.

Marge Sonnenfeldt said she manned get-out-the-vote telephones for presidential candidate Hubert Humphrey on election eve 1968 "until they pulled the wires out."

Anne McCloskey said most of her work had been for Democratic Senatorial Candidate Margaret Schweinhaut, who lost that year to the GOP's Charles M. Mathias Jr.

Both women have been less active since Richard Nixon took office, Mrs. Hoover said.

NOT NAGGING

"I haven't been nagging at Marge because I'm glad to have her husband in the White House. For the most part her terrific energy was used in her neighborhood in 1969," Mrs. Hoover said.

Mrs. McCloskey said candidly that she had toned down her partisan activity because her husband's job made it sensitive.

"I am willing to collect dollars for Democrats but have done no precinct work," she said. Mrs. McCloskey at one time worked for GOP Sen. Jacob Javits of New York.

Mrs. Sonnenfeldt said she felt her partisan activities should not be embarrassing to her husband in the White House because "he's a professional."

CONCURRENCY IN MILITARY WEAPONS PROGRAM

Mr. THURMOND. Mr. President, earlier this year a member of the Senate Armed Services Committee, the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER), told the Senate that 1969 was the year of cost growth in weapons systems but that he hoped 1970 would be the year of cost controls.

This is a point in which we are all interested because our military forces will be stronger if we properly exercise cost control in that better use of our funds will enable us to have more of the weapon systems we need to provide for our national security.

Mr. President, this matter of cost growth has received a great deal of attention by the Congress in the past year. It should be made clear, however, that many billions of dollars represented as cost growth have not been spent to date.

A case in point is the MARK-48 torpedo where the projected cost growth is in the neighborhood of \$3 billion dollars, but as of today the Navy has not procured the first production torpedo. This does not mean this program will not experience a huge cost growth. It does mean that the prototypes of this highly sophisticated torpedo have cost thousands of dollars more than the planners in 1962 thought they would cost and when you look at the projected cost of the program into the 1980's the price is going to far exceed that earlier estimate. Many times these cost growths are reduced when the actual buying begins. This results from competition or reduced requirements.

Using those comments to set the cost growth picture somewhat in perspective, I wish to comment for just a few minutes today on a point through which I believe we could greatly improve our weapon systems cost control. This point involves concurrency.

Concurrency is defined in this context as the production of a major weapon system prior to the completion of development and testing. Such a procedure is considered one of the major reasons for the cost growths we have experienced over the past few years.

This concurrent development and production has taken place and is still taking place in a number of major weapon systems of all three of our military services. The services and the Defense Department are aware of the problem and are beginning to take effective steps to control it, but unfortunately they have not gone fast enough or far enough.

The General Accounting Office has found that production of a large number of major Navy weapon systems was undertaken on a large scale for operational use before development and testing was completed. This particular study covered about \$2 billion in development funds alone for a 3-year period.

Mr. President, the rapid movement into weapon system programs is often the result of the pressures of a conflict such as Vietnam. The feeling in the services is that we need these systems as soon as possible so the programs are rushed along. There is certainly some justification in this approach and as we all know our concern regarding the need for a

stronger intercontinental ballistic missile force a number of years ago resulted in a crash program involving concurrency in the fullest sense of the word.

Today, hopefully, we are moving out of the pressures of such times. We are winding down in the war in Vietnam. New rules should be applied, or old rules should be carefully followed, to insure weapons systems are fully debugged before production is begun. Our weapons system history is replete with the examples of such folly. In past days we have seen the F-111 and other systems as prime examples.

Mr. President, another unfortunate result of concurrency is that our operating forces receive weapons for operational use which do not perform up to requirements. Thus, it is easy to see the failure of rushing a system through, for in rushing it we often get nothing but more costs added on because of necessary retrofits.

Moreover, the record shows that the deployment of ineffective weapons had other results which impaired the overall strength of our military forces. For instance, if you put a weapon system on a Navy ship which does not work then the ship must be taken out of service for retrofits and thus the effective force available is reduced. Some examples covering all three of the services would be the Navy's P-3C, the Army's Sheridan and M60A1E2 tank, and the Air Force's F-111 and C-5A.

It is obvious from the record that tighter controls relating to concurrent development are badly needed. Or perhaps we need better enforcement of the concurrency controls already in effect in the Department of Defense and the individual services.

Last week in an executive session of the Senate Armed Services Committee I asked a series of questions on the concurrency theme. I have been asking questions like this throughout the procurement hearings, and I will continue to ask them of the services.

In my opinion, our Nation's defense must be the strongest in the world, and I mean the strongest in the world without any question. Unfortunately our Military Establishment is being weakened in some areas which could result in threats to our national security. We should all oppose such steps, for if we fall behind the Soviets militarily then all our domestic achievements could be laid to waste.

One way to insure our military strength is to deal decisively with the problems of concurrency. Unfortunately, the services are asking Congress this year for production funds for a number of weapon systems in which sizable research and development work remains to be done. As one of the most glaring examples, money is being asked for production of an airplane while at the same time over 50 percent of the research and development work remains to be funded.

Possibly the purchase of these planes should be in the research and development account, but it was not presented to Congress that way.

Mr. President, the risks for concurrent development are great from the standpoint of the effectiveness of the system

as well as the cost to the taxpayer. Past experience has shown us something must be done in this area, if not by the Defense Establishment, then by Congress.

THE CHEYENNE HELICOPTER

Mr. THURMOND. Mr. President, an interesting and informative article on Army Aviation as published in the March issue of Government Executive magazine.

This article is especially informative because the Congress is considering additional research and development funds for the Army's proposed gunship, the Cheyenne helicopter.

The war in South Vietnam has resulted in the application of the Army's air mobility concepts which followed World War II. The result has been that the Army has successfully employed helicopters in combat to provide air mobility for a percentage of our ground forces. The tremendous utilization of this concept has resulted in the development of the helicopter gunship which provides certain types of close air support to our ground forces.

This airborne fire support has initially been provided through the conversion of troop transport helicopters to helicopter gunships. The result has been the Huey Cobra helicopters which provide a type of firepower not available from fixed wing close air support planes.

As a result of the knowledge gained in Vietnam the Army began development of the Cheyenne which has a fuselage like a jet fighter and travels at speeds of 200 miles per hour, but is propelled by rigid rotary blades rather than the thrust of jet engines.

While the development of the Cheyenne has had its problems which resulted in the cancellation last year of the production contract, it is still an important program which should be continued from a research standpoint. We have already spent around \$170 million on this development program and have about \$30 million to go.

Mr. President, this article addresses some of the popular opinions which have resulted from the helicopter type war we have conducted in Vietnam. To a degree the author dispels the popular idea that the helicopter is an extremely vulnerable weapon system. The article also makes the point that the helicopter gunship can give close ground support in a way which is impossible for Air Force close support planes to match.

Hopefully, the Nixon doctrine will bring us into an era of relative peace in this decade, but no matter what policies the United States follows we are faced with continued Communist probes in Asia, the Middle East, Africa, or South America. In the event our national security is endangered by any such moves the helicopter gunship would be an invaluable weapons system for the limited type deployment of military forces that military confrontations of the future seem to require.

This article includes some provocative comments on the concepts which our ground commanders might have to employ in such areas, and should be of in-

terest to the Congress as we deal with the important task of our defense appropriations.

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

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

[From Government Executive, March 1970]

ARMY AVIATION: AFTER VIETNAM, WHAT?

HIGHLIGHTS

1. Army aviation, no longer a short-lived, Vietnam phenomenon, is emerging as a major facet of Army tactical planning.

2. Plans and programs under way at Army Aviation Systems Command in St. Louis suggest a confrontation with the Air Force over aerial missions may be in the offing.

3. The myth of helicopter vulnerability, now shattered, provides the basis for a well-reasoned Army argument for going into aviation in a big way.

4. AVSCOM has grown from a small field operation in the early Sixties to a command of over 10,000 personnel watching the life cycle of 12,000 Army aircraft—just 3,000 shy of the Air Force inventory.

5. A detailed look at AVSCOM provides a meaningful insight into Army thinking on aviation and Army's future role in it.

Those who view the helicopter's role as a tactical, short-lived phenomenon suited only for Vietnam-type situations are in for a surprise.

The U.S. Army is in the business of aviation for keeps and, if the present trend continues to its logical conclusion, the Air Force may soon be hard put to justify its tactical air arm.

This conclusion was reached after a Government Executive visit to the Army Aviation System Command (AVSCOM) headquarters in St. Louis. This outfit, part of the Army Materiel Command, is not really "the" headquarters for Army aviation—it's the supply and logistics arm of Army aviation.

AVSCOM is staffed largely by professional Army aviators, men who live for aviation and who influence the direction of research and development, which, of course, sets the pattern for the Army's future air arm.

The Commander of AVSCOM, Maj. Gen. John Klingenhagen, a captain at 19, an aviator proud of his wings and the youngest Army officer to make both brigadier and major general, came alive when the discussion drifted into the future tense.

He picked up the Huey helicopter model from his table and, in the fashion of all aviators, wheeled it through the air displaying its attack and withdrawal profiles. He also spoke of the Cheyenne helicopter and future aircraft for the Army.

His Chief of Staff, Col. Elmore Swenson, added a perspective to Army aviation that one can't get from the many fact sheets, handouts and official briefings available.

The result: a nagging set of questions. Where does Army aviation leave off and the Air Force take over? Is someone viewing developments in both Air Force and Army tactical aviation to define who's in charge of what? Has the Air Force simply forfeited its role in the future of tactical aviation to put its money into manned bombers and ICBMs?

The new breed of helicopters being designed and tested under AVSCOM's charter is, in effect, a new type of fighter plane—big, fast, missile- and gun-equipped and durable.

The term helicopter to most laymen conjures up an image of a light utility craft used for liaison duties. Vietnam, of course, saw the arming of these aircraft, and they play a pivotal role in the war, providing mobility and fire power in a way the Air Force can't.

The Army's present attitude about the fu-

ture of aviation reminds one of the fight after the Korean War about ground defense of U.S. airbases abroad. This resulted in the Air Force attempting to evolve a set of "ground-pounders" for air base defense—reasoning that the Army forfeited its infantry role in Korea as far as the defense of air bases was concerned.

Thinking of the future, Army aviators seem inclined not to rely on the Air Force. They would apparently prefer to do it themselves and, judging from the plans and programs under way at AVSCOM, they're doing just that.

To call the *Cheyenne*—which the Army still wants badly—a helicopter is, perhaps, poetic license. It's really a new form of tactical aviation, allegedly suitable for action in conventional war in Europe and even in a nuclear environment.

The *Cheyenne* is 54 feet long, weighs close to 12,000 pounds and flies at 250 miles per hour. It carries six wing pylons on which either 2.75 inch rocket pods or TOW wire-guided antitank missiles can be mounted.

Its flexible nose turret can be equipped with either an array of 40mm grenade launchers or a six-barrel 7.62 inch mini gun. On its belly a 360-degree swiveling turret is equipped with a 30mm automatic gun.

Researchers at AVSCOM spoke proudly of work under way to give the *Cheyenne* a day-and-night capability with the help of computers and sophisticated sensor systems.

The trend toward Army developing its own air support began in the late Fifties and early Sixties. Despite intraservice squabbles over the Army and Air Force roles in aviation, the Army has steered onto a course which today seems implicitly geared to evolving an independent air arm directly responsive to infantry needs.

ARMY EVOLVES AIR BRANCH

The Air Force put up a fight when guns were mounted on choppers in Vietnam. It didn't have a reasonable substitute, however, and the guns stayed. Next came the *Huey* and the *Cobra*—versatile choppers which evolved from troop transporters into formidable gunships, again providing firepower in a way the Air Force can't.

Then came the *Cheyenne*, a cross between a powerful jet fighter and a gunship. Its role from concept onward was viewed by Army aviators in a perspective far broader than simply Vietnam.

It perhaps should be stressed that this trend has no earmarks of a conspiratorial one. Rather it seems to have stemmed from a dynamic and zealous leadership convinced of the importance of aviation and bent on doing the best job possible for the Army.

The *Cheyenne*, once operational, will complete the transition to a full-fledged Army tactical air branch, capable of providing deadly accurate fire support against enemy tanks, fortifications and troops in any battle environment. Army aviators, however, deny that the implications are that broad.

Further down the pike, research and testing now under way at AVSCOM in vertical and short field takeoff aircraft and the "advanced compound helicopter" (with rotor for vertical ascent and props for forward flight) suggest that even more of the traditional Air Force ball park—air logistics—will be invaded ultimately by the Army.

If anything, these developments, not unusual in today's complex military, merely underscore how innocently major trends can emerge. Subjective judgments, obviously, can be made about this particular trend in Army aviation; however, those are for men in responsible positions, not laymen journalists.

An examination of the breadth of activity now under way at AVSCOM reveals in detail the scope of Army thinking and actions in the field of aviation.

Tucked in an unglamorous converted warehouse in downtown St. Louis, AVSCOM has grown from a small field unit in the early

'60s to an aviation complex numbering almost 10,000 military and civilian personnel. Klingenhagen admitted that its growth was a difficult one.

"A couple of years ago the Command was in chaos. The Commanding General had 41 subordinates reporting directly to his office. You can imagine the constant state of turmoil the front office was in.

"This was changed, however, and now we have eight subordinates reporting to the Commander. To understand what they do you have to understand that we have life-cycle management. It evolves from our basic responsibilities.

"AVSCOM has responsibility for all Army aircraft throughout their life cycle—from the engineer's drawing board to the obsolete aircraft trundled out the back door of the hangar. Primarily AVSCOM is charged with the design, production and maintenance of Army aircraft."

The Army aviation inventory, incidentally, numbers over 12,000 aircraft—just 3,000 shy of the number in the Air Force inventory. Last year, 1969, Army aviators logged 6.7 million flying hours while their Air Force brethren logged 8.5 million. The Navy with an aircraft inventory of about 9,700 only flew 3.7 million.

"AVSCOM's responsibility includes research and initial development of new aircraft, testing of new equipment, contracting for its production, providing repair and maintenance assistance to the field Army and providing international logistic support to other countries using Army aircraft.

"Our research capability—long the weakest link in Army aviation—is getting top priority," Klingenhagen stated. "It was not until the mid-60s that we were given engineering responsibility, and prior to that our laboratory effort was minimal.

"Quite frankly in the case of the *Cheyenne* helicopter we didn't have the base of knowledge where we could assess the risks involved in the rigid rotor. Our research capability will be built up over the next two to three years however.

"We have recently signed a contract with the Space Administration to establish Army aviation labs at NASA facilities. This will save about \$200 million in facilities alone.

ARMY WANTS "CHEYENNE"

"Moreover our joint efforts will fill gaps where NASA research has been weak—the phenomenon of the rotor. We haven't done nearly enough work on the rotor as was evidenced with the *Cheyenne* flap."

Commenting further on the *Cheyenne*, Klingenhagen stated: "The production contract has been terminated and the tooling is in storage. The R&D contract, however, continues in effect, and Lockheed is running flight and wind tunnel tests to work out the problems in the rotor control system.

"We're watching the progress of these tests closely. The Army still has a requirement for the *Cheyenne* and we believe there is a good chance that we'll eventually overcome the problems.

"On the operating end of AVSCOM, we have four deputies to follow Army aircraft through their life cycle—an R&D Division, an Acquisition Division, a Logistic Support Division and a Resource Management Division."

Engineers at the Army Aviation Lab at Fort Eustis, Va., divide their efforts between advanced design, aeromechanics, systems and equipment development and applied aeronautics.

They are now working on advanced V/STOL aircraft and advanced compound helicopters. They are applying the results of propulsion and airframe research to such aircraft as the XH-51A, a rigid rotor compound helicopter that has attained a speed of 302 miles per hour.

They have also modified the *Huey* helicopter with more streamlined design features and the addition of stub wings and a jet

engine to test high-speed helicopter performance.

Moreover, they are experimenting with applying research done in winged transport aircraft with tilt rotors to determine which airframe designs will meet future Army needs.

Turning to the one argument raised about the utility of helicopters in combat—their vulnerability to ground fire—Klingenhagen was defensive:

"The survivability of the helicopter in a combat environment has been a matter of interest, speculation, debate and testing for 20 years.

"During the past eight years Army helicopters have flown about 7.5 million hours in the combat environment of Vietnam. It is most unfortunate that an old belief that the helicopter is a fragile piece of equipment has persisted.

"A few statistics that might help place in perspective the true survivability of the helicopter in combat might be helpful. From 1965 through September 1969, the Army increased its combat flying hours by more than 700 percent and its combat sorties by over 1,000 percent.

"This increase resulted primarily from the growth of our Vietnam inventory, which has gone from 700 in 1965 to over 3,500 helicopters in 1969.

"With the increase in helicopter activity our combat loss rates also increased, although not near the magnitude of the increase in activity.

"Loss rates rose from 12.0 helicopters lost per 100,000 flying hours in 1965 to 16.1 helicopters lost in 1969. We reached our loss peak in 1968 when we suffered almost 18.0 helicopter combat losses per 100,000 flying hours.

"Despite these figures on loss rates, let's also discuss the true survivability of the helicopter in Vietnam.

"For example, let's compare the Army AH-1G helicopter and the UH-1B and C gunships with the Air Force F-100 and F-4 combat losses per 100,000 sorties for 1969.

"The Air Force F-100 and F-4 loss rate is over five times the loss rate of the Army's two attack helicopters. We realize that Air Force sorties are generally longer than helicopter sorties by a factor of perhaps four; however, the combat exposure—the time the aircraft is exposed to enemy fire—is considerably greater per sortie for the helicopter gunship. I believe you will agree these figures show the helicopter to be a pretty tough bird.

"The effects of ground fire will present a good picture of helicopter survivability. On the average, helicopters are hit by enemy ground fire once in 400 flying hours. Of those helicopters hit, one is shot down in every 4,300 hours flown. Of all the helicopters hit and shot down, only one is lost on over 7,700 hours flown.

"Personal survivability in terms of crew members is of constant concern to everyone. An examination of crew member survivability versus the combat infantryman shows that aviation personnel fair considerably better—about four times as good as the infantryman.

"There are many instances of helicopters taking over 25 rounds of enemy automatic weapons fire at a single time and remaining in the air. The first OH-6 *Cayuse* helicopter to complete 1,000 hours of combat flying had been shot down five times and recovered, received fire on 57 occasions and had survived 150 bullet strikes."

In conversation, Klingenhagen stressed that the Army is not working toward establishing an aviation branch. Rather, he emphasized that the flying elements in the Army are to be integrated into the present structure to better support the ground troops.

"Air mobility has gained respectability and so has the firepower we can provide. During the '70s we will be striving to in-

crease our firepower support to ground troops.

"Moreover, we want to provide much more mobility to all echelons. In Vietnam we started out with each Division Commander having his own chopper to get above the action and get a better view. We finally worked this air mobility concept down to the battalion level.

"In the future we want to get it down to the company level. The helicopter is a true substitute for the horse.

"With aviation integrated into the ground forces, we can achieve a closer degree of battlefield cooperation with our air elements. We can place fire more accurately and stay on target longer. We can cut down the waiting time for air support and, with aviation integrated into the ground units, we can better anticipate our air support needs on the spot—outthinking the enemy and keeping a step ahead of him.

"If Army Aviation is to make progress in the '70s," Klingshagen asserted, "we have to pay the price of more sophisticated machines. Of course we may not have to buy as many to do the job. The three primary areas of concern for the coming decade will be providing more firepower, more mobility and a heavier lift capability."

THE NOMINATION OF JUDGE GEORGE HARROLD CARSWELL

Mr. THURMOND. Mr. President, one of the most valuable assets a man can possess is experience. It is through experience that men learn, mature, and develop wisdom. The world has learned that the value of mature men is not their age but that they have observed through the years various phenomenon and have thereby gained insight and understanding; but is better described as experience.

In Judge George Harrold Carswell, we find a man of experience.

Indeed, he has had considerable experience for a man of so few years. Judge Carswell was born in Irwinton, Ga., 51 years ago. He attended public school in Irwinton, Atlanta, and Bainbridge, Ga., before entering Duke University in 1937. He graduated from Duke University 4 years later and engaged himself in the study of law at the University of Georgia. His career as a legal scholar was interrupted by the advent of World War II. Upon returning from that conflict, Judge Carswell resumed his study of jurisprudence and graduated from the school of law at Mercer University in June 1948.

His tour of duty from 1942 until the end of the war included service aboard the U.S.S. *Baltimore* with both the 3d and 5th Fleets during engagements at Taiwan, Kwajalein, and Iwo Jima. In March 1945 he transferred to the U.S. Naval Academy at Annapolis where he did postgraduate work. He left the service in November of that year with the rank of lieutenant.

An acquaintanceship with the intricacies and subtle fine points of the law was not the only experience gained by the judge during his tenure at Mercer. While there he taught undergraduate English, edited a weekly newspaper, organized a telephone company, and served as president of the student government.

Truly the fact of his ability to engage in such a diverse and demanding extracurricular schedule demonstrates his great industry and an unusual capacity for productive endeavor at an early age.

In 1948, as a young lawyer, he ran

for the Georgia State Legislature. Although he was defeated, there can be no question that the seeking of an elected office is an experience of inestimable value: It teaches one humility, gives a sense of perspective, and acquaints one with the vital issues of the day.

Moving to Tallahassee in 1949, he entered private law practice as an associate in the firm of Leroy Collins where he remained until 1951 when he organized the firm of Carswell, Cotton & Shivers. Thereafter, he continued practice until his appointment as U.S. attorney in July 1953.

Judge Carswell proved to be a competent and able Federal advocate and in 1958 became the chief judge of the U.S. District Court for the Northern District of Florida. At the time of his appointment to the Federal bench, he was the youngest member of the Federal judiciary in the United States.

In mid-June 1969, Judge Carswell was appointed to the Fifth Circuit Court of Appeals, a post which he now holds.

Mr. President, we can see that Judge Carswell has had experience as a student, a soldier, a teacher, lawyer, U.S. attorney, Federal district judge, and Federal appellate judge.

If no other factors were present, these experiences alone would qualify this man for the position to which he has been nominated.

However, let us look a bit further at the experiences of the nominee.

During his years on the Federal bench, Judge Carswell has been unusually active in the field of judicial administration. He has served as a member of both the Judicial Conference's Committee on Statistics, which plays an important role in recommending to Congress the creation of additional Federal judgeships, and its committee on personnel, which deals with problems relating to the administration of the judiciary. In April 1969, Judge Carswell was chosen by the circuit and district judges of the fifth circuit as the circuit's district judge representative to the Judicial Conference. As such, he attended and participated in the meeting of the conference held in June 1969, dealing with the problems of judicial ethics arising from outside employment of Federal judges. He voted with the majority of the committee to require disclosure of outside employment, and to regulate it in other ways.

It would seem clear, therefore, that Judge Carswell has realized great knowledge and ability through his varied experiences.

The record compiled by Judge Carswell as a jurist indicates that he has presided over a variety of different types of cases ranging from administrative law to wrongful death, including such subjects as civil rights, criminal law, habeas corpus, labor law, and other areas as complex as taxation and insurance.

Sometimes people forget that the Supreme Court hears a number of cases each year that do not involve civil rights and criminal law. Judge Carswell's experience in treating with different subjects will be of great benefit to the Court.

A review of the decisions he has written or participated in demonstrate his ability to single out the issue of the case,

bring together the facts and applicable law, and succinctly state the conclusion with brevity and exactness. This style of writing judicial opinions is somewhat unique today, for the opinions of many of our judges are too long and superfluous. This style of legal writing indicates that Judge Carswell is capable of exactness in considering and interpreting a question of law. This ability certainly commends him to the position for which he has been selected.

Mr. President, so far I have made certain observations concerning the experience, knowledge, and ability of the candidate under consideration for confirmation to the Supreme Court as Associate Justice.

I ask my colleagues, are my observations and conclusions correct? Are they reflected by others who have turned an objective eye toward the nominee?

In evaluating the qualifications of Judge Carswell, the Judiciary Committee received the opinion of the American Bar Association. Lawrence E. Walsh, a former Federal judge and chairman of the American Bar Association's prestigious standing committee on the Federal judiciary, reported by letter to the Judiciary Committee:

On the basis of its investigation the committee has concluded, unanimously, that Judge Carswell is qualified for appointment as Associate Justice of the Supreme Court of the United States.

In his letter, Judge Walsh explained the nature of the examination which had led to that conclusion by stating that the committee's opinion was based upon the views of a cross section of the best informed lawyers and judges as to the integrity, judicial temperament, and professional competence of the nominee.

The high esteem in which Judge Carswell is held by his colleagues is further demonstrated by the fact that several of his fellow circuit judges have submitted letters to the Judiciary Committee in support of the nomination. Judge Robert A. Ainsworth, Jr., stated in his letter that "undoubtedly he will bring distinction, credit, and honor to our Highest Court." Judge Warren L. Jones praised Judge Carswell "as eminently qualified in every way: personality, integrity, legal learning, and judicial temperament for the Supreme Court of the United States." Judge Bryan Simpson and Homer Thornberry expressed the same opinion. These commendations given Judge Carswell by his colleagues are impressive indeed.

Mr. President, on the basis of the objective record, no man can rationally conclude that Judge Carswell is not qualified by experience on the Federal bench to serve on the Highest Federal Bench as Associate Justice of the Supreme Court.

There are those who would make the incredulous argument that because Judge Carswell has not written a number of law review articles he is not qualified to sit on the Supreme Court. The writing of articles for law reviews has never been and is not now a prerequisite to confirmations to the Supreme Court. Further, the position has been asserted by certain smug and self-righteous, self-styled experts on the Court that the quality of legal education dis-

pensed at any law school other than at certain ones in the northeastern section of this country is less than acceptable for candidates to the High Court. This argument is the result of prejudice and snobishness, and should be rejected out of hand. To proffer such a postulate as a legitimate criteria for judging candidates for the High Court is folly—law schools can only be judged by the performance of their graduates, and you may rest assured that no single law school in the Nation has any monopoly on good graduates.

So much for the trite arguments that have been bantered about as to his judicial qualifications.

Mr. President, the ugly specter of racism has been deliberately raised by certain opponents of Judge Carswell. It could be suspected with reasonable accuracy that those people who have raised these arguments would be opposed to Judge Carswell or any nominee solely on the basis of his being from the South, and not having spent his life apologizing for the fact.

The ostensible basis for the charge of bigotry is a statement made by Judge Carswell when he was a candidate for the Georgia Legislature in 1948. This is over two decades ago, and he has categorically renounced that unfortunate utterance.

Like drowning men clutching at straws, the enemies of the nomination point to a charter to a country club and a deed to a house which allegedly proved the prejudice of Judge Carswell. The record bears vivid testimony to the abject failure of the evidence contained within these documents to indict him for racism. Former Florida Gov. Leroy Collins, a man possessing impeccable liberal credentials, stated before the Judiciary Committee:

Judge Carswell, Gentleman, is no racist. He is no white supremacist. He is no segregationist. I am convinced of this.

Let me point out that Governor Collins also owned an interest in the country club in question, and no one has ever hinted or suggested that that fact proved he was a racist. If it does not prove that Leroy Collins was a racist, Mr. President, it does not prove that Judge Carswell was a racist. Further, the list of prominent Americans of all political persuasions who have committed these particular sins is so long as to make this argument worthless.

Prof. James W. Moore, Sterling professor of law at Yale University, before the Judiciary Committee, recounted having met Judge Carswell while being consulted in connection with the Carswell record in racial cases, saying:

If this were not so serious, this charge of racism against Judge Carswell, it would almost be funny. By that I mean it is certainly ironic, because you know in Florida many people regard certain parts of the Northern District of Florida as a little bit to the right of Louis the 14th, and I can tell this committee in all sincerity and honesty that Harrold Carswell has displayed unusual courage I think and faithfulness to the law that he serves in his civil rights rulings, in an altogether hostile climate.

I think he is a very strong man. I was shocked to read the speech, the young man's

speech he made, because in all of my dealings with Harrold Carswell including the Brooks case I would have thought he was just the opposite, and most people who had dealings with him in Tallahassee feel that he is indeed a fine judge. He believes in liberty and justice for all, and there is no two ways about it.

My particular reason for writing you at this time is that I am fully convinced that the recent reporting of a speech he made in 1948 may give an erroneous impression of his personal and judicial philosophy and I would be prepared to express this conviction of mine based upon my observations of him during the years I was privileged to serve as chief judge of the Court of Appeals for the Fifth Circuit.

Judge Bryan Simpson of the Fifth Circuit Court of Appeals praised Judge Carswell as a legal craftsman and then added:

More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man: Superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an openminded disposition to hear, consider and decide important matters without preconceptions, predilections, or prejudices. I have always found him to be completely objective and detached in his approach to his judicial duties.

Judge Homer Thornberry observed:

Judge Carswell has the compassion which is so important in a judge.

Mr. President, a group of northern lawyers testified before the committee that they had gone to Florida to represent civil rights plaintiffs in Judge Carswell's court, and that he had evidenced hostility toward them and their clients. These charges were handily rebutted by the statements of several individuals.

Mr. Charles F. Wilson, Negro civil rights attorney who represented criminal and civil rights litigants before Judge Carswell stated:

As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court, there was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions. I represented the plaintiffs in three of the major school desegregation cases filed in his district. He invariably granted the plaintiffs favorable judgments in these cases, and the only disagreement I had with him in any of them was over the extent of the relief to be granted.

One of the most persuasive arguments against the charge of racism was made in a letter by Mr. Allen L. Levine of the State of Massachusetts which was addressed to the Honorable F. BRADFORD MORSE, a Member of the House of Representatives from that State. The letter is long and so I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. Levine was in the Navy with Judge Carswell and the essence of this testimony is found in a few sentences which I shall read:

My own position is this: I have no ax to grind for or against whatever position the Senators may take, but I hope that you may find useful the opinions of a concerned con-

stituent who happens to have had some extended personal contact with Judge Carswell. My opinion is that Judge Carswell was not and is not a racist or bigot.

Mr. President, just as in a former hearing on the same subject, the Judiciary Committee tolerated an entourage of self-styled experts on the law, some of whom were not lawyers, who spewed forth their venom against Judge Carswell.

Each one assured the committee that he had objectively reviewed the record of the nominee and had reached the conclusion that he was unqualified and they were opposed to him. Mr. President, is there anyone so naive that he would believe that the opposition to this man is based on any rational or objective foundation?

These witnesses concentrated primarily on the school desegregation cases handled by Judge Carswell. This fact in itself clearly demonstrates their lack of objectivity, for Judge Carswell has dealt with a number of different kinds of cases and yet they were not mentioned in the testimony.

The basic belief of the ultraliberal is that if a law is bad it is not to be obeyed. This sort of premise leads directly to the destruction of our republican form of government and ultimately to anarchy.

The criticism of those who oppose Judge Carswell is based on the premise that a judge should not support or obey a law which in their opinion is bad but should go beyond the law and through the process of opinion writing destroy the existing law and impose in its place his own brand of law.

Judge Carswell's treatments of the issues before him have been in accordance of the law as it was at the time the matter was in his court. In this context I call attention to an article that appeared in the New York Times written by Fred P. Graham. The article is a lengthy one and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. THURMOND. This article bears witness, as do the decisions of Judge Carswell, to the fact that Judge Carswell understands and practices the proper role of a jurist as it should be practiced in our system of government; namely, that he is to apply the law, not as it should be, or used to be, or ought to be, but as it is.

Mr. President, look at the record. This man is no zealot and yet he is accused of being a racist and of being incompetent by some people who are zealots. The ultra-liberals have come here mouthing the pretty platitudes of the left, both old and new, but after one removes the slick veneer from his pious pronouncements of objectivity it is readily obvious that they simply oppose anyone who will not rule their way in every case, every time, even if it means complete disregard of the rule, letter, and spirit of the law. The opposition posed by these individuals is purely political and without substance.

Mr. President, this man is qualified, both as a student and practitioner of the law. The Senate has confirmed his

nomination to high Federal positions three times, two of which nominations were to the Federal bench. In doing so, this body has gone on record as approving his qualifications to sit on the Federal bench.

Some time ago, the ultra-liberals in this country decided that Congress would not go along with all of their ill-conceived visionary schemes, so they turned to the other branches of Government and found the courts most vulnerable to their arguments. They have enjoyed a virtual monopoly on judicial appointments until this administration, and they have reacted by vicious and unwarranted attacks on President Nixon's appointments.

The American judicial system is the backbone of our Republic, because the court is the place where the citizen can redress his grievances, sue his Government, and right his wrongs without force or violence. To undermine the court is to undermine the Nation, and to destroy the court is to destroy the Nation.

So we come to the crux of the matter—if Carswell or any other strict constructionist is denied a seat on the Court, it will remain outside the constitutional boundaries set by our forefathers; but if Judge Carswell is confirmed, then a balance will be effected on the High Tribunal, and the system of checks and balances will again function within the constitutional framework.

Mr. President, we must look to the dangers of refusing confirmation. Congress legislates; the Executive legislates through Executive orders, regulations, and bureaucratic fiat; and the Supreme Court has taken upon itself to legislate. Where, indeed, is our system of checks and balances? It appears that it is dormant, but it must be revived and renewed. The only way to resurrect these checks and balances is to balance the court, and it will require the placing of a strict constructionist such as Judge Carswell on the Supreme Court to accomplish this purpose. By confirming Judge Carswell, we shall accomplish more than fill a vacancy on the Supreme Court; we shall by that action reaffirm our belief in the American system of checks and balances.

Mr. President, I support the confirmation of Judge George Harold Carswell to be Associate Justice of the Supreme Court and I call on my colleagues to support President Nixon in his choice of this able and dedicated American.

EXHIBIT 1

JANUARY 24, 1970.

HON. F. BRADFORD MORSE,
House of Representatives,
Washington, D.C.

DEAR BRAD: Although I realize that you will not be called upon to vote on the confirmation of Judge G. Harold Carswell, I am writing to you to share information which may be of some interest to those who will be required to decide how to vote on the matter.

You have no doubt read that Judge Carswell served in the United States Navy during World War II. He and I reported for duty aboard the U.S.S. Baltimore early in 1943 at the Fore River Works in Quincy, Mass. We were both newly-commissioned ensigns, and we were put in the junior officers bunkroom together with about twenty other civilians in uniform.

The Baltimore shook down in the Carib-

bean, then went to the Pacific and operated as part of the fast carrier striking force screen, participating in all the invasions of the Central Pacific campaign, Gilberts, Marshalls, Saipan, Guam, Iwo, Philippines, Okinawa—interrupted only by a return to the West Coast in August, 1944 to pick up President Roosevelt and take him to Pearl Harbor to meet with General MacArthur and Admiral Nimitz.

George Carswell and I were aboard all during that period, until he was detached in February, 1945, to attend staff school, and I was aboard until May, 1945, when I was ordered to Japanese Language School. We were promoted to junior grade lieutenants and moved out of the J.O. bunkroom and into a cabin for two officers, where we were roommates for about a year. We had a chance to learn each other's views during a period when we were both under a good deal of combat-generated emotional pressure. I think that under such circumstances a lot of basic human values become evident, and during that year we talked about everything under the sun—education, politics, philosophy, sex, history, movies and anything else that came to mind.

During all that time, I never heard George utter any point of view that could be described as racist or illiberal. His attitude was a truly humanistic and liberal one in that he reacted to people as individuals and not as stereotypes. This was especially apparent in his behavior toward black sailors. At that time Navy policy was segregationist, and black sailors afloat could only serve in the wardroom mess as stewards mates. There were other officers of Southern origin who were outspokenly antagonistic to the steward's mates for racial reasons, but George Carswell was always pleasant and considerate to all. Our Gunner Officer, Comdr. Truesdell, felt that the steward's mates ought to be given the opportunity to serve in a more meaningful capacity, and saw to it that their station at general quarters was to man a battery of 20 millimeter anti-aircraft guns. While other officers questioned the desirability of this, George Carswell was enthusiastically in favor of it.

I remember that once during a shore excursion in the forward area George and I together encountered for the first time a black petty officer, evidence that at long last the Navy was beginning to move away from its segregationist policies, and George could see the wisdom of that too.

In view of the attacks on Judge Carswell's legal philosophy by civil libertarians, and especially in view of the pro-segregationist views expressed in his campaign for election to the state house of representatives from a rural constituency in Georgia in 1948, which he recently has firmly and, I am convinced, sincerely repudiated, I am sure that members of the Senate must be subject to pressure to vote against his confirmation to the Supreme Court. At the same time I am sure that the Administration would welcome an expression of regularity and support by an affirmative vote.

My own position is this: I have no axe to grind for or against whatever position Senators may take, but I hope that you may find useful the opinion of a concerned constituent who happens to have had some extended personal contact with Judge Carswell. My opinion is that Judge Carswell was not and is not a racist or a bigot. He is a warm, friendly, outgoing person, extremely intelligent, and about as liberal as the Southern milieu into which he was born could produce at that time. I have no fear of his subverting past actions and decisions of the Court should his appointment be confirmed. While I do not think that his elevation to the Court would warrant the probability of his development into a liberal of the Hugo Black variety, neither do I believe that we should

fear the emergence of a modern Roger B. Taney. Out of personal knowledge and affection for George Carswell as I knew him during the war, I am happy to be able to give some justification for a favorable consideration of his appointment.

Sincerely yours,

ALLAN L. LEVINE,
Executive Vice President, Towers Motor Parts Corp., Lowell, Mass.

EXHIBIT 2

CARSWELL'S CREDO IS RESTRAINT

(By Fred P. Graham)

WASHINGTON, January 20.—Judge G. Harold Carswell, President Nixon's new nominee to the Supreme Court, has a virtually unblemished record as the type of "strict constructionist" that Mr. Nixon promised to appoint when he campaigned for the Presidency.

In speeches across the country, Mr. Nixon promised to name men to the high court who would "interpret" the law, not "make" it.

In 11 years as a Federal District judge in Tallahassee, Fla., and in six months as a member of the United States Court of Appeals for the Fifth Circuit, Judge Carswell sprinkled the lawbooks with opinions on matters ranging from civil rights to the legality of Florida's poultry law.

Throughout these opinions runs a consistent tendency to view the law as a neutral device for settling disputes, and not as a force for either legal innovation or social change.

AN IRONIC COMPARISON

An ironic byproduct of this consistency is that Judge Carswell's judicial record is more conservative than that of Judge Clement F. Haynsworth Jr., who was defeated for confirmation to the same seat by liberal forces that branded him as a conservative who was "not a contemporary man of the times."

Judge Haynsworth was ahead of the Supreme Court in devising fuller review for state prisoners in Federal habeas corpus proceedings, and occasionally anticipated the high court in ruling in favor of Negroes in civil rights cases.

An exact comparison with Judge Carswell is difficult, as the new nominee served as a trial judge much of the time, and most of his opinions dealt with day-to-day issues rather than sweeping constitutional matters. But the lawbooks contain at least 25 appellate opinions he wrote when he sat, as District judges frequently do, on the Court of Appeals.

These opinions reveal a jurist who hesitates to use judicial power unless the need is clear and demanding; who finds few controversies that cannot be settled by invoking some settled precedent, and who rarely finds the need to refer to the social conflict outside the courtroom that brought his cases before him.

ATTITUDE OF RESTRAINT

This attitude of restraint has generated friction only in the field of civil rights, where Judge Carswell's policy of sticking with settled precedents until change came from higher courts had the result of allowing dilatory school officials to delay segregation.

An example was provided when parents of Negro children in the Pensacola area sued to break up the segregation of faculty and staffs in the formerly all-black school. Although the higher courts had not said in so many words that faculty, as well as student, segregation must end, lawyers for the Negroes argued that these courts could not have meant that the newly integrated schools would be staffed with all-black and all-white faculties. Judge Carswell ruled otherwise.

"The Brown cases," he wrote, referring to the Supreme Court's landmark school decisions of 1954 and 1955, "hold that the segre-

gation of white and Negro children on the basis of race denies to Negro children equal protection of the laws guaranteed by the 14th Amendment to the Constitution." He put the word "children" in italics, and went on to state that these decisions and subsequent ones by the Fifth Circuit did not reach the question of faculty desegregation.

NOT DIRECTLY AT ISSUE

"This court can not indulge in a presumption that these Federal courts decided the points of law asserted by plaintiff by inference," he said, because staff members' rights were not directly at issue in those cases.

Finally, he declared, students have no standing to intervene in such matters: "Students herein can no more complain of injury to themselves of 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."

Some civil rights lawyers who have appeared before Judge Carswell have charged that his tendency to issue declaratory judgments rather than injunctions—to hand down limited desegregation orders rather than sweeping ones—was a convenient use of judicial self-restraint to cloak segregationist sympathies.

Leroy D. Clark, a professor of law at New York University, who formerly headed the operations of the N.A.A.C.P. Legal Defense and Educational Fund, Inc., in northern Florida, asserted in an interview today that Judge Carswell had repeatedly delayed school cases by falling to rule until pressed to do so, and then by often issuing decisions that were palpably wrong and quickly reversed.

"We would have a hearing and it would take several months for him to rule," Mr. Clark said. "I would have to file a motion to ask him 'would you please rule?'—which is outrageous.

"It was my view that of the Federal District judges I appeared before, Harrold Carswell was clearly the most openly and blatantly segregationist. He was a clever and an intelligent man, so that when he was wrong on the law it wasn't because he didn't know what the law was—it was because he was biased."

*** wrote a political science dissertation in 1968 that analyzed the civil rights decisions of the 31 Federal District judges appointed to posts in the Deep South between 1953 and 1963.

When she ranked the 31 judges in terms of the number of times they had ruled in favor of Negro plaintiffs' position, Judge Carswell ranked 23d. Her study showed that, of his civil rights decisions to be appealed, 60 per cent were reversed.

In most of these cases, Judge Carswell would have had to move beyond clearly settled precedents to rule in favor of the civil rights position. When these precedents have existed, he has struck down segregation in crisp forthright opinions.

In 1965, he declared that the barber shop in Tallahassee's Duval Hotel had to serve Negroes under the public accommodations provision of the Civil Rights Act of 1964.

He brushed aside a barber's assertion that he was not covered because 95 per cent of the customers were local people and not guests in the hotel. "From a reading of the act it is clear," Judge Carswell observed, "that relative percentages of local, as compared to transient, customers may not be used as criteria to determine coverage."

PROSPECTS BRIGHTER

In 1960 when Tallahassee Negroes sued to desegregate the counters, waiting rooms and restrooms in the city-owned airport, he did not hesitate to order desegregation.

Even though Judge Carswell's civil rights record may be fully as objectionable to civil rights forces as that of Judge Haynsworth, the new nominee's prospects for confirmation seem much brighter, partly because he

has not antagonized organized labor as Judge Haynsworth had.

Federal District Judges rarely rule on labor cases, which are usually appealed from the National Labor Relations Board directly to a Court of Appeals.

Tom Harris, the official of the American Federation of Labor and Congress of Industrial Organizations who led the successful attack against Judge Haynsworth, said today that Judge Carswell "doesn't appear to have a significant record on labor cases." He said the AFL-CIO had no plans at present to oppose him.

The few labor opinions that Judge Carswell has written reflect his reticence to use judicial power and his tendency not to extend the judiciary's power.

SOME DISSENTING OPINIONS

In one decision, when a three-judge Court of Appeals ordered a soft-drink company to comply with the minimum wage laws, he dissented, saying: "It is my view that the injunctive power of courts should never be invoked lightly, nor should it be converted into a mere ministerial function triggered automatically upon the finding of an infraction of the law."

Judge Carswell's opinions tend to be bloodless documents, setting out the facts and the precedents, then briskly coming to a conclusion that is said to be within the precedents.

He is not given to broad statements of his philosophy, but his creed at this point in his career seems to have been summed up in one statement from an opinion he wrote shortly after he became a judge in 1958: "Established law, with its imperfections, must nonetheless be applied as it is and not on the predilections of the court."

WHY THE LONG DELAY IN RELEASING THE LAOS TESTIMONY

Mr. SYMINGTON. Mr. President, it is now more than 5 months since the Subcommittee of the Foreign Relations Committee on U.S. Security Agreements and Commitments Abroad completed its hearings on Laos.

The record of those hearings remains classified top secret at the insistence of the State Department. That record contains a great deal of information about U.S. activities in Laos which the American people should know and have a right to know. Repeated attempts on the part of the subcommittee to persuade the State Department to declassify portions of the record, however, have been to no avail.

We want it to be clear, Mr. President, that we have never suggested the entire record should be published. I agree it contains some material which should not be published. But it contains a great deal of material which should be published if the American people are to maintain that proper confidence in their Government.

Almost daily the press makes more revelations—or raises more questions—about what is going on in Laos, and in Thailand as it affects Laos.

The Washington Star, in a dispatch by Henry S. Bradsher from Udorn, Thailand, March 15, described how the air war in Laos is run out of seven bases in Thailand, sometimes with unmarked planes.

The Washington Post on March 16, in a dispatch by T. D. Allman from Vientiane, reported in detail how 12

Americans were killed 2 years ago defending a secret air navigation facility at Phou Pha Thi, Laos.

The Washington Star on March 17, in a dispatch by Tammy Arbuckle, described the evacuation of Sam Thong, Laos, by Air America. This story went on to say that there have been approximately 70 Americans in the Sam Thong-Long Chien area armed with M-16 rifles and captured Communist AK-47 submachineguns.

In a dispatch from Vientiane March 20, the Associated Press reported that two Thai battalions have been flown to Long Chien in U.S. civil aircraft to help defend that Army base from an expected North Vietnamese onslaught.

On March 23, a story from Bangkok by Jack Foisie in the Washington Post described other Thai activities in Laos. According to this story, two Thai artillery battalions were used in Laos last year under American auspices during the defense of Muong Soui. Further, according to Mr. Foisie, Thai pilots have flown T-28 bomber planes, and Thai observers fly in spotter planes to direct artillery fire and bomber strikes.

On March 22, the Associated Press had the Thai Premier himself admitting that some volunteers may have gone to Laos.

On March 23, the Christian Science Monitor stated flatly, "A Thai artillery battalion is operating in Laos with the support of the United States."

And finally, on March 25 a story from Vientiane in the Washington Star described in some detail an American-directed secret army which operates all through Southeast Asia.

I ask unanimous consent that the full texts of the newsstories to which I have referred may be printed in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

Mr. SYMINGTON. Mr. President, I again urge the State Department to agree to telling the American people the facts. What the Thais may or may not be doing in Laos is a matter between the Thais and the Laotians—unless the United States is paying for it, in which case it becomes a legitimate matter of public concern for the citizens of the United States.

The President himself stated it best in his televised address of November 3 last year:

The American people cannot and should not be asked to support a policy which involves the overriding issues of war and peace unless they know the truth about that policy.

EXHIBIT 1

[From the Washington Star, Mar. 15, 1970]
UDORN AIR BASE IN THAILAND U.S. MAINSTAY IN LAOS FIGHT

(By Henry S. Bradsher)

UDORN, THAILAND.—When President Nixon admitted nine days ago the well-known fact that the U.S. Air Force is flying combat support missions for the government of Laos, he did not mention where the bases are.

The biggest of them is on the southern edge of this dusty northeast Thailand town.

The 36 F4D Phantom supersonic fighter-bombers stationed at Udorn fly day and night to attack North Vietnamese forces in Laos.

They also escort Udon's unarmed RF4C Phantom reconnaissance planes over Laos and North Vietnam. They are authorized to attack antiaircraft weapons in North Vietnam if fired on—or perhaps if they only expect to be fired on; Secretary of Defense Melvin R. Laird refused to clarify this point when he was in Saigon last month.

The Udon base is also busy with helicopter units, C47 "Spooky" gunships and some other ground-support firepower planes, not all of which are marked with U.S. Air Force insignia, and shuttles of supporting transport planes.

And sharing the 10,000-foot runway is Air America, the airline created by the Central Intelligence Agency to provide logistical support for Lao government forces.

The base is officially known as Udon Royal Thai Air Force Base, and the 6,500 U.S. military men here are guests of the Thai government.

The official base commander is Thai Lt. Col. Jaru Sanguanphokai. He commands a Thai Force squadron of propeller-driven T28s stationed here.

U.S. officials are careful to avoid anything which might imply Thailand lacks control of Udon or the other six air bases used by the United States in this country. They do not want to give offense that might, among other things, become a cause for Thailand's restricting American activities.

But at the moment the Thai attitude seems to be the opposite.

Rather than being worried about Americans exceeding their authorization here, the Thai government fears that public opinion in the United States—or at least senatorial criticism—might cause a restriction of air operations over Laos from Thai bases.

Thailand wants a maximum U.S. air effort to check the North Vietnamese dry-season offensive in Laos. Laos lies just across the Mekong River from Thailand and this country sees itself threatened.

ANXIETY NOT RELIEVED

The current lull in the offensive while the Lao Communists propose peace talks has not relieved the anxiety in Bangkok. One top official there described it as "a diplomatic offensive to go with the military offensive."

That concern over Lao air war criticism in the United States means a continuation of the sensitivity which always has marked U.S. Air Force operations here, but for a reversed reason.

Originally, the United States was secretive about its Thai operations to avoid embarrassing the government in Bangkok. Although 80 percent of the U.S. air strikes against North Vietnam were flown from Thailand, this country did not want to appear too committed to Washington.

In the case of Lao operations, there also has been the same consideration which long kept Washington mum about American activities. That was the theoretical neutrality of Laos under the 1962 Geneva agreement.

HISTORY OF BASE

Those who get Thai government permission to visit the U.S. Air Force at Udon—not an easy thing to do—are given a history of the base which only begins in 1964.

In May 1964, the State Department confirmed that U.S. reconnaissance flights were being made over Laos at the request of the Lao government, then as now fighting North Vietnamese troops.

A few days later, after a fighter-bomber had been shot down, the State Department confirmed that armed escort was being flown for the reconnaissance planes and the escorts were allowed to shoot back if fired upon.

For six years that was the official explanation of Phantom fighter operations over Laos from Udon and other American planes' Lao operations from other Thai bases.

INTERDICTION MISSIONS

But on March 6 Nixon said that in May 1964, U.S. planes "began flying certain interdiction missions against invaders" of Laos. That means bombing North Vietnamese.

The United States, he said, has continued "to fly combat support missions for Laotian forces." The North Vietnamese offensive has caused an increase in missions, making Udon busier than it has been since the bombing of North Vietnam ended in 1968.

Nixon's statement has not yet filtered down through channels to provide a more comprehensive explanation of what goes on from Udon. U.S. officers here are cautiously non-committal and they let visitors look but not talk to people.

The 1964 date is deceptive.

A plaque on the wall of the U.S. consulate here marks eight years of Air America operations from Udon—March 1961 to March 1969.

This base was obviously a key point in U.S. support for Lao anti-Communist forces long before Washington was asked in 1964 to help the government legally established in Vientiane by the 1962 agreement.

That long support from here reflects long Thai concern over the danger of Laos falling completely under Communist control.

On April 1, 1961, the Chinese Communist newspaper, People's Daily, complained that "the United States has built an Air Force base capable of handling large aircraft at Udon in Thailand, only 50 miles away from Vientiane across the Mekong River . . ."

It was to Udon that U.S. Marines, helicopters and weapons were rushed in 1962 when the North Vietnamese rout of Lao forces at Nam Tha, in northwest Laos, panicked the Bangkok government. The Marines later left.

GUERRILLAS TRAINED

The Air America date of March 1961 is about the time the first U.S. Special Forces teams went into Laos to train Lao guerrillas—what have become today the "secret army" of Gen. Vang Pao. These guerrillas could not exist without Air America's aerial support.

Recently Air America advertised in the Bangkok Post for Thias to work in Udon at a long list of jobs, mostly technical ones like aircraft mechanics. Two job listings, however, were "stock control clerks with military supply experience" and "supply storekeepers with military warehouse activities experience."

U.S. military supplies trucked from ports on the Gulf of Siam are flown by Air America to hazardous little air strips in the Lao mountains.

The separately fenced Air America part of the air base has a wide variety of planes, from small liaison craft to four-engined transports. Some are marked "Air America," some have no markings.

USED TO TRAIN PILOTS

A few unmarked T28s are used by Air America to train Lao Air Force pilots. T28s, slow old planes originally built as trainers, are used by Laos to bomb enemy positions.

The Lao T28 operations have to be coordinated with U.S. Air Force strikes in Laos, which are ordered from Saigon. Udon is a link in the control system, which ends with U.S. Air Force officers stationed at Lao T28 bases up and down Laos.

Udon is the headquarters for the 7-13 Air Force, which directs all U.S. Air Force activities in Thailand.

It comes under the 7th Air Force at Saigon's Tan Son Nhut Air Base for operational matters and under the 13th Air Force at Clark Field, the Philippines, for logistical support.

The A1 Skyraider prop-driven fighter-bomber that was shot down over northern Laos Tuesday, and announced as part of the

post-March 6 policy of reporting American losses in Laos, came from Nakhon Phanom Royal Thai Air Force Base.

Located on the Mekong River border with Laos 80 miles east of Udon, it is directly linked with Udon operations.

On five-minute standby at Nakhon Phanom is a team of two rescue helicopters, a transport plane to refuel the copters in the air and direct them, and four A1s to provide covering fire during a rescue. Such a team brought back Tuesday's downed A1 crew.

Last August and September, when the U.S. use of Thai bases was being much discussed in Washington to the displeasure of the Thai government, a reduction of American activity here was envisaged. Vietnamization seemed to make it possible.

But at the moment there is no indication that Udon or the other six bases will slow down. While Vietnam was the consideration then, Laos has been added now as a main—perhaps the main—factor.

Under a Sept. 30 agreement, 4,500 U.S. military personnel have been withdrawn from the 48,000 then in Thailand. A total of 6,000 is scheduled to be gone by July.

Officials say the 6,000 are mostly Army construction troops whose job is done but include some Air Force units flying obsolescent support planes.

Any further reduction would begin to cut into U.S. capabilities to support the Lao and South Vietnamese wars. And the mood of worry over Laos in Bangkok makes that seem as undesirable for the Thai government as it seems from here to be for Nixon.

So the hot, now dusty but soon muddy air base here at Udon is likely to go on making the claim of being the busiest in Southeast Asia.

[From the Washington Post, Mar. 16, 1970]

12 AMERICANS DIED IN LOSS OF SECRET LAOTIAN OUTPOST

(By T. D. Allman)

VIENTIANE, March 15.—More than a dozen Americans were killed in Laos two years ago when Communist troops overran a secret American installation that assisted U.S. bombing of North Vietnam. The incident has been kept a secret.

In his March 6 statement on Laos, President Nixon said, "No American stationed in Laos has ever been killed in ground combat operations."

The sentence, although carefully phrased to exclude casualties in the American air war in Laos and U.S. military personnel who have fought in Laos from U.S. bases in South Vietnam and Thailand, failed to cover scores of Americans performing military and military supported functions on the ground in Laos who have been killed in combat with North Vietnamese and Pathet Lao troops.

[Speaking with newsmen Friday, White House spokesman Ronald L. Ziegler said there were "some" U.S. casualties in Laos besides the announced death of Army Capt. Joseph K. Bush Jr. Without saying how many, Ziegler said "some of the casualties would be U.S. civilians, some would be U.S. military."]

The most costly of these engagements, according to long-time Laos residents, occurred just two years ago, when more than a dozen Americans were killed defending an American radar, reconnaissance and rescue base in extreme northeastern Laos that guided U.S. aircraft to their targets and electronically released their bomb loads by radio.

The installation was called Phou Pha Thi. Phou Pha Thi is a 5,860-foot-high mountain, 190 miles northeast of Vientiane and about 160 miles west of Hanoi, in Lao's Communist-dominated Samneua Province ("Phou" is the Laotian word for mountain). Phou Pha Thi, one of the highest and most

isolated mountains in the hilly northeast, lies within 15 miles of the North Vietnamese frontier in a province that was granted to the Pathet Lao in 1954 as a regroupment area.

Phou Pha Thi, like most of the mountains of northeast Laos, is largely limestone. It rises up sheer on three sides. The fourth side also steep but negotiable, rises more than 1,600 feet from a valley.

The mountain was controlled by Meo partisans of the CIA-organized Clandestine Army until March 1968.

In August 1964, following the Gulf of Tonkin incident, according to reliable American sources then working in the Air Force, U.S. aircraft completed surveys of northeast Laos with the principal objective of finding areas close to the North Vietnamese border that could be used to support the American bombing of the Ho Chi Minh Trail and North Vietnam itself.

STARTED IN 1964

Although foreign military intervention in Laos was prohibited by the 1962 Geneva accords, the sources say construction of the Phou Pha Thi installation was begun in late 1964.

The mountain had obvious strategic advantages. It faced a narrow valley where a 700-foot-long dirt landing strip was built.

Its proximity to North Vietnam and its commanding heights made it ideal for radar guidance systems and as a base for "Jolly Green Giant" rescue helicopters, which were used to save American pilots downed by anti-aircraft fire in North Vietnam.

The base, as described by a variety of Americans and Laotians here who visited it, was like something out of an Ian Fleming novel.

Exotic telecommunications equipment, including radar nets, dotted Phou Pha Thi and several nearby hills. American Air Force and CIA personnel used the valley landing strip as the base for American-led teams of Meo mercenaries entering North Vietnam on special harassment missions.

These teams were also used to attack the Pathet Lao administrative headquarters and Samneua town, 23 miles to the east.

REMOTE-CONTROL BOMBING

The radar was used to pinpoint exact distances between Phou Pha Thi and targets in North Vietnam, and guide the planes there. This sophisticated installation was considered essential for bombing in bad weather and at night.

The main American headquarters was in a deep limestone cavern near the mountain's summit.

Inside the cavern were control consoles for the electronic equipment and a situation room. Living quarters were in a nearby concrete bunker.

The entire complex was ringed with Clandestine Army positions, directed by American personnel in cooperation with Meo officers paid by the CIA.

Into the Pha Thi runway, civilian American pilots, employed by Air America, the charter airline that acts as the U.S. logistics arm in Laos, would fly supplies, electronic equipment and arms.

Unmarked, armed helicopters transported Laotian soldiers and U.S. personnel on missions. Short take-off and landing aircraft based at Pha Thi were used to link scores of other "friendly" positions deep in the Communist hinterland.

JUST VISITING

Some of the Americans there would fly into North Vietnam just so they could say they'd been there, one witness said. There was a Philippine cook who made steaks and ham sandwiches, he added.

This American use of Laos to support the bombing of North Vietnam quickly became intolerable to Hanoi. Several attacks at Pha Thi failed in 1965 and 1967.

"The place was impregnable," said one American. "To get up three sides you would have needed to be an Alpine expert. On the fourth was a lot of American hardware and Vang Pao's Meos."

On Jan. 12, 1968, four Soviet-manufactured single-engine biplanes of the North Vietnamese air force attempted to destroy the base. The planes were AN-2s, vintage Soviet aircraft that can carry some 10 passengers at a speed of less than 200 miles an hour. The aircraft are used by Aeroflot for crop dusting, rural transport and passenger service in remote areas of Siberia.

An American civilian, who was at Pha Thi at the time of the only confirmed North Vietnamese air attack in the history of the Laotian war, related:

"JUST WACKY"

"It was just wacky. We saw these four incredibly slow-moving old planes coming out of North Vietnam. It was like something out of the First World War. The Viets were trying to shoot machine guns out of windows. The AN-2 has no bomb bay and they were going to push explosives out of the open door. Everybody saw them coming, so the Air American helicopters took off at once and, being much faster, ran rings around the Viet planes. The Air America guys fired M-16s at the planes right on the border. One of the planes crashed inside Laos.

"Another went down about two kilometers inside North Vietnam. The other two got away. It was like a joke."

The wreckage of one plane was eventually carried to Vientiane, where it was exhibited in front of the That Luang Monument, Vientiane's most important religious shrine, as evidence of North Vietnamese military aggression in Laos.

TAKEN BY COMMUNISTS

Two months later, however, in March 1968, Phou Pha Thi was taken by Communist troops. During the dry season of 1966 and 1967, Laotian troops, with American support, had re-taken large areas of Pathet Lao territory, including Nambac, a valley town 65 miles north of the royal capital of Luang Prabang.

In early 1968, the North Vietnamese retook Nambac and pushed into other government-held areas, such as the Sedone Valley in South Laos, where an American strategic-hamlet program had been started in an attempt to deny the valley's rice harvest to the Pathet Lao who, it was believed, were passing it on to North Vietnamese troops on the Ho Chi Minh Trail.

The 1968 Laos offensive, which corresponded to the Tet offensive in South Vietnam, also saw increased Communist attacks in Samneua Province.

After several North Vietnamese attacks at Phou Pha Thi in February 1968, a Communist assault there finally succeeded. Several guarding positions fell early in March, and some U.S. personnel were evacuated.

On March 10, 1968, the landing strip was lost, cutting Pha Thi's only link with the outside world. North Vietnamese troops then fought their way up the exposed side of the mountain, advancing in some cases in hand-to-hand combat, and attack.

Inside the limestone cave and concrete bunker, again according to American sources familiar with the incident, were between 12 and 21 Americans, mostly U.S. Air Force personnel, a number of Laotian officers and some 100 Meo troops.

FOUGHT TO LAST MAN

"They fought to the last man," said one American. "They were all killed on March 11, inside that grotto. An enormous amount of electronics equipment was lost, too."

The U.S. government never has acknowledged officially the deaths of these Americans, nor the fact that Laotian territory within a few miles of North Vietnam was used to support the U.S. bombing of North Vietnam.

The incident, however, has been common knowledge among long-time residents of Vientiane for two years. It was never fully reported before in the press and was fading from memory when President Nixon's statement raised the question of American ground combat deaths in Laos.

The number of Americans killed at Phou Pha Thi is not exactly known. Pathet Lao broadcast in March 1968 claimed the total as 21.

The Pathet Lao representative in Vientiane, Col. Soth Pretasi, said in an interview this week that the number was 19. Several American and Laotian sources also have given the number killed as 19.

"SUBSTANTIALLY CORRECT"

An American official, while refusing to confirm or deny the account of the fall of Pha Thi as reconstructed here, has said the Pathet Lao account "appears to be substantially correct."

Other well-informed sources have said the total of Americans killed at Pha Thi was "13 or a little less."

The above version of the incident was corroborated in cross-interviews with American, Laotian, European, and Pathet Lao sources.

In an interview yesterday, an authoritative North Vietnamese diplomat said, "If Laos is to be neutralized and have peace again, it must be in such a way that its neighbors will not be threatened and be able to coexist peacefully with Laos."

Other Communist sources have indicated that North Vietnam, as the part of any overall Laos settlement, regards guarantees that Laotian territory will never again be used to attack North Vietnam, the sine qua non of permanent peace.

The U.S. government and the government of Prince Souvanna Phouma see things differently. They point out that the Ho Chi Minh Trail has been used by North Vietnam to attack South Vietnam since the early sixties, that an estimated 50,000 North Vietnamese troops are in Laos, and that the North Vietnamese recently attacked the Plain of Jars.

"SERVED ITS PURPOSE"

"There's no use being a bleeding heart about Phou Pha Thi," said one of the Americans who provided some of the above details. "The North Vietnamese have used Laos. So have we. Phou Pha Thi served its purpose, and Hanoi will have no right to complain until it begins to practice what it preaches."

Although Laotian government troops briefly reoccupied Phou Pha Thi in December 1968, the mountain never again has been used to support the U.S. war effort in Vietnam.

Nineteen days after the outpost fell, President Johnson announced the halt of bombing of North Vietnam north of the 19th Parallel.

[From the Washington Star, Mar. 17, 1970]

REDS CAPTURE LAOS OUTPOSTS OF GUERRILLAS

(By Tammy Arbuckle)

VIENTIANE.—North Vietnamese forces launched new thrusts in northern Laos today directed at the outer defenses of U.S. and Meo guerrilla bases in Sam Thong and Long Chien, 100 miles north of Vientiane.

(Wire service reports indicated that some Americans—perhaps a dozen—were being evacuated from Sam Thong.)

Meo guerrillas in the hills around Tha Tam Bleung, 5 miles northeast of Sam Thong, woke up this morning to find North Vietnamese troops occupying Tha Tam airstrip.

The Communist forces took Phou Pa Xal outpost a few miles east of Sam Thong after a brief fight at 4 a.m., the Lao military said.

A Communist commando squad threw satchel charges at a U.S. generator outpost 5 miles southeast of Long Chien.

Reliable military sources said seven battalions of Hanoi's 316th Division were in-

voled in the advance on Sam Thong. This means between 2,000 and 3,000 troops.

Air America today evacuated more than 200 government wounded from Sam Thong hospital as a precaution in the event the base falls. Fifty-six of these were seriously wounded troops from this morning's fighting which was described by the military as "spotty."

In Washington, the State Department said the American Embassy had reported that the "Military situation is serious" at both Sam Thong and Long Chien.

The Communist thrust against the U.S.-guerrilla bases represents a new Communist move in the Laos war.

Previous Communist attacks have been confined to retaking areas held by the Communists when the 1962 Geneva Accords were signed. The Sam Thong-Long Chien thrust means that the Communists are attacking areas held by the government in 1962.

Meo refugees today were reported to be walking into Sam Thong from fallen outposts.

There have been approximately 70 Americans in the Sam Thong-Long Chien area, including one woman.

The figure includes eight workers, for the U.S. Agency for International Development, 12 Air America employees at Sam Thong and between 40 and 50 others—CIA and military advisers, interrogators and Air Force men.

The Americans are armed with M16 rifles and captured Communist AK47 submachine-guns.

Long Chien houses sophisticated American communications equipment.

The North Vietnamese military aim—if the present thrust continues—would be to smash the U.S.-supported Meo guerrillas headed by Gen. Vang Pao. With American backing, Vang Pao has held off the North Vietnamese for eight years with the loss of at least 15,000 men on each side.

Informed sources said the thrust is timed to coincide with the Communist call for political talks with Premier Souvanna Phouma's government.

"It's part of the Communists' old talk-fight policy," sources said, explaining that the destruction of Vang Pao would so seriously weaken the forces of neutralist Souvanna Phouma that he would be forced to make concessions to the Reds at the bargaining table.

The Pathet Lao have offered a five-point peace plan but have not yet sent an emissary to Vientiane with the proposal.

The Pathet Lao radio said today, however, that the emissary has left "the liberated zone" but gave no destination for him.

If the North Vietnamese take Long Thien, they will be within 20 miles of an American-built road leading to Vientiane, the administrative capital.

Also, the troops of Gen. Kouprasith Abhay at Sala Phou Khoun, 150 miles north of here, will be cut off by road from Military Region 5 including the capital defense for which the general is responsible.

[From the Baltimore Sun, Mar. 21, 1970]
THAI TROOPS SAID TO HELP DEFEND LAOS—BUT ZIEGLER INDICATES INVOLVEMENT AT BASE IS "VERY LIMITED"

VIENTIANE, LAOS, March 20.—Two Thai battalions have been flown to Long Cheng in U.S. civil aircraft to help defend that Army base from an expected North Vietnamese onslaught, well-informed sources said today.

In Washington, Ronald L. Ziegler, White House press secretary, confirmed some Thai involvement, but said the report that two battalions were involved was "grossly exaggerated."

Mr. Ziegler first said he would not comment on the report, but added: "I will say that the report is grossly exaggerated. I am not going to comment on the very limited Thai involvement in Laos." He said he

would leave that to the governments of Laos and Thailand.

Long Cheng, 90 miles north of Vientiane, appeared in peril after the North Vietnamese seized three hill top positions and advanced to within a mile of the base, the informants reported.

This report came just about the time a pro-Communist Pathet Lao emissary arrived in Vientiane from Hanoi bringing a peace plan for Prince Souvanna Phouma, the Premier. The Pathet Lao emissary, Col. Pradith Thientham, is expected to see the Premier tomorrow.

FIVE-POINT PEACE PLAN

The Pathet Lao recently unveiled a five-point peace plan and announced that Colonel Pradith, an aide to Prince Souphanouvong, nominal head of the Pathet Lao, would carry details to Vientiane.

The plan calls for an end to all U.S. bombing in Laos, including the Ho Chi Minh supply trail used by the North Vietnamese in eastern Laos, a cease-fire, a consultative conference of all political parties, creation of a demilitarized zone for the conference, and a provisional coalition government.

The informants, in a position to know, said the Thai battalions were flown from Thailand bases in planes of Air America, which is chartered by the U.S. Aid agency in Laos. (The airline is also believed to have close ties to the Central Intelligence Agency.)

A Thai battalion normally has a peak strength of 500 men. This was the first report of any sizable Thai force entering the conflict in Laos. There have been numerous reports, however, of small groups of Thai advisers working with the Laotian forces.

The sources said anti-Communist demonstrations in neighboring Cambodia, topped by the coup Wednesday that deposed Prince Norodom Sihanouk as chief of state, encouraged the royal Laotian government to stiffen its stand against the Pathet Lao and their North Vietnamese allies.

The sources did not know precisely how the Thais fitted into this situation, although they noted that Thailand has recognized a potential threat to its borders in the North Vietnamese drive through Laos.

The sources explained that Lao officials initially had ordered their forces to pull back from Sam Thong, a key supply base 10 miles northwest of Long Cheng, in the face of the North Vietnamese advance. The officials had been considering abandoning Long Cheng as well until the Cambodian events occurred.

In addition to the two Thai battalions, hundreds of other reinforcements have been sent into the Long Cheng-Sam Thong region. These include regular Laotian Army troops and American-trained Laotian special forces troops.

The advance on Long Cheng was reported to be by company strength units although the North Vietnamese are believed to have about 4,000 troops in that area.

Laotian Air Force T-28 bombers made 15 raids a mile from the eastern end of the Long Cheng airfield after a North Vietnamese force was detected there moving toward the headquarters of Gen. Vang Pao.

Col. Thongphanh Knoksy, the Defense Ministry spokesman, denied that the North Vietnamese actually had captured Sam Thong Wednesday, as reported by well informed sources. In any event, the U.S.-maintained supply base was abandoned by officials. A pilot flying over the town yesterday reported it appeared deserted.

[From the Washington Post, Mar. 23, 1970]
THAIS LONG INVOLVED IN LAOTIAN FIGHTING
(By Jack Folsie)

BANGKOK.—Thai military involvement in Laos may be "very limited," as presidential press secretary Ronald L. Ziegler cautiously allowed Friday, but it is not new.

Under American auspices, two Thai artil-

lery battalions were used in Laos last year during the defense of the northern road junction town of Muong Soui.

Thai pilots have flown T-28 bomber planes, although now the pilots may be almost entirely Laotian.

Thai observers fly in spotter planes to direct artillery fire and bomber strikes on the enemy. They are valuable because of their ability to speak Lao (which is similar to the Thai language) and English.

There are Thai "liaison officers" in every Lao military region. Their function is obscure but likely to be connected with the allied trail watching teams that range deep into the area of enemy infiltration routes through Laos into the South Vietnam war arena.

For this highly paid and dangerous assignment, Asians are used because the presence of white faces would quickly be transmitted to the enemy. Besides Thais, trail watchers include Nung tribesmen from South Vietnam, Filipinos and Chinese. Laotians generally do not serve because of the danger of including enemy agents.

There are estimates that as many as 5,000 Thais may be involved, in some role, in the Laotian war; but most long-time observers think the number is lower, and that the level fluctuates greatly.

In a sense, the United States counts on the Thais as a strategic ground force reserve in Laos. When the war heats up, Thais are flown in.

Almost without exception the Thais arrive in American aircraft, are armed and trained by Americans, and are paid—indirectly—by Americans at scales much greater than regular Thai army pay.

What may be new about Saturday's fly-in of a new Thai contingent to Long Thien is that it indicates a tipping of the scales within Thai top-level policy bodies for larger and possibly more open involvement in the Laotian war.

Thailand has a growing insurgency in its northern regions adjacent to Laos and there is ample evidence that insurgents are moving into Thailand from Lao bases.

[From the Baltimore Sun, Mar. 23, 1970]
CIA AIDING LONG CHENG DEFENDERS—100 AGENTS SAID TO BE INSTRUCTING MEOS FOR LAOTIAN OPERATION

VIENTIANE, LAOS, March 22.—The American Central Intelligence Agency, the United States Army and neighboring Thailand are directly involved in the defense of the threatened Laotian base at Long Cheng, informed sources said tonight.

They said as many as 100 CIA agents, working under the cover of the U.S. Embassy and the U.S. Agency for International Development, are taking part in the secret operation, training Meo tribesmen as guerrillas in both Laos and Thailand.

It is known that U.S. Army officers directed a massive airlift of both Laotian and Thai reinforcements into Long Cheng, which is the headquarters of Gen. Vang Pao's American-trained army of Meo guerrillas and is under heavy North Vietnamese pressure. It is located 80 miles north of the capital, just below the Plain of Jars, now held by the North Vietnamese.

"SOME VOLUNTEERS"
In Bangkok the Thai premier, Field Marshal Thanom Kittikachorn, denied today that two Thai army battalions were sent to reinforce Long Cheng but admitted that "some volunteers" may have gone there.

Estimates in Bangkok of the number of volunteers, reportedly being trained by U.S. Special Forces teams, range from 300 to 12,000. The figure mentioned most often is 5,000.

Sources in Vientiane said as many as 400 Thai troops, including an artillery detachment, were flown into Long Cheng, mostly from bases in Thailand.

They added that the United States has been prodding the Thai government to give Laos more support, both economically and militarily.

AERIAL OBSERVERS

Americans listed in official records as Army attaches constantly fly over Long Cheng as aerial observers, gathering intelligence on which to base tactical ground and air operations.

Sources said these Americans never remain at Long Cheng overnight, but commute daily, leaving Vientiane early in the morning and returning by dusk. It is a 45-minute helicopter flight each way.

"We wouldn't want the Communists to capture any Americans or find any American dead on the battlefield," one source explained. Most enemy attacks on Long Cheng are launched under the cover of darkness.

North Vietnamese hit the base with rocket fire today for the third successive day. About a dozen rockets exploded in the predawn darkness, sources said, but first reports indicated no casualties or damage.

U.S. PLANE IS DOWNED

The U.S. Command said Sunday in Saigon that a U.S. Air Force OV-10 Bronco was shot down and destroyed yesterday over the Plain of Jars north of Long Cheng, but the pilot was rescued with no reported injuries. The twin-engine armed reconnaissance craft was the eighth U.S. plane lost over Laos since the command began reporting air operations there March 10.

Speaking with newsmen at Bangkok Airport after seeing off Indonesian President Suharto, Mr. Kittikachorn said the reason Thai volunteers were going to Laos was "probably because Laos and Thailand are neighbors and both countries' people have blood relations. The volunteers may be cousins or brothers of Laotians."

Pressed on whether the airlift of Thai troops had taken place, he said: "There may be some truth in it." But he added: "As I said, these men may be volunteers."

He also said some Laotian soldiers have "received training in Thailand and returned to Laos to be advisers and instructors in the Laotian army."

Gen. Surakit Mayalarb, the Thai army chief of staff, said no Thai troops had been sent to Laos.

General Surakit was reported to have flown secretly to Laos two weeks ago for talks on the military situation with the Laotian premier, Prince Souvanna Phouma, and his generals.

Vang Pao, the guerrilla general, was in Vientiane today with other top Laotian military commanders to discuss the deteriorating war situation with Mr. Phouma.

[From the Christian Science Monitor, Mar. 23, 1970]

SINGLE THAI BATTALION IN LAOS

A Thai artillery battalion is operating in Laos with the support of the United States.

The presence of the Thai artillerymen has been a closely held secret of the governments concerned. Hints of its presence in the battle zone came Friday in wire dispatches from Laos referring to "two Thai battalions" in the area of the beleaguered support base at Long Cheng. Apparently the perhaps 300 artillerymen were confused with a larger force. The confusion may have been abetted by the presence of a Thai general with the artillerymen. Normally, a battalion would be under the command of a lieutenant colonel.

Sources here disclosed, however, that the U.S. has not so far favored the insertion of more Thai forces than the single artillery battalion.

Because of the delicacy of the situation, American funds to support the Thai artillerymen have been provided separately from other, more obvious funding for the war in Laos.

The Thai battalion has been flown in and out of Laos from time to time, most recently a week or so ago.

It was not immediately clear why the original decision was made to use the Thais in Laos with American support. The use of the combat force was, of course, a violation of the Geneva agreements. But the violation of those agreements has been a fairly regular occurrence since the North Vietnamese decided to initiate the campaign against Laos and the Americans reacted.

Sources here say that the artillerymen were more desirable than Thai ground forces for several reasons. First, they are a 155 mm. howitzer battalion, and there were no Meos (hill tribesmen who live along the border) or Royal Lao forces trained in 155 mm. howitzer operation when the decision was considered to bring the Thais in. Second, it was thought that, as artillerymen, they would prove to be less visible during the fighting than would infantrymen confronting the enemy directly. Finally, they could serve as ground forces if absolutely necessary.

When the decision was made to send the Thais in, the Thai Government was interested in demonstrating support for the Royal Lao Government. Laos separates Thailand from North Vietnam and acts as a buffer. The Lao Government, which does not possess an extremely capable army, was eager for the help and the United States was willing.

At this moment, the disclosure of the Thai presence does not seem likely to alter the course of the war. It is apparently not a prelude to anything more. Indeed, according to present plans, the artillerymen are to be withdrawn from the battlezone around mid-year to be replaced by Lao forces newly trained in the use of medium artillery.

[From the Washington Star, Mar. 25, 1970]

DIRECTED BY THE UNITED STATES.—"SECRET ARMY" ACTIVE AROUND SOUTH ASIA

(By Tammy Arbuckle)

VIENTIANE.—The Thai troops who have joined the fighting in Laos are part of an American-directed "secret army" which operates all through Southeast Asia.

Making up its units are Cambodians, Vietnamese, Chinese and Laotians, as well as Thais and various hill tribes, such as the Meos who have been active on the Plain of Jars.

Its operations extend into northeast Burma, China's Yunnan Province, North Vietnam, South Vietnam, Cambodia and Thailand—all part of the guerrilla war fought by both Communist and anti-Communist forces for many years in this part of the world.

For example, Haw tribal agents working for the Central Intelligence Agency cross into South China from Laos and Black Thai tribesmen cross into North Vietnam from Laos.

These tribes live on both sides of the borders, the Haw in northern Laos and Yunnan, the Black Thai in Laos' Sam Neua Province and North Vietnam's Dien Bien Phu Province, making their detection difficult.

The pro-American guerrillas have killed Communist leaders, destroyed key links in Communist communications and logistics and, tied down large numbers of Communist soldiers in defensive actions.

In Laos the secret army has wiped out Communist headquarters and taken over prison camps and rescued inmates.

On one occasion in South Laos, a guerrilla group in one night operation wiped out a prison camp controlled by Pathet Lao guards and rescued 59 prisoners, crossing back into Thailand before the Communists could strike back.

The Thai force at Long Chien, which helped yesterday to clear a ridge overlooking the base, may be listed as the secret army's latest success.

About 1,000 Thais were reported yesterday to have joined Gen. Vang Pao's army of Meo

tribesmen at Long Chien. Reports from the area today said a North Vietnamese attack was beaten back and some positions previously lost to the Communists had been retaken.

Thais have long operated in Laos. In February 1967, reporters saw Thai commandoes at Nam Bac, a Lao government base 60 miles north of the royal capital of Luang Prabang, not far from the Hanoi-Peking borders.

The Thais stood out like a sore thumb for they spoke in a Bangkok dialect.

When questioned closely they admitted they were from the Thai military.

The secret army operations in Southeast Asia are directed by small groups of efficient Americans working out of offices under cover of organizations in various cities in the region.

Laos, bordering on all the Southeast Asia nations, is ideal for these U.S. operations. And the secret army concept fits neatly into the Guam doctrine.

Americans take care of the leadership, training, planning and logistics. The Asians do the bulk of the fighting.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia, Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

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

Thereupon (at 2 o'clock and 58 minutes p.m.), the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 2 o'clock and 59 minutes p.m., when called to order by the Presiding Officer (Mr. HUGHES).

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. BYRD of West Virginia, Mr. President, I ask unanimous consent that, immediately following the remarks of the able senior Senator from Ohio (Mr. YOUNG) on Tuesday morning next, there be a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia, Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is on the adoption of the conference report on H.R. 514, Primary and Secondary Education.

ADJOURNMENT TO TUESDAY, MARCH 31, 1970

Mr. BYRD of West Virginia, Mr. President, if there be no further business to come before the Senate, I move in accordance with Senate Concurrent Resolution 59, that the Senate stand in adjournment until 12 o'clock meridian on Tuesday, March 31, 1970.

The motion was agreed to; and (at 3 o'clock p.m.) the Senate adjourned until Tuesday, March 31, 1970, at 12 o'clock meridian.