ing Citizen Banquet and attending services at First United Methodist Church. At that time many of us understood he was sounding out the state political situation and considering very strongly tossing his hat into the gubernatorial ring. In conversations with him Thursday evening we got the distinct feeling that he is still very much in the race and an announcement may be forthcoming in that regard soon.

Sen. Gore, the seasoned and wise politician that he is, appears more confident of re-election, but at the same time realizing that he is in for a strong battle. He is not discounting the appeal of Republican Candidate Tex Ritter, particularly to the Wallace voters. Gore believes he has the support of a vast majority of the young people including the college students but is not sure how to evaluate their overall contribution to his vote. Obviously, he is worried about the negative effect that long-haired students may have on the older voters (or should we say, silent majority).

Rep. Evins has been extremely busy in committee hearings. He looks real good and appears to have recovered from a heart attack last year. In his job as Chairman of the House Appropriations Committee, Rep. Evins had the task of considering legislation providing for approximately $20 billion—one-tenth of the entire national budget. In our conversations with members of Congress and other government officials, we constantly heard the comment that our own Joe L. Evins is one of the most powerful men in the nation's capital. He has been a member of the House of Representatives since 1946.

Rep. Evins predicts that the efforts to depose House Speaker John McCormack will be unsuccessful and that McCormack will run again because all the talk that he step down has displeased him. "I don't believe he would have run this time," Evins said, "if all this had not arisen." Evins blames the ultra-liberals and several newly elected Congressmen for working to oust the House Speaker. However, should McCormack step down as Speaker, Evins predicts that Arkansas' Wilbur Mills will succeed him.

Friday morning we visited the fastest growing and I believe the largest agency, the Pentagon excepted, the Department of Health, Education and Welfare. Here we heard from John G. Veneman, the Under Secretary and two lesser lights. We got the impression that a family of four may expect a guaranteed annual wage of $1,600 with an additional earnings of $720 exempt from taxes in the coming scheme of the Welfare program and that payments will be uniform in all states. All Washington seems to think the guaranteed wage is coming.

A walk across the street to the Department of Transportation was next. Here we heard from three outstanding men: Francis Turner, Administrator, Federal Highway Administration; Carlos C. Villarreal, Urban Mass Transportation Administrator; and Douglas W. Toms, National Highway Safety Bureau Director.

Turner told us that the Interstate Highway System Carries 20% of all traffic and that the accident rate there is one-third that on other systems. When the system is complete in 1976 (66% complete now) we will be saving 8,000 lives every year and millions of dollars in travel time and operating costs!

Toms told us about safety plans for automobiles. He said alcohol presents a tremendous safety problem because 90% drink and drive. He said approximately 10,000 lives are lost each year as a result of alcohol. No real solutions were offered.

During the afternoon we visited the Executive Offices of the White House and heard from Mr. Daniel P. Moynihan, counselor to the President, who, incidentally, has been in the news this week for memoranda he gave President Nixon purportedly calling for a "cooling off period" in race relations. The do-gooders and the left are out to get Mr. Moynihan for suggesting such a thing and especially so because he was always considered "one of them." Mr. Moynihan told us that he thinks we should be lowering our voices and that the time has now arrived to consolidate some of the gains made in the field of Civil Rights. "Put some of those gains to practical use," he said.

Mr. Moynihan is a brilliant man, but he had trouble communicating with his audience because his mind was always ahead of what he was saying.

A briefing on Drug Abuse by representatives of the National Institute of Mental Health, turned out to be a lecture on how to rear our children. Which was good but did not tell us what we expected to hear: What the government knows and is doing about the problem of Narcotics. Many of the publishers cited cases where students in junior high and even the eighth grade were involved with narcotics in their respective cities.

SENATE—*Tuesday, March 31, 1970*

The Senate, in executive session, met at 12 o'clock meridian and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

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

Our Father God, we thank Thee for the day of resurrection attesting the invincibility of truth and the omnipotence of love. We thank Thee too for the renewal of faith and hope in all who follow Thee in spirit and in truth.

As Thy servants here enter upon the waiting tasks of the new week, grant them a solemn sense of the stewardship of public office. Equip them with patience and perseverance for strenuous hours, sound judgment in difficult decisions, and the vision to see beyond the day's duties the working of Thine eternal kingdom.

O God, bless this Nation and so mend every flaw, heal every sickness, and perfect her in ways of justice and righteousness as to make her a blessing to all mankind.

In the name of Him who is the Light of the World. 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 31, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on March 25, 1970, the President had approved and signed the following acts:

S. 495. An act for the relief of Marie-Louise (Mary Louise) Pierce; and

S. 3427. An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following message from the President of the United States which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

For all of our arts institutions, these are times of increasing financial concern. The Fiscal Year 1969 Report of the National Endowment for the Arts, which I am transmitting herewith, notes that "the services offered by arts institutions, and the costs which they incurred, continued to expand at a faster rate than earned income and contributions. Therefore as the year continued, these institutions were confronted by mounting financial pressures."

The sums appropriated by the Congress for the Endowment during this period were at the levels established in prior years. Its programs, though limited in size, were of benefit to all of the fifty States and the five special jurisdictions, and in some instances were the means by which fine institutions in the performing arts were enabled to survive.

It was in response to the growing financial problem that on December 10, 1969, I sent to the Congress a special message on the Arts and the Humanities. I noted then that "Need and opportunity combine . . . to present the Federal government with an obligation to help broaden the base of our cultural legacy. . . ." Accordingly, I asked the Congress to extend the legislation creating the National Foundation on the Arts and the Humanities, and to provide appropriations for the National Foundation in Fiscal 1971 in an amount "virtually double the current year's level."

In urging the Congress to approve a $20 million program for the National Endowment for the Arts, and an equal amount for the National Endowment for the Humanities, I maintained that few investments we could make would give us so great a return in terms of human satisfaction and spiritual fulfillment. More than ever now, I hold to that view.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

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GPO

REPORT ON UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-289)

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

The United States-Japan Cooperative Medical Science Program was undertaken in 1965 following a meeting between the Prime Minister of Japan and the President of the United States. This joint research effort in the medical sciences focuses upon diseases which are widespread in Asian nations: cholera, tuberculosis, leprosy, viral diseases, parasitic diseases, and malnutrition. Its efforts are significant not only for the people of Asia, however, but for all people—wherever they may live.

The Cooperative Medical Science Program is only now beginning to reach maturity. Yet it has already made substantial progress—progress which is highlighted in the report of the Program which I am today submitting to the Congress.

This joint undertaking is an important contribution to world peace as well as to world health. By providing a way in which men of different nations can work together for their mutual benefit, this Program does much to foster international respect and understanding.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

DISTRICT OF COLUMBIA BUDGET—MESSAGE FROM THE PRESIDENT (H. DOC NO. 91-240)

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following message from the President of the United States, which, with the accompanying document, was referred to the Committee on Appropriations:

To the Congress of the United States:

I am transmitting to the Congress the budget for the District of Columbia for the fiscal year beginning July 1, 1970.

This budget represents the programs and policies of the government of the District of Columbia for providing the municipal services and for the local needs of our Nation's Capital City. It also reflects the financial contributions of the Federal Government in providing resources to help finance the local budget.

Washington, D.C., is a great city of monumental beauty, national history, and governmental activity vital to the Nation's domestic and international affairs. Washington is also the center city of one of the Nation's fastest growing metropolitan areas and as such is the hub of business and commercial activity and the home of 828,000 residents. To protect and promote the interests of the residents, visitors, employees in both the public and private sectors, national and international leaders, requires critical attention to the needs of the Capital City and the urban problems it shares with the other cities of our country. It also requires that the best and most effective use be made of the local and Federal tax dollars which are used to finance the District's budget.

This budget, as approved by the Mayor and the City Council, proposes prudent and realistic programs and means of financing to move toward our goal to establish a quality environment for Washington and make it the kind of city we all look for and want as a Nation's Capital.

This budget recommends appropriations of $881 million for the fiscal year 1971 and includes $654 million for operating programs and debt service and $227 million for local public works projects. The estimates for operating expenses and debt service, which cover the basic ongoing programs and provide for the city's services, represent an increase of $86 million or 15% above the amount estimated for the current fiscal year.

SOURCES OF FINANCING

The proposed $881 million in budget authority for fiscal 1971 will require total local expenditures of $647 million for operating and debt service expenses and $227 million for capital outlays. The operating and debt service requirements are to be financed by $488 million of local taxes from existing sources; $21.5 million from a proposed increase in individual income tax rates as contained in Section 301 of H.R. 15151; $1.5 million from a proposed 1-cent increase in the gasoline tax; and $136 million in Federal funds which includes $4 million for water and sewer services provided for Federal agencies and $132 million for the annual Federal payment to defray the operating expenses of the City Government on the basis of a proposed formula which would set the Federal payment authorization at 30% of local District revenues.

The proposed 30% Federal payment authorization would provide for an equitable sharing by the Federal Government in meeting the needs of the District Government—including better law enforcement capability, strengthened crime prevention and control activities, health and welfare programs, and pay increases for District employees, including an increase for its teachers, policemen, and firemen which is now pending before the Congress.

These various local requirements make it imperative that the Congress promptly enact the proposed Federal payment and local income tax measures in order that they will become effective this fiscal year. If the Congress fails to take timely action on these financing proposals the city will lose an estimated $15 million in resources for fiscal year 1970 which are needed to fund programs both in the current year and in fiscal 1971.

NEW DIRECTIONS

As part of this administration's effort to shift priorities, turn toward new directions, and take stock of past practices—this budget for the District of Columbia proposes several changes in Federal financing and includes significant local initiatives.

Changes in Federal financing.—The budgets for the Federal and District Governments are based on several new changes in Federal financing which are designed to strengthen the local government and reflect a proper balance between Federal and District responsibility. In addition to the proposed 30 percent Federal payment formula the budget proposals for fiscal year 1971 would—

Shift the direct responsibility for the city's public works loan financing from the U.S. Treasury to the private investment community by authorizing the city to issue its own local bonds. This will place the District's capital outlay program on a basis similar to that of other cities and will permit immediate savings to the U.S. taxpayer who must otherwise shoulder the immediate burden of direct Federal borrowing. Offsets accruing to the Federal budget are estimated at about $55 million for fiscal year 1971;

Provide direct Federal capital contributions, estimated at $20 million for 1971, for the permanent facilities for Federal City College and Washington Technical Institute;

Shift the responsibility from the District to the Federal Government for financing the operating expenses of the National Zoological Park which is a part of the Smithsonian Institution's national museum complex. This proposal reflects the Federal and metropolitan character of the National Zoo for which the District alone has been bearing the burden of its operating expenses. The $3 million estimated for fiscal year 1971 has been included in Federal budget totals thus providing equivalent relief to the city government;

Reallocate parkland between the Federal and District Governments. Those local parks serving primarily the local community which do not have national historical or monumental significance are to be transferred directly to the District. This will eliminate the need for the city to continue to make reimbursements to the National Park Service which will assume full financial responsibility for the parks remaining under its jurisdiction. This measure represents a shift of about $7 million from the District to the Federal budget.

Freeze the level of reimbursements by the city to Saint Elizabeth's Hospital pending a determination of future arrangements for an appropriate relationship between the Federal and District Governments concerning the financing and administration of the Hospital.

Local initiatives.—The most significant local initiatives proposed in the District's budget are directed to establishing a Capital City with safe streets and a quality environment.

Safe streets.—This budget provides for strengthened law-enforcement capability, improved administration of justice, and augmented action measures to reverse the City's crime rate. The 1971 budget estimates include $130.5 million for operating expenses of police courts and corrections. This amount represents an increase of $46 million—or 55%—over the level for 1969 and would provide—

Increased street patrols by an actual

police strength of 5,100 policemen on the force compared to an actual strength of 3,589 men as of June 30, 1969;

Increased police mobility and effectiveness through additional scout cars, patrol scooters, and communications equipment as well as more civilians to support police operations and relieve policemen from civilian duties;

An augumented program of narcotics treatment and control, including centralized local responsibility under a new narcotics treatment agency;

A roving leader corps of 282 to work with delinquent prone and other youth, compared to a staff of only 37 for fiscal 1969;

A reserve of $4 million to provide for costs of additional judges and other expenses related to reorganization of the court system of the District of Columbia upon enactment of S. 2601;

Strengthened court support services through expansion of public defender services, the D.C. Bail Agency, and juvenile probation services;

Construction of police stations—to support consolidation of 14 police precincts into 6 police districts, and planning and construction of a new jail and a new courthouse; and

An allowance for pending police pay raises which would increase starting salaries for new recruits from $8,000 to $8,500.

Quality environment.—New and increased efforts to improve the environment of the Nation's Capital include—

$40 million for waste treatment facilities to reduce pollution in the Potomac River;

Development of additional facilities for recreation activity including a campsite in Scotland, Maryland, to provide about 3,000 inner city youth with summer camping opportunities, and construction of swimming pools and other recreation projects in Anacostia; and

Balanced transportation.—The budget continues the efforts to provide a balanced transportation system for the District. In particular, the long-awaited rail rapid transit system for the entire metropolitan region takes a major stride forward with the $34.2 million for the city's share of the rail rapid transit program. Contracts for over 16 miles of subway within the District will be let during the fiscal year, giving tangible evidence of a program which is truly designed to unify the central city with the surrounding suburban communities. Increased employment, reduced air pollution, and reduced congestion are some of the benefits residents and visitors in the area can look forward to as this dynamic project moves ahead. Other elements in the city's transportation program include $12 million for the District local matching share for previously authorized highway construction and funding of local street improvement projects.

Better education.—Improved education is not only a national goal, but one which must be carried out at the local levels. This budget takes important steps in improving educational opportunity for one of the city's most precious resources—its youth.

For the first time in the District's history per pupil expenditures will be over $1,000.

In order to encourage students to stay in school, a dramatic new system-wide career development program will be initiated. The resources of private industry, colleges, and government will be marshalled in a cooperative effort to insure that students remain in school and are able to realize their full potential in choosing and working toward their employment goals.

Over 12,000 students will be able to continue their education at the District's institutions of higher learning.

A new means of financing the permanent facilities of Washington Technical Institute and the Federal City College is anticipated as part of a master plan for higher education to be developed by the affected institutions. The plan will provide the basis for the coordinated long-range growth and development of higher education in the District.

For the first time, the Board of Education is provided with appropriate staff assistance. The $100 thousand requested in the budget will help to increase the Board's ability to analyze the complex educational problems of a large city school system and increase the Board's ability to respond to community desires and interests.

This is only a summary, of course, of the most significant budget initiatives. A further indication of the directions for fiscal 1971 is contained in the Mayor's transmittal letter. These recommendations have been carefully sifted and weighed, first by the Mayor and his departments and agencies within the executive branch of the District Government, then by the public and community organizations, and finally by the City Council. The result of this thorough examination of programs and priorities is a sound and prudent budget based on a minimum of new revenue measures. I again urge the Congress to take early action on the pending local income tax and Federal payment authorization proposals.

None of our aspirations for our Capital City can be achieved, including augmented police protection, improved system of courts and offender rehabilitation, reduced pollution and congestion, and better education—unless the District is given the resources to do the job. At the same time, however, money alone can not achieve the objectives the city officials have set for themselves. I am proud, as is the Congress, of the dedicated and judicious manner in which the recently reorganized Government of the District of Columbia has proceeded forward with the tasks it faces. In fulfilling the expectations of the Reorganization Plan of 1967, the Mayor is continuing to further improve and streamline the internal organization of the City Government. Most noticeable among these efforts is the establishment of a new Department of Economic Development, an Office of Budget and Executive Management, a new Department of Human Resources, an Office of Community Services, and most recently—an Office of Youth Opportunity Services to strengthen the coordination of the city's various youth activities, including planning responsibility for juvenile delinquency prevention and control programs.

None of the tasks with which the City is faced can be completed tomorrow. Significant progress can be made with strong leadership, adequate resources, and sound programs to achieve a viable urban environment. I ask the Congress to continue its support for the Capital City through its budget and financing proposals. I recommend approval of the District of Columbia Budget for fiscal 1971.

RICHARD NIXON.

MARCH 31, 1970.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 26, 1970, be dispensed with.

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

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

ORDER FOR CONVENING OF THE SENATE TOMORROW AND ORDER FOR RECOGNITION OF SENATOR HARTKE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate convene tomorrow morning at 9:30 o'clock a.m., and that the distinguished Senator from Indiana (Mr. HARTKE) be recognized for not to exceed 30 minutes.

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

(Later in the day, the Senate entered an order for its convening at 10 a.m. tomorrow.)

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER FOR RECOGNITION OF SENATOR AIKEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont (Mr. AIKEN) be allowed to proceed for not to exceed 10 minutes today, following the conclusion of the remarks of the distinguished Senator from Ohio (Mr. YOUNG).

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

ORDER FOR RECOGNITION OF SENATOR MANSFIELD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be permitted to proceed for not to exceed 15 minutes, following the conclusion of the remarks of the Senator from Vermont (Mr. AIKEN).

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

ORDER FOR CONVENING OF THE SENATE AT 9:15 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, instead of the Senate convening at 9:30 a.m. tomorrow, it convene at 9:15 a.m. and that the first 15 minutes be allocated to the distinguished Senator from Ohio (Mr. YOUNG), to be followed, then, by the remarks, not to exceed 30 minutes, of the distinguished Senator from Indiana (Mr. HARTKE).

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the remarks of the able majority leader today, for which an order has already been entered, I be recognized for not to exceed 20 minutes.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio (Mr. YOUNG) is now recognized for not to exceed 30 minutes.

NOMINATION OF G. HARROLD CARSWELL

Mr. YOUNG of Ohio. Mr. President, Judge G. Harrold Carswell is a mediocre judge at best. Furthermore, as a judge he has in recent years displayed personal bias against members of the Negro race. On many occasions he has been hostile and tyrannical against black defendants and their lawyers. As a citizen in his community and as a judge, his conduct has been such as to cause trial lawyers to regard him as prejudiced against those who believe in complete civil liberties and civil rights for all Americans regardless of race or color.

Four distinguished New York lawyers, Bruce Bromley, former New York appeals court judge, Francis T. P. Plimpton, president of the Association of the Bar of the City of New York, and two former presidents of that prestigious bar association, Samuel I. Rosenman and Bethuel M. Webster, have issued a statement that—

> We do not believe that Judge Carswell has the legal or mental qualifications essential for service on the Supreme Court or any high court in the land, including the one where he now sits.

They expressed deep concern that in 1956, in Tallahassee, Fla., Carswell, then U.S. states attorney was connected with and contributed money to the incorporation of a private golf club. Then, the public golf course of the city of Tallahassee, which had been constructed with WPA grant of public funds, was leased to the private golf club Judge Carswell had participated in incorporating. The lease was for 99 years at $1 a year.

At the time and during preceding years, there had been agitation in Tallahassee to force desegregation of the city's public golf course. U.S. Attorney Carswell was active in the transfer of this public golf course to his all-white private golf club.

What U.S. Attorney Carswell did was to join with others for the purpose of denying blacks the right to use a golf course supported by their taxes at a time when he was sworn not to deny constitutional rights but to uphold them.

Mr. President, it is evident to me that Judge Carswell is a bigot. I will vote against his confirmation.

Furthermore, I do not go along with the views of those who say that possibly he is a mediocre judge, but we need some ordinary, mediocre persons as judges of our courts. Very definitely, there should not be mediocrity on the Supreme Court of the United States.

Mr. President, starting with Judge C. William O'Neill of the Ohio Supreme Court and considering Republican judges of our Circuit Courts of Appeals, Common Pleas Courts and Ohio Federal Court judges, I can tick off the names of 10 or more Republican Ohio judges who are far superior to Judge G. Harrold Carswell as jurists and students of law. Any one of them, I am certain, would be far better qualified to serve with distinction on the U.S. Supreme Court.

I would expect President Nixon to fill Federal court vacancies with Republicans who hold to conservative views. I go along with all that. However, I am sure there are hundreds of Republican judges of the various U.S. courts among about 440 Federal judges who are extremely well qualified. Also, judges in our 50 States who would qualify as conservatives and have backgrounds and records as distinguished lawyers and jurists. Very easily it seems to me, our Attorney General and President Nixon should have come forward with such an eminent jurist respected and admired for his wisdom, integrity, and his compassion in dealing with lawyers and witnesses. It is my opinion that Judge Carswell is not such a man.

It is unfortunate for this administration that the Attorney General, who is supposed to advise the President on his judicial nominations, was a Wall Street lawyer considered an expert on municipal bonds, but altogether lacking in trial experience. He knows little or nothing firsthand regarding court trials and trial lawyers and the caliber of lawyers, students of the law and experienced judges capable of serving on the highest court of our land.

Mr. President, it happens that I was a trial lawyer for more than 50 years trying lawsuits in the State and Federal courts of Ohio and frequently in Pennsylvania. Some years ago I was chief criminal prosecuting attorney of Cuyahoga County. I have personally prosecuted hundreds of felony cases, including more than a hundred homicide cases and later as a trial lawyer, over the years I have defended some hundreds of men and women defendants in criminal cases in U.S. district courts and in the trial courts of my State. Also, in past years I have served as president of two bar associations in Cuyahoga County. I believe I know something about the qualifications essential for a judge.

That Judge Carswell signed a covenant on real estate he deeded a couple of years ago with an illegal restriction that his property must not be sold to anyone except of the Caucasian race is some evidence of his personal unfitness to sit as an Associate Justice of the most powerful court in the world.

Incidentally, in 1960 I purchased the Washington residence which I now occupy. At that time this home in northwest Washington was occupied by Adm. George Dufek. In my negotiations with the admiral and a real estate agent, I encountered no real difficulty in agreeing on the purchase price and having made my downpayment was about to pay the balance. A group of real estate agents, including an attorney, came into my Senate office. I read the deed they had prepared for me and was shocked to find it provided that the grantee—that is I, buying the property—agree he would not sell this real estate to any person other than a member of the Caucasian race. This was the same restrictive covenant that Judge Carswell signed regarding his property. I refused to sign this restrictive covenant. Real estate agents and their lawyers gathered in my office like vultures around a dead body. Their arguments rolled off me like water off a duck's back. I said, "I know the law. Since you claim this bigoted restriction is unlawful and, therefore, meaningless, you go ahead and blot it out. You go ahead and draft a new deed. I will sign it without that restriction. Otherwise, very definitely the deal is off." They brought in another deed which I signed.

Of course, Judge Carswell could have refused to agree to that restriction the same as I refused. The real estate agents provided me with a deed without this unconstitutional, bigoted restriction. In my opinion that Judge Carswell signed such a restriction is an indication of his insensitivity to complete civil liberties for all. It already reveals his personal unfitness to sit as an Associate Justice of our Supreme Court.

Particularly distressing about the nomination of Judge Carswell is the fact that it is one more symbol of the indifference to racial justice displayed by this administration. Those who believe that the so-called southern strategy exists only in the minds of partisan journalists should consider this nomination as a part of the following pattern of administration actions: The award of defense contracts to textile firms with a history of racial discriminations; the proposal of a voting rights bill which was designed to weaken, if not destroy, our commitment

to equal suffrage in the South; the dismissal of Leon Panetta for attempting to enforce civil rights legislation, and the elevation to high public office of those who believe that the law should not be fully enforced.

The Supreme Court is too vital an institution to be embroiled in any sectional political stratagems. It is the one institution which has represented the last hope for redressing the grievances of those denied their fundamental rights and opportunities.

If President Nixon really wanted "geographical balance," he could have named John Wisdom, Griffin Bell, Frank Johnson, or a variety of other distinguished southern jurists—all of whom are fair and impartial judges. Throughout the Southern States, possibly in almost every county, there are excellent lawyers and judges who are not narrowminded and bigoted as advocates of white supremacy and whose qualifications and life records are superior to the record of Judge Carswell.

Our Founding Fathers provided three equal coordinated branches of our Federal Government and the Supreme Court of the United States has throughout nearly 200 years been made up of the most eminent men learned in the law in our country. Considering his record of the past, it is evident to me that Judge Carswell does not come close to measuring up to the high standards we must adhere to.

Mr. President, President Nixon has nominated, for a place on the Supreme Court—occupied in the past by some of our Nation's greatest jurists—an undistinguished judge whose actions in recent years have been to continue segregationist policies.

Judge Carswell, during the period when he was a judge of the U.S. district court, was unanimously reversed by judges of the U.S. court of appeals in at least 15 cases involving civil and individual rights. Eight of these cases were filed on behalf of Negroes. In every one of those eight cases the decision of Judge Carswell was reversed by the unanimous vote of the judges of the Federal circuit court of appeals. The remaining seven cases were based on alleged violation of other legal rights of defendants. In each case, Judge Carswell decided against the defendants and, in each case, his decision was also reversed by unanimous vote of the appeal court judges.

Judge Carswell indicated in those 15 cases a deep judicial hostility toward the fundamental concept of human rights. His mind was closed; he was oblivious to repeated appellate rebuke. In many of these cases Judge Carswell refused even to grant a hearing, although clearly called for by judicial precedents. In some he was reversed more than once.

In expressing this criticism of Judge Carswell's conduct and actions on the Federal bench, I call attention to the fact that five of these 15 cases were decided in 1 year—in 1968. Not one judge of the U.S. Court of Appeals in his area expressed agreement with his views and his decisions.

Mr. President, several distinguished lawyers and legal scholars testified before the Senate Judiciary Committee that Judge Carswell berated black defendants and their northern lawyers whether black or white. Prof. Leroy Clark of New York University, who supervised the NAACP legal defense fund litigation in Florida between 1962 and 1968 testified:

> Judge Carswell was the most hostile Federal District Court judge I have ever appeared before with respect to civil rights matters.

He either could not or would not separate his judicial functions from his personal prejudices. Several members of the Judiciary Committee were forced to conclude:

> In Judge Carswell's court, the poor, the unpopular, and the black were all too frequently denied the basic right to be treated fairly and equitably.

The testimony of Judge Carswell himself before the Judiciary Committee reveals another reason for denying confirmation. Judge Carswell displayed what might graciously be interpreted as a lack of candor in responding to questions about his involvement in the incorporation of the private golf club in Tallahassee, Fla. The judge claimed he was unaware that the purpose of the private club was to exclude blacks—this from the man who was the principal Federal prosecutor in the area at the time.

Judge Carswell was less than frank in his statements before the Senate Committee on the Judiciary. He even stated that he thought the papers he signed and his check for $100 were to "fix up the old clubhouse." He even said that the matter of discrimination against blacks was never mentioned to him and that he did not have it in his mind.

One of his neighbors, the wife of the chairman of Florida's oldest bank, a white lady, stated she refused to join the new club. Her affidavit on record here stated:

> I would have been surprised if there was any knowledgeable member of the community who was not aware of the racial aspect of the golf course transaction.

Personally, I believe the statement of this lady who was born with a white skin and who did not associate herself with those seeking to form a club the purpose of which was to take from golf players, who happen to be black, a public golf course on which they were seeking to play.

In a secret meeting on January 26 with representatives of the American Bar Association Judge Carswell admitted that he was an incorporator of a segregated country club in Tallahassee. The following day he testified before the Senate Judiciary Committee, under oath, that he had no such role.

Mr. President, perhaps perjury proceedings would be more in order at this time than confirmation proceedings.

Mr. President, disregarding for the moment all of the evidence about Judge Carswell's personal and judicial insensitivity toward civil rights, no facts have been presented which would indicate that he has the professional qualifications to serve on the world's most prestigious judicial body. The fact is that Judge Carswell is seriously deficient in the legal skills necessary for an Associate Justice of the Supreme Court.

Judge Carswell was reversed on 58.8 percent of the appeals from all his printed decisions. This is three times the average for all Federal district judges in the country and two and one-half times the average for district judges of the fifth circuit.

Other judges accorded only minimal authoritative weight to Judge Carswell's decisions. His opinions were cited by other U.S. judges less than half as often, on the average, as those of all district judges and fifth circuit district judges.

Compared with the average of all district judges, Carswell's opinions were about two-fifths as well documented with case authority, and less than one-third as well documented with secondary source authority. His opinions were less than half as extensive as those of most other district judges.

The Ripon Society, a group which I understand includes no Democrats, has conducted an examination of 7,000 Federal district court cases appealed to the Fifth Federal District Court from 1959 through 1969, the years when Carswell was a Federal judge in Florida. Their study revealed that Judge Carswell ranked in the bottom tenth of all Federal judges in the number of his decisions upheld—61st of 67 judges.

It is a fact that Judge Carswell lacks any legal distinction whatever. He has written no scholarly articles. His judicial opinions have been mediocre at best.

Louis Pollak, dean of the Yale University Law School, after studying Judge Carswell's opinions testified:

> I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century.

Some of those who urge confirmation of Judge Carswell would have us overlook his mediocrity and his segregationist viewpoint. One proponent claims that Judge Carswell's outstanding qualification for service on the Supreme Court is the fact that he was nominated by the President. Another pro-Carswell Senator has suggested that a little mediocrity would help provide balance on the Court. Others have stated that the Supreme Court may at present be too heavily weighted with integrationists.

Mr. President, if the Senate were to accept the arguments of these supporters of the nominee before us today, we would be obligated to confirm any man—from the chairman of the American Communist Party to the imperial wizard of the Ku Klux Klan to Tiny Tim—if only he were nominated by the President. However, those who are concerned with the honor and integrity of the highest court in the land cannot condone or laugh away mediocrity and advocacy of white supremacy.

Mr. President, I feel that unless President Nixon withdraws this nomination, a majority of the Senators should vote against confirmation. Americans have every reason to honor and respect the fine men who have served as Chief Justices of the United States for nearly 200 years and for those who have served as

Associate Justices of our Supreme Court. We know that we may be proud of all of the present Associate Justices of our Supreme Court. No public official in our Government, except the President himself, has greater power or bears a greater responsibility than one of the Associate Justices of the Supreme Court or the Chief Justice of the United States.

This Court has a huge volume of most important legal questions argued before it. The decisions of the Court are of the utmost importance to the welfare of our country. Each and every member has a huge obligation and responsibility. If an Associate Justice is to fulfill his share of this obligation, as does each one at the present time, then he must study records and briefs day after day and night after night, listen to arguments of counsel and then write at least a dozen complete opinions each year.

The President should withdraw this nomination. I know that there is a unanimity of feeling in the Senate of a desire to fill this vacant chair on the Supreme Court which has been vacant far too long and we would do it immediately if the President and his advisers exercise a small degree of good judgment instead of sending us one unworthy nominee and now another. Furthermore, should Judge Carswell be confirmed by a small majority, he would be discredited from the outset.

Again, I report the Supreme Court of the United States must not be a place for any lawyer or judge whose record is that of mediocrity. Nor must it become a place for any lawyer or judge who holds opinions offensive to the basic concept of equal justice for all, black and white alike.

On Monday, April 6, there will be a vote to recommit the nomination of Judge Carswell to the Judiciary Committee where it will remain unwept, unhonored, and unsung. I hope the motion to recommit carries. I shall cast my vote in favor of this motion.

Mr. President, the St. Louis Post Dispatch recently published an editorial regarding Judge Carswell under the caption "Wrong for the Court." 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:

WRONG FOR THE COURT

One of the opponents of the nomination of Judge G. Harrold Carswell for the Supreme Court has asked how any Senator who voted against Judge Clement Haynsworth for that post could go home and explain why he accepted Judge Carswell.

Explanations should not be easy. No doubt most Senators would rely on the point that they had discovered no potential conflict of interest regarding Judge Carswell, as they did against Judge Haynsworth. Yet this explanation would disregard a number of points in which the latter was the superior candidate for the high court.

There is first of all, Judge Carswell's record of obstructionism against civil rights progress. What was mildly questionable in the Haynsworth case is clear in the Carswell case: this judge consistently found against or attempted to delay desegregation actions. A judge so lacking sympathy with the law of the land and the absolute necessity for racial equality before the law has no place on the Supreme Court.

There is what a group of 400 prominent lawyers termed "a mind impervious to repeated appellate rebuke." The lawyers reviewed 15 cases in which Judge Carswell found against Negro or individual claims of rights; in every case his decision was reversed and reversed *unanimously* by a higher court. Is this the kind of record for a man to take to the highest court of all?

There is an evident lack of candor exceeding Judge Haynsworth's hazy recollections of his business dealings. What Judge Carswell insists he never realized was that the incorporation of a Tallahassee public golf course as a private course was done to further segregation. At the time the Judge helped to incorporate the club he was United States district attorney, and several federal suits were already under way in Florida to integrate other public golf courses. If Judge Carswell did not know what was going on, everyone else in Tallahassee seems to have known.

There is, finally, a record of unrelieved intellectual and judicial mediocrity which many attorneys find especially repugnant in a candidate for the highest court. How, they wonder, can a man who has contributed nothing to the law or to the study of the law take a place on a bench that has seated many of history's greatest judicial minds? How, they ask, can President Nixon so demean the court?

Lacking an answer to such a question, we may only observe that it is totally unnecessary to demean the third branch of government. If Mr. Nixon, fixed in his Southern strategy, wants to use the court to woo the South, he can easily find Southern judges, and conservative judges, who are far more distinguished, have far better judicial records and who have demonstrated far less indifference or hostility to the Constitution.

Simply because the President might have done better instead of worse, it should be difficult indeed for Senators who voted against Haynsworth to explain a vote for Carswell. On that point we would hope that more and more members would join the score or so of Senators now determined to stand against the Carswell appointment.

There is no excuse for complicity by the United States Senate in a wrong against the Supreme Court.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont is recognized for 10 minutes.

PRESIDENTIAL TENURE

Mr. AIKEN. Mr. President, as a Member of the Senate, I have served under six Presidents—two Republicans and four Democrats.

Each of them contributed much to the growth and welfare of our country.

Each of them made mistakes.

They all had one thing in common.

Each wanted to be a good President.

Quite naturally each wanted to be the best President we ever had.

And, hopefully perhaps, on my part I wanted each one to be the best.

They had another thing in common.

With the possible exception of President Eisenhower, each one was assailed and harassed not only by members of the opposite party but also by dissatisfied members of his own party.

In some instances, we might say that the opposition they engendered was warranted and contributed to the security and prosperity of the country.

In other instances, it may be said that harassment and embarrassment of the President was politically motivated and has proved costly to the people of America.

We have only one President at a time and the manner in which he conducts the duties of his office determines to a great degree whether the people of the United States are secure or insecure—prosperous or poor—happy or sad.

With this overweening belief in mind, I have to the best of my ability tried to help each to serve his country well—regardless of party.

Each President I have known has, to a great extent, been at the mercy of the times during which he served.

Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.

And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

Temptation and desire are hardy and ruthless characters—possessed by all of us in varying degrees.

Each of us wants to be important, and in order to be important we seek power.

There are many kinds of power eyed by our ambition—economic, social, political and, in some cases, racial.

We seek power as individuals and we seek it collectively, although collective success inevitably leads to the rise of individual desire within the successful group.

Democracy is the best form of government.

Our two-party system is the best method yet devised for running a democracy.

Yet, democracy and the two-party system are found to be grievously wanting in some respects.

Within months after an elected President takes office he is under attack not only by those who never wanted him to be President in the first place but also by those who may have voted for him but find themselves neglected in the distribution of the political spoils, or upset by their inability to make decisions for him which coincide with their own philosophies.

An internal warfare develops, with the President on one side and the dissident and disappointed voters on the other.

And throughout the verbal bombing and incendiary malignments fired at him, the President is expected to maintain the domestic economy, defend the security of the United States, raise the standard of living, and improve the image of our country in world affairs.

A major purpose behind the attacks on the President is to put him in such a bad light that he cannot hope for reelection even if he desires to run for a second term.

President Johnson undoubtedly decided against trying for reelection in 1968 largely because of the intensity and apparent success of the attacks made upon him.

Certainly, he made mistakes of judgment which proved to be costly; yet it is possible—indeed quite probable—that any other President elected at the time he was would have made the same errors in the belief that stability could be achieved in Southeast Asia by the greater involvement of American military strength on a temporary basis.

President Johnson was assailed full force for his mistakes, but given very little credit for the good he did.

When Richard Nixon became President 14 months ago, he was confronted with almost unprecedented problems.

Over a million American military men were stationed overseas in positions best calculated to prevent the spread of what was called a "monolithic Communist conspiracy."

About 540,000 of these troops were in the small, war-ravaged country of South Vietnam.

At home, galloping inflation and a rapidly increasing crime rate—both stepchildren of war—were running rampant.

The new President was promptly met by new demands—the most insistent, the most vociferous, and the best organized coming from those who had opposed his election.

They insisted that the troops be withdrawn from South Vietnam almost immediately, regardless of consequences to the native population.

Crime and inflation were to be controlled without delay.

Domestic programs affecting health, education, and welfare were to be expanded many times over and far beyond the means of our democratic Nation to sustain.

Of course, no President could possibly meet such demands.

He has now withdrawn just over 100,000 military personnel from Vietnam in the last 8 months, and the withdrawal continues on schedule.

He has improved our standing with many other countries and has repaired our prestige where it had been damaged.

Inflation and crime are not yet under control and will not be so long as we are involved in a foreign war to the extent we are now.

President Nixon has made mistakes, but on the whole his record to date may be given a high passing mark.

Like his predecessors, he wants to be the best President we ever had.

With a congressional election coming up on November 3 this year and a presidential election 2 years later, his present high rating has only intensified the attacks on him and his decisions both from political aspirants of the opposition party and disillusioned and angry dissidents within his own.

They make the work of his office more difficult.

Not only are impossible demands made upon the executive branch but by more indirect means many undertake to lessen the President's standing both at home and abroad.

A current example of this will be found in the Carswell case now before the Senate.

I do not know Judge Carswell and I do not know for sure how good a Justice of our Supreme Court he would make; neither do those who so enthusiastically condemn him.

Certainly, if the same microscopic scrutiny had been applied to all nominees to this Court over the last 30 years as is being applied to Mr. Carswell, I fear that the Court might have a quite different complexion today.

In fact, we might not have any sitting Justices at all if each one had to qualify under the strict requirements for brilliance and purity demanded by Judge Carswell's critics.

And yet, strangely enough, most of those Justices who for one reason or another might have been disqualified have turned out to be very good Judges.

For the last 2 weeks, Members, of the Senate have received hundreds or even thousands of letters and telegrams urging the rejection of Judge Carswell's nomination.

I am quite sure that many of these protesters did not know much of anything about Judge Carswell until they were advised by organization leaders to stir up all the opposition possible.

Some others were doubtless prompted to register their opposition by unfavorable and in some instances misleading publicity.

They did not know Carswell, but they did know President Nixon, and for most of them he is their No. 1 target.

I doubt that many of them voted for him in 1968, and I doubt that many would vote for his reelection.

I am not making this statement today as criticism of those who are simply following practices well established by tradition or of those who sincerely believe that each appointment to public office, especially to the judiciary, should be as wise as Solomon and as pure as Caesar's wife.

A loyal opposition is fully warranted so long as, in its zeal, it does not weaken those qualities that have made our Nation great.

I am making this statement to call attention to the indisputable fact that no President can give his best to the Nation or maintain our prestige in the world so long as he is constantly being fired upon by those whose principal purpose is to keep him from being reelected.

On January 17, 1969, I joined the Senator from Montana (Mr. MANSFIELD) in introducing Senate Joint Resolution 21, proposing an amendment to the Constitution limiting the President to a single term of 6 years.

The one-term limitation has worked well in other countries.

It permits the President to devote all his time and efforts to the service of his country.

This constitutional amendment would go far in discouraging would-be successors to the office from wasting their time in harassing him or trumping up unwarranted charges or impeding his work because he could not run against any of them anyway.

Mr. President, I hope that this Congress will seriously consider the amendment proposed by Senator MANSFIELD and myself.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. Let me say that I am delighted that the dean of the Republicans has indicated his strong support for the resolution which he and I introduced some months ago. We think it is a way to allow any President—regardless of party—to be himself and not to be subject to political harassments. It is a way that allows the President to assume his office with one purpose in mind—to do a good job, regardless of the consequences, and then to depart.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Vermont may have 5 additional minutes.

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

Mr. MANSFIELD. May I express the hope that, on the basis of the speech made by the distinguished Senator, the appropriate subcommittee within the Committee on the Judiciary would undertake hearings on this matter as soon as possible. Senator AIKEN's most positive statement has placed this issue in its proper context indicating that it is aimed at the Presidency—at the office itself—and is not concerned so much with the man.

Mr. President, I was impressed by what the distinguished Senator from Vermont had to say on page 2 of his speech:

> With this overweening belief in mind, I have to the best of my ability tried to help each—

That is, each President—

> to serve his country well—regardless of Party.
>
> Each President I have known has, to a great extent, been at the mercy of the times during which he served.
>
> Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.
>
> And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

All I want to say is that the distinguished Senator has certainly lived up to those words in his many years of service in this body.

I only hope that as a Senator from the State of Montana and as majority leader, I can do almost as well as the distinguished Senator from Vermont, who has just addressed us.

Mr. AIKEN. I thank the Senator from Montana. It has been a privilege to be associated with him on certain proposed constitutional amendments. I still feel they are all amendments which should be approved by Congress.

Since I have enough time remaining, I am happy to yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I wish to indicate my great appreciation for another very significant statement made by the dean of Republicans in the U.S. Sen-

ate. It is a statement which is very important. Of course, it reaches far beyond the matter of the nomination of Judge Carswell. However, I am very conscious of the fact that the distinguished Senator from Vermont by his statement has placed the opposition to the nomination of Judge Carswell in proper perspective.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. WILLIAMS of Delaware. I join the Senator from Montana and the Senator from Michigan in complimenting the Senator from Vermont upon his remarks today. The Senator from Vermont has called our attention to some of the major problems confronting our country and has offered a solution. I wholeheartedly support the proposal that he and the Senator from Montana have made, that there be a constitutional amendment to limit the term of the President to 6 years. I think that would be the most constructive step that could be taken toward a better government, so far as Congress is concerned. I join in expressing the hope that some consideration will be given to that resolution.

Mr. AIKEN. Mr. President, if the Senator from Montana is agreeable, we might add the name of the Senator from Delaware as a cosponsor of this constitutional amendment.

Mr. MANSFIELD. I would be delighted to have the Senator from Delaware join us.

Mr. WILLIAMS of Delaware. I would be pleased to join as a cosponsor.

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

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana for 15 minutes.

CAMBODIA AND SOUTHEAST ASIA

Mr. MANSFIELD. Mr. President, I see on the front page of the Washington Post a number of interesting headlines:

First. "Army Favors Pullout Delay of 6 Months." That, of course, refers to Vietnam and Southeast Asia, but to Vietnam primarily.

Second. "Cambodia May Seek U.S. Arms."

The New York Times contains a headline: "Cambodia Wants Check by U.N. on Red Intrusion."

Elsewhere, I have read that the Cambodians are going to ask for aid from "friendly countries." The friendly countries mentioned are Australia, New Zealand, France, and, I believe, Thailand, but not the United States—and let us hope that the United States will never be approached.

We should keep in mind that in 1966, as I recall, our aid to Cambodia was ended at the request of the then Chief of State, Prince Norodom Sihanouk, and has not been resumed since that time. Cambodia is one of the few countries in the world that I know of which has brought about a termination of American assistance, both military and economic. As I recall, even at that time our State Department was very much perturbed and disturbed that Cambodia and Sihanouk had the temerity to ask this country to stop giving aid to Cambodia.

I have just returned from 5 days in the State of Montana. I had the opportunity during that time to travel the eastern counties, along the high line, into the mountain west, and into the southern part of the State. It was a heartening experience for me, because it gave me an opportunity to find out what the people whom I have the honor and privilege to represent were thinking about.

They are thinking about inflation, which now stands at about 6.2 or 6.3 percent, and has over the past year.

They are thinking about unemployment, which stands at about 4.25 percent at the present time, and the curve seems to be up.

They are thinking about the high cost of mortgage money. They cannot afford to build homes, even if they have rather sizable incomes, because the rates they are asked to pay are entirely too high, out of reach; and if one undertook to obtain a loan to build a house today, it would not be a case merely of paying interest on principal; at present rates, it would be the payment of principal on principal on principal, if the period were for 25 or 30 years.

The people of Montana are also worried about the condition of the wheat rancher, who has been getting it in the neck for a good many years, not only so far as prices are concerned, but also as far as boxcars are concerned. They wonder what the policy of the administration will be. They wonder at the declining strength of the farm segment of the population and what can be done about it. There is a declining farm strength; the farm population today numbers between 6 and 8 percent of the total; and of the rest, from 75 to 80 percent live in the congested areas, where most of the Nation's problems are also centered.

The people are wondering about the farm organizations. There are six or seven, maybe eight, farm organizations, and no two of them have got together on more than a temporary basis

The people are also wondering about the recreational development of our State. They are worried about pollution of the air and water and the effect on flora and fauna, and on marine life.

They are worrying, too, about growth in population, not in Montana, but throughout the world.

They are worrying about what is going to happen next in Southeast Asia. They read the newspapers. They listen to the radio. They look at television.

They have sent their sons to war, and they have paid their share in the way of casualties. They see what is happening in Laos. They see what is happening in Cambodia. They wonder if we are going to become involved, and they wonder if the war is going to spread from Vietnam. They wonder if it is going to spread beyond Vietnam. They wonder if it is going to spread beyond Laos, and if it is going to take in Cambodia. They want no part of such an expansion of this war, which has cost this country well over $100 billion. In the form of casualties to date—and these figures are up to last Thursday—we have had 270,583 wounded in battle, 41,057 killed in combat, 7,691 killed in noncombat incidents, for a total of 319,331 Americans. And for what? For a war which was a mistake, for a war which is a continuing tragedy.

This war may well cover all of Indochina, so that the same area of military operations may again come into being as was involved at the time of the French withdrawal in 1954.

I think that the overthrow of Prince Norodom Sihanouk marked the end of an era in Southeast Asia. Sihanouk was able to maintain a united country and a reasonable stability which insured a degree of neutrality that was badgered by war from all sides. He had to operate on a trapeze, but he did the best he could. I think he did very well in keeping a holocaust from overtaking his country and his people. We gained indirectly by his effectiveness because it acted to limit the area of our military involvement.

Of course, we went into Cambodia from time to time, as did the Vietcong and the North Vietnamese. There were other stresses and strains connected with his neighbors, Thailand and South Vietnam, because there was enmity between the two or, I should say, among the three. During all that period, Cambodia was in a very difficult position. All during that period, conditions for an upheaval existed. How could Cambodia avoid being a sanctuary for the Vietcong and the North Vietnamese? What could a Cambodia with an army numbering 33,000—and even that number strained its economy—do against a force of Vietcong and Vietnamese, well equipped, numbering somewhere between 50,000 and 60,000?

Not much. Sihanouk realized it. I am afraid that the present rulers in Cambodia do not. He was aware of the fact that in Laos more bombs have been dropped, for example, than in either North Korea or North Vietnam. He was aware that, as a neutralist, he was in a most delicate position. He was aware of the common border and the troubles with all the countries surrounding Cambodia. He was always aware of the fact that in so far as Thailand was concerned, it was in effect a stationary aircraft carrier used for activities in various parts of Indochina at various times.

Present developments in Cambodia, Mr. President, are a cause for deep concern. Preserved for a decade and a half by Prince Sihanouk, the tranquillity of this small kingdom appears to be coming to an end in civil war. Cambodian independence, moreover, now lies in the path of a threatened extension of the Vietnamese war.

The course of events in Cambodia has been predictable since the military coup several weeks ago. It was not to be expected that Prince Sihanouk would accept the military seizure of power which was perpetrated during his absence. Barred from Cambodia by the coup government, the Prince has announced his intention, nevertheless, of returning. Pre-

dictably, he has sought aid, as usual, from any available source to that end.

Nor was it to be expected that Prince Sihanouk's dedicated followers in Cambodia—and his support is widespread, among the peasants, the Buddhists, and the young people and in the army and civil service—it was not to be expected that his followers would accept without quarrel the unseating of his leadership. Now that the first shock of the coup has worn off, the standard of revolt has been raised against the new government in the name of Sihanouk. North Vietnamese forces in Cambodia are reported to be giving support and aid to this movement.

As for the tens of thousands of hostile Vietnamese lodged along the border, the new Cambodian Government, predictably, does not have the military capacity to dislodge them, any more than Sihanouk had while he was in control. It has issued demands for an evacuation of these forces, but the demands have had no impact whatsoever. On the contrary, the coup has provided the North Vietnamese with a rationale for moving openly in Cambodia and for penetrating more deeply into the country.

Predictably, too, the first feelers for the extension of military aid have already been sent abroad by the new government in Cambodia. It is difficult to see to whom else these feelers might be directed, if not to us or to the South Vietnamese or to the Thais. Since those nations are already dependent on U.S. aid and would have to draw on us for any assistance which they might extend to Cambodia, there is no point in blinking the fact that it is to this Nation that the Cambodian aid appeal is addressed.

A request for assistance from the new Cambodian Government is plausible enough on the surface. That government gives indications of being hostile to forces which are hostile to us. To all appearances it is "friendly"—indeed, has it not just released a hijacked U.S. ship? It is military-based and presumably is willing to fight the Vietcong and North Vietnamese and to cut their supply routes. Would aid to that government not make our situation easier in Vietnam and save American lives?

These questions, Mr. President, at this late date, can best be answered by other questions. Have we not heard the same questions raised elsewhere in Asia since World War II? Have we not already concurred elsewhere in the plausibility of aid requests of this kind? Have we not extended assistance in Vietnam alone at a cost of more than $100 billion and over 319,000 U.S. casualties, including almost 50,000 dead? Where are we now in Vietnam? Is our situation easier? Where is the end of the road which began with the plausibility of military aid to Vietnam so many years ago?

It seems to me that while we are still free of the situation, we should confront the likelihood that assistance to Cambodia will be only the prelude to further U.S. military involvement. It would be my hope, therefore, that the President will resist these pressures—as he has up to this time, and I hope he will continue—which, in effect, will require him to alter the course of U.S. withdrawl which he has set. And again I refer to the headline in today's Washington Post—it involves a leak somewhere—"Army Favors Pull Out Delay of 6 Months." In my judgment, he has been following, wisely, the signposts which lead out of Southeast Asia. The signposts which now beckon from Cambodia point deeper into the morass. To pursue them, in my judgment, will be to spread the Vietnamese conflict throughout Indochina and very possibly throughout Southeast Asia. To pursue them will be to multiply U.S. costs and casualties and to forfeit a last chance for an orderly disengagement from this tragic and mistaken war.

So I repeat, Mr. President, the events in Cambodia are a cause for deep concern. The urgency in them, as I see it, is not to thrust into a new military involvement by way of aid. Rather, it is an urgency for diplomatic action. I would hope that there would be new diplomatic initiatives, before the tides of conflict swamp Cambodian independence and engulf us in the war's extension.

I would urge most respectfully, therefore, that the Secretary of State seek to bring together all the foreign ministers of the Geneva Pact powers, or any of them who will come, in a joint effort to reestablish conditions which will permit a return to neutrality in Cambodia. If we commit ourselves unilaterally through aid to the new government in Cambodia or if we immerse ourselves directly or through support of allies in military operations in that country, we can hardly bring plausible credentials to that purpose.

Mr. President, the crisis is in Indochina, but, in a sense, it is also here in this Capital. The Nation has been brought to a point of vital decision by the sudden developments in Cambodia. What is at stake, as I see it, is the President's policy of orderly withdrawal from Vietnam upon which so much else depends at home and abroad. That policy cannot be maintained, in my judgment, if we go down the road of aid ever deeper into Cambodia, as we have done in Vietnam and in Laos. The time to clamp down the lid on a further U.S. involvement in Southeast Asia is now.

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

Mr. MANSFIELD. I yield.

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

Mr. MANSFIELD. I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. AIKEN. Mr. President, I want to say that the majority leader of the Senate has just made the kind of speech which we can all approve, the sort of speech that can be very helpful to the President of the United States and to the Secretary of State.

The Senator from Montana has rightly pointed out that at present the principal issue which we might expect to find in the November election would be that of inflation and the lack of housing in the United States. In my own State, although income has gone up and wages have gone up, home building construction has gone down 28 percent last year, and interest rates are abominable; but the Senator from Montana is performing a greater service in pointing out to the country and to the President and the executive branch what could become a much greater issue—even a fatal issue—if the President does not resist the demands of those who insist that the war now be expanded to cover greater territory in Asia. That would certainly be disastrous to the United States.

I believe it was in May of 1967 that I spoke, advising President Johnson that unless there was a change of policy as to Asia and the Vietnam war he could not be expected to get reelected in 1968. I am not saying that to brag but merely to point out that the distinguished Senator from Montana is giving the same advice now to the administration of President Nixon.

Mr. President, I believe that President Nixon and Secretary of State Rogers do not want to expand the war into Laos, and certainly not into Cambodia. I feel that they are determined that they will not do so. I think they will show the resistance necessary to hold out against such persons as those who advised President Johnson to expand the war, such persons who will probably spend the rest of their lives trying to prove to the world that their advice would have been effective had President Johnson taken it to the extent they wanted him to. Well, he took it too much as it was.

I do not believe that President Nixon will fall into the same trap. I am sure that Secretary of State Rogers has every intention of keeping as far away as possible from Cambodian internal affairs, and even those in Laos, aside from what may be considered necessary to protect our own people.

(At this point Mr. HUGHES took the chair as Presiding Officer.)

Mr. COOPER. Mr. President, I join in support of the statement just made by the distinguished majority leader. His analysis of the situation in Cambodia, and the consequences which would result if we should become deeply involved are unassailable.

I, too, believe as the Senator from Vermont (Mr. AIKEN) has said that President Nixon does not want the United States to become involved in a further expansion of the Vietnam war in Cambodia or Laos. I hope very much that the counsel of the distinguished majority leader has just given will be followed. I have every expectation that it will be. I join the distinguished Senator from Vermont (Mr. AIKEN) in support of his statement.

As usual, we have heard a pithy statement from the able Senator from Vermont, giving us the benefit of his commonsense and judgment which we have learned to respect, and which he has never failed us.

I am sure that the proposal made with the majority leader for a constitutional amendment deserves the full consideration of the Senate.

Mr. MANSFIELD. Mr. President, if the Senator will allow me to make a reply, I should like to proceed by expressing my appreciation to the distingushed Senator

from Vermont (Mr. AIKEN) and the distinguished Senator from Kentucky (Mr. COOPER), for both of whom I have nothing but the highest regard—I might say, affection and respect as well.

I should like to quote from the remarks just made by the Senator from Vermont. I have quoted this before, because it is the theory behind the speech I just made, and behind the remarks I made last Friday on the same subject.

The Senator from Vermont said in his very thoughtful and worthwhile speech:

We have only one President at a time and the manner in which he conducts the duties of his office determines to a great degree whether the people of the United States are secure or insecure—prosperous or poor—happy or sad.

With this overwhelming belief in mind, I have to the best of my ability tried to help each to serve his country well—regardless of Party.

Each President I have known has, to a great extent, been at the mercy of the times during which he served.

Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.

And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

Mr. President, I intend to support any President regardless of party to the best of my ability, because I would far rather see the country benefited, the country secure, the welfare of the Nation placed first and ahead of the welfare or the success of any political party, or any individual within any political party.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. BYRD) is recognized for a period not to exceed 20 minutes.

NOMINATION OF G. HARROLD CARSWELL

Mr. BYRD of West Virginia. Mr. President, I speak in behalf of the nomination of Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court.

The opponents of this nomination are attempting to use as their chief argument the charge that Judge Carswell is undistinguished, and that he does not possess the legal credentials that an appointee to the High Court should have.

We have heard the word "mediocre" bandied about very carelessly in this debate. Some critics of Judge Carswell have said outright that he is a mediocre appointee. Others have taken a more circuitous route to say much the same thing.

The term "mediocre," Mr. President, applied to this nominee or to any nominee, or to any official of government elected or appointed, is a wholly relative term based on a subjective judgment.

By what standards is a judicial appointee or any other official mediocre? By whose arbitrary criteria is he judged?

Suppose for a moment that Judge Carswell's record were as liberal as his opponents contend that it is conservative. If it were, I suspect that—mediocre or not—he would be welcomed with open arms by many of those who now oppose him.

It is Judge Carswell's apparent conservatism, Mr. President, that probably bothers his critics more than their allegations of his mediocrity.

A review of the record made in the hearings establishes beyond question that Judge Carswell is well qualified for elevation to the Supreme Court.

During the course of this speech, I will undertake to compare the credentials and qualifications of Judge Carswell with those of every other sitting member of the Supreme Court at the time each was nominated.

Before I make this comparison, I think it is pertinent to note that the issue of Judge Carswell's legal competence and distinction was first significantly raised by certain segments of the press, especially the New York Times and the Washington Post. Each of these influential newspapers began to assert very shortly after the President submitted this nomination that Judge Carswell was undistinguished and mediocre. They have hammered consistently and hard on this issue and so have some Senators.

These newspapers and others have been lenient in their assessment of the qualifications of other nominees, depending on their judicial philosophy.

It is my view that one of the chief factors in determining whether a nominee has the necessary professional qualifications for nomination to the Supreme Court is whether or not he has had prior judicial experience.

Of course, there have been many appointees to the Supreme Court who have not had previous judicial experience but who have become outstanding and eminent jurists. So, it is not necessarily something that is required of an appointee in order for him to become a great judge. But I think that previous judicial experience is a positive factor to be considered in favor of any nominee.

Judge Carswell is eminently qualified in this regard, as he has served as U.S. district judge for the Northern District of Florida for more than 11 years, and has served as a judge of the Court of Appeals for the Fifth Circuit for almost 1 year. In addition, he was U.S. attorney for the Northern District of Florida prior to being appointed to the Federal bench for almost 5 years.

From the standpoint of prior judicial experience, as will be developed in this speech, Judge Carswell is better qualified than was any present member of the Supreme Court at the time of his appointment, except for Chief Justice Warren E. Burger.

I would assume that the New York Times and the Washington Post and other great newspapers share my view that prior judicial experience is an important factor in determining whether a nominee is qualified for appointment to the Supreme Court. In its edition of Sunday, June 30, 1968, the New York Times discussed the appointment of Justice Fortas and Judge Homer Thornberry to the Supreme Court which had been made the previous Wednesday, June 26, by President Johnson. I believe that my colleagues would find it very interesting to note what the New York Times had to say about the professional qualifications of these nominees. In referring to Justice Fortas and Judge Thornberry, the Times said:

Both men have impressive credentials to qualify them for the Supreme Court.

In discussing the qualifications of Judge Thornberry, the Times said:

Judge Thornberry, 59, has been on the bench since 1963 and has more judicial experience than any sitting member of the Supreme Court had at the time of his appointment except William J. Brennan Jr.

One of the writers for the Washington Post discussed Judge Thornberry's nomination in the issue of June 27, 1968, the day after the nomination was made:

He has had more judicial experience than any sitting member of the Supreme Court at the time of his appointment except William J. Brennan Jr.

I am very pleased that the New York Times and the Washington Post agree with me that prior judicial experience bears great weight on the issue of legal qualifications and distinction.

Perhaps some clue can be gained as to why these newspapers assessed the legal qualifications of Judge Thornberry in such a manner by referring to a headline which appears on page 30 of the New York Times issue of June 27, 1968, which describes Justice Fortas and Judge Thornberry as "Liberal Nominees for Supreme Court Posts," and to the Washington Post article of June 27, above mentioned, which describes Judge Thornberry's record in the following manner:

President Kennedy nominated Thornberry to the Federal district bench shortly before his death in 1963. President Johnson promoted him to the Fifth Circuit Court of Appeals in 1965. He has had more judicial experience than any sitting member of the Supreme Court at the time of his appointment except William J. Brennan Jr.

A quick look at Thornberry's opinions on the Fifth Circuit Court—which has handled all the difficult racial cases from the Deep South—suggests a liberal stance on civil liberties and civil rights.

I do not intend any disrespect to Judge Homer Thornberry in making these remarks. I personally feel that he is a thoroughly competent and able judge of the Fifth Circuit Court of Appeals. He has endorsed the nomination of his colleague, Judge Carswell, to be an Associate Justice of the United States Supreme Court, for which I commend him.

I do feel, however, that the contrasting assessments made by these two great and influential newspapers of Judge Thornberry and Judge Carswell highlight the profound wisdom of the distinguished Republican leader in opening this debate on March 13, in stating:

I think the "lack of distinction" argument is really a make-weight for those whose real ground of objection is that the nominee is not sufficiently in accord with their views. (S. 3729)

I now proceed to compare Judge Carswell's qualifications from the standpoints of education, legal experience, and judicial experience with those of the present members of the Supreme Court.

First, I start with our standard of comparison, which is the qualifications of

Judge Carswell himself. The record shows that he received his undergraduate education at Duke University, Durham, N.C., from which institution he received a B.A. degree in 1941.

Most of us would agree that Duke University is one of the outstanding institutions of higher learning in this Nation. The President of the United States received his law degree from Duke. There may be a few people in the academic and legal and political communities who think that this fact makes Duke mediocre, but I certainly do not share that opinion.

Judge Carswell attended the University of Georgia Law School at Athens, Ga., for 1 year, 1941–42, and at the conclusion of that school year he enlisted in the U.S. Navy to serve with distinction in World War II.

After the war, he completed his legal education at the Mercer University Law School, Macon, Ga., which awarded him an LL.B. degree in 1948.

In 1949 Judge Carswell moved to Tallahassee, Fla., and became an associate in the firm of Ausley, Collins, and Truett. His practice of law in that firm was varied, and he acquired the reputation of being an able and outstanding lawyer. Judge Carswell left the Collins law firm in 1951 and formed his own firm in Tallahassee, where he continued to actively engage in the practice of law.

Judge Carswell's reputation as a lawyer attracted such notice that in 1953, at the age of 33, he was nominated by President Eisenhower to be U.S. attorney for the Northern District of Florida. He served in that capacity in an able and conscientious fashion. No complaint has ever been publicly stated—or at least I have heard none—as to his treatment of any litigant or lawyer during his service as U.S. attorney. In this position, he handled a broad range of cases encompassing the entire area of Federal criminal jurisdiction.

He made such a fine record as U.S. attorney that President Eisenhower nominated him as U.S. district judge for the northern district of Florida in 1958, and he became a Federal district judge on April 18 of that year. Contrary to the assertions of a few people, he served with great ability and distinction as a trial judge in our Federal court system. The area of litigation handled by Judge Carswell encompassed the entire spectrum of Federal criminal law and Federal civil law.

He did such a good job as district judge and acquired such an outstanding reputation that President Nixon in 1969 appointed him to be judge of the U.S. Circuit Court of Appeals for the Fifth Circuit. The Senate again confirmed his nomination, and he became a circuit judge on June 27, 1969. For the third time, therefore, the U.S. Senate unanimously confirmed Mr. Carswell's nomination to a high position on or associated with the Federal judiciary.

So, in summary, we find that Judge Carswell has a very good educational background; he engaged in an active general practice of law for approximately 4 years; he served as U.S. district attorney—which required Senate confirmation—for almost 5 years; he was a U.S. district judge—which required Senate confirmation—for more than 11 years; and he has been a U.S. circuit judge—which required Senate confirmation—for almost a year.

These seem to me to be impressive credentials, and should settle the question as to whether Judge Carswell has the legal competence and training and experience which would qualify him for appointment to the Supreme Court.

Let us compare his qualifications with those possessed by each of the present members of the Supreme Court at the time of his nomination.

First, as to Mr. Justice Black, we find that he received his law degree from the University of Alabama in 1906. He began the practice of law in Birmingham in 1907 and served as police judge in that city for 18 months during the years 1910–11. He held the office of solicitor, which is prosecuting attorney in Alabama, during the years 1915–17. He engaged in the general practice of law in Birmingham for 8 years from 1919 to 1927. He was elected to the U.S. Senate in 1926 and served in the Senate from 1927 to the time of his appointment to the Supreme Court by President Roosevelt and his confirmation by the Senate on August 17, 1937.

Thus, we find that Justice Black, at the time of his nomination, had had prior judicial experience of 18 months as police judge in Birmingham; he had engaged in the private practice of law for approximately 16 years, and had served as State prosecuting attorney for about 2 years; he had also served in the Senate for 10 years.

Of course, each of us can judge and assess these facts according to our own best judgment, but it seems to me that Judge Carswell possesses legal qualifications comparable, if not superior, to those held by Justice Black at the time of his appointment.

Let us look at the Justice who is next senior in service, Mr. Justice Douglas. He received his undergraduate degree from Whitman College, Walla Walla, Wash., in 1920, and received his LL.B. degree from Columbia University Law School in 1925; he engaged in the private practice of law in New York City from 1925 to 1927, and was a member of the law faculty of Columbia University from 1925–28. He was on the Yale law faculty for 6 years from 1928–34 and was named by President Roosevelt to be a member of the Securities and Exchange Commission in 1936, and he served as Chairman of that Commission from 1937 to 1939. He was nominated by President Roosevelt to be an Associate Justice of the Supreme Court of the United States at the age of 40, and took his seat on the Court on April 17, 1939.

Justice Douglas had had no prior judicial experience. He had been engaged in the practice of law for less than 5 years, and had a background of approximately 9 years in the legal academic community.

There may well be a place on the Supreme Court for one with the legal qualifications and credentials of Justice Douglas, but how can one possibly unfavorably compare Judge Carswell's qualifications to those of Justice Douglas?

Next we come to Justice John M. Harlan. In my opinion, at the time of his nomination he possessed very high qualifications. He received his B.A. degree at Princeton University and advanced degress in jurisprudence from Oxford University, and his law degree from New York Law School. He was an associate and a member of the distinguished New York law firm of Root, Ballatine, Harlan, Bushley & Palmer, for over 20 years, and was appointed by President Eisenhower to the Second Circuit Court of Appeals in 1954, where he served for 1 year, and then was appointed by the President on March 17, 1955, to be an Associate Justice of the Supreme Court. During the time he was in private practice, he served in such capacities as special assistant attorney general of the State of New York and chief counsel to the New York State Crime Commission.

Realistically speaking, it must be considered that Justice Harlan's qualifications pertaining to his background in the private practice of law were extremely outstanding, and were superior to those possessed by Judge Carswell. On the other hand, in the area of prior judicial experience, Judge Carswell's qualifications would have to be rated above those of Justice Harlan.

In my opinion, from the standpoint of professional qualifications, Justice Harlan stands as a giant among the present members of the Supreme Court.

I think it is no accident that Justice Harlan also happens to be the leader of the strict constructionist forces on the Supreme Court. His outstanding background as a lawyer has taught him the true and correct function of a judge under our constitutional system.

We now come to Justice William J. Brennan, Jr. As I have noted, the New York Times and the Washington Post stated that the prior judicial experience of Justice Brennan was greater than that of any other member of the Supreme Court at the time of his appointment. Justice Brennan received his B.S. degree from the University of Pennsylvania and his LL.B. degree from Harvard. He engaged in the private practice of law in Newark, N.J., as an associate in the firm of Pitney, Hardin & Skinner for 6 years, and was a member of the firm for another 9 years. His work with the law firm was interrupted by 3 years of service in the U.S. Army in World War II.

Justice Brennan was appointed to the New Jersey Superior Court in 1949, and was appointed to the appellate division of that court in 1951. Thereafter, he was appointed in 1952 to be an associate justice of the Supreme Court of New Jersey, where he served for approximately 4 years until appointed by President Eisenhower to the Supreme Court in 1956.

Thus, at the time of his appointment, Justice Brennan had had 15 years' experience in the private practice of law and had served 7 years as a judge of the State courts of New Jersey. From the standpoint of prior judicial experience, Justice Brennan had had 7 years of serv-

ice in the State courts, while Judge Carswell has had almost 12 years of experience in the Federal courts.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes.

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

Mr. BYRD of West Virginia. Mr. President, Mr. Justice Potter Stewart received his undergraduate and law degrees from Yale. He engaged in the private practice of law in New York City for 3 years, which was interrupted by his service in the U.S. Navy during World War II. He then practiced in Cincinnati, Ohio, for 7 years, from 1947–54. At that time he was appointed by President Eisenhower to be a judge of the U.S. Court of Appeals for the Sixth Circuit. He served on that court for 4 years, until he was nominated by President Eisenhower in 1958 to be an Associate Justice of the Supreme Court.

Mr. Justice Stewart, at the time of his appointment to the Supreme Court, had had 4 years of prior judicial experience and 10 years in the private practice of law. This is almost the reverse of Judge Carswell's qualifications, in that Judge Carswell has had 4 years in the private practice of law and almost 12 years of prior judicial experience. In addition, Judge Carswell has served for 5 years as U.S. attorney.

I do not see how anyone can say that Judge Carswell's qualifications do not compare favorably with those of Mr. Justice Stewart.

As to the qualifications of Associate Justice Byron R. White, who would ever have contended at the time of his appointment that he would make the good Associate Justice that he is making in his service on the Court today?

To most Americans in March, 1962, when he was named by President Kennedy, "Whizzer" White was known only as a great football player. From 1935 through 1937 he had starred at the University of Colorado, leading his team in his final year of play to an undefeated season, and excelling all college backs in scoring and ground gaining.

He went on to play with the Pittsburgh Steelers and the Detroit Lions, led the National Football League in ground gaining twice as a professional player, and in 1954 was named to the National Football Hall of Fame.

He practiced law in Denver, organized the State of Colorado in support of the Kennedy campaign, became a deputy Attorney General to Robert Kennedy, and in March 1962 was appointed to the Supreme Court. A good and enviable record, yes. But background and qualification for the Nation's highest court? I wonder.

Many at the time thought not. Yet, Byron White, in my opinion and the opinion of many others, is serving with diligence and competence on the Supreme Court.

Let us now examine the background and qualifications of Justice Thurgood Marshall at the time of his appointment to the Supreme Court. He received his college education at Lincoln University and his law degree in 1933 from Howard University. Upon his graduation from law school he entered the private practice of law in Baltimore, and in 1934 became counsel for the Baltimore branch of the NAACP. In 1936, he joined that organization's national legal staff, and in 1938 was appointed its chief legal officer. He served from 1940 until 1961 as director-counsel of the NAACP legal defense and educational fund. On September 23, 1961, he was appointed by President Kennedy as a judge of the Second Circuit Court of Appeals, on which he served until nominated by President Johnson to be Solicitor General of the United States on July 13, 1965. President Johnson nominated him to be an Associate Justice of the Supreme Court on June 13, 1967.

Justice Marshall was very active in the private practice of law, but his practice was confined exclusively to the civil rights field and the representation of the NAACP and its affiliated organizations.

As a matter of fact, he was often referred to as "Mr. NAACP." He was engaged in the private practice of law for a very long time, 28 years, but it cannot be said that his practice was of a general nature. He then served as a judge of the second circuit for almost 4 years, and as Solicitor General for 2 years.

Last, we come to the most recent appointment, that of Chief Justice Warren Burger, named by President Nixon as Chief Justice on May 22, 1969.

Chief Justice Burger received his college education at the University of Minnesota and his law degree from St. Paul College of Law. He was a member of a St. Paul law firm for 22 years, from 1931 to 1953. At that time he was appointed by President Eisenhower as an Assistant Attorney General of the United States. He held that position until 1956, when he was appointed by the President to be a judge of the U.S. Court of Appeals for the District of Columbia Circuit. He was a judge of that court for more than 13 years until he was nominated by President Nixon to be Chief Justice of the United States.

The solid judicial experience which Chief Justice Burger brought to the Court, it should be noted, exceeds Judge Carswell's equally solid experience on the Federal bench by only about a year.

What a contrast these two eminently qualified men—with their judicial backgrounds—provide to former Chief Justice Earl Warren. When Governor Warren was nominated, his prior experience in government was almost wholly political. Yet, his nomination was confirmed, although he brought to the Court no judicial experience of any kind and little knowledge bearing on the complicated legal issues with which he was to be confronted.

The imperious manner in which he dispensed decisions, as from on high, indicated how little he understood or valued this country's vital and historical constitutional processes. It is my considered judgment, Mr. President, that many of the increasingly serious difficulties in which our country finds itself at this point arise directly from the unwise rulings of the Court during the years of Mr. Warren's tenure as Chief Justice.

The type of opposition to Judge Carswell that we are witnessing now—and which brought about the defeat of the nomination of Judge Clement Haynsworth—is not new. It has happened before many times, and subsequent events more often than not have shown how poorly taken such opposition has often been in the past. Conservatives as well as liberals have indulged in such opposition, and almost always the opponents of nominees to the Court have attacked them on the grounds that they were not fit to serve.

In the long history of the U.S. Supreme Court many men have been appointed—and have served with distinction—the first mention of whose names brought opposition and even ridicule.

One of the towering figures of the Court, Joseph Story, of Massachusetts, appointed by President James Madison in 1811, was such a man—bitterly opposed by the conservatives of that time.

He was an unknown in most of the young Nation, although he had served a term in Congress and had been speaker of the Massachusetts House of Representatives. He had held no judicial office, and the reasons for President Madison's appointment of him have never been learned. He was the youngest man ever appointed to the Court.

Jefferson made repeated expressions of personal antipathy to Story, and the Federalists reacted to his appointment with ridicule and condemnation.

But, as Charles Warren, the former U.S. Assistant Attorney General, writes in his book "The Supreme Court in United States History":

> As in so many other instances in the history of the United States when comparatively unknown men have been raised to positions of high authority, the nation was singularly fortunate in the event.
>
> In Story's case, as in so many other instances in the history of the court, there was shown the utter futility of the expectations, frequently entertained by politicians, that the judicial decisions of a judge would accord with his politics at the time of his appointment to the supreme bench.
>
> Time and time again it has been proved—and to the great honor of the profession—that no lawyer, whose character and legal ability would warrant his appointment to that lofty tribunal would stoop to smirch his own record by submitting his judgment to the political touchstone; and no president has dared to appoint to that court a lawyer whose character and ability could not meet the test.

One does not have to go back to the early history of the court, however, to find nominees who have served with distinction to themselves and with benefit to their country whose credentials were questioned at the outset and who were bitterly assailed while their nominations were under consideration.

The case of Associate Justice Louis D. Brandeis comes readily to mind. Again in this instance it was the conservatives who were after him. I alluded to the fight over the Brandeis nomination when I spoke in this Chamber in support of the

nomination of Judge Haynsworth, and much of what I said at that time is once again applicable in this debate over Judge Carswell.

I said then that the real reasons for the bitter fight half a century ago against the confirmation of Justice Brandeis were his social and economic ideas and the fact that he was a Jew, and that the real reason for the high pressure to defeat Judge Haynsworth were his judicial philosophy and the fact that he was a white, conservative southerner. The same may be said in considerable measure of the opposition to Judge Carswell.

Justice Brandeis was appointed to the Court in 1916 by President Wilson, and the fight over the nomination that ensued is generally regarded as one of the most celebrated senatorial confirmation contests in history.

In the study of the confirmation of appointments by the Senate made by Joseph P. Harris in his book, entitled, "The Advice and Consent of the Senate," the following comment concerning the Brandeis case appears on page 113, and I believe that it has validity in the present connection:

> The case illustrates that a person who has . . . taken a definite stand on controversial public issues, particularly if he has incurred the hostility of powerful groups of society, will face strong opposition. Such a person can be confirmed only by the greatest effort, whereas a middle-of-the-road individual who has never participated in economic and social struggles or offended powerful groups is usually confirmed without opposition.
>
> The opposition to Brandeis was due chiefly to the fact that his opponents regarded him as a dangerous radical and a crusader and hence unfit to serve on the Supreme Court, which they regarded as the bulwark of conservatism. . . .
>
> Their stated reasons for opposing him, however, were entirely different—that he was not trustworthy and had been guilty of unprofessional conduct. Their charges of unprofessional conduct did not stand up under the examination of the subcommittee, though at the end, the Senators who were opposed to Brandeis gave credence to practically all the charges. . . .
>
> In the cases investigated by the subcommittee, it was found that the conduct of Brandeis was not only ethical and correct but indeed indicated that he had extraordinarily high professional standards.

Mr. President, there are many more cases of ill-founded opposition to nominees to the Supreme Court that could be cited. But the point that I wish to emphasize is that Judge Carswell compares very favorably with the men who presenty sit on the Supreme Court, and, in my opinion, is superior to some.

If Judge Carswell were not as well qualified as he actually is—if he were indeed mediocre as critics have said—he would still be much to be preferred over William O. Douglas, who had no judicial experience when he was confirmed for the Court, and who has now written a book which encourages violence and revolution in America.

As John F. Bridge, writing in the National Observer on March 2, observed

> Those who are so upset about the intellectual qualifications of Judge Carswell ought to read the book Justice Douglas has just written, Points of Rebellion, in which, among many other wild assertions, this sitting Associate Justice says:
>
> "We must realize that today's establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress honored in tradition, is also revolution."

As the National Observer writer noted, this is no black militant screaming. This is a member of the Nation's court of last resort.

One need not bother to condemn Justice Douglas; his own words condemn him. Consider this passage:

> . . . where grievances pile high and most of the elected spokesmen represent the Establishment, violence may be the only effective response.

The "Puritan ethic," the "highway lobby," the "industrial-military complex," all are targets for Mr. Justice Douglas. As an author, he sounds more like a spokesman for the SDS than a guardian of constitutional processes. In my judgment, he is a disgrace to the U.S. Supreme Court.

As I have already noted, Mr. Douglas' words ought to be of more than passing interest to the critics of Judge Carswell, for, to quote the reviewer of his book again:

> Mr. Douglas has a lot to say . . . about mediocrity in American life. At least mediocrity is one subject on which he conceivably could be an expert.

The confirmation of Judge Carswell's nomination, Mr. President, could help to restore a badly-needed balance to the Court on which Justice Douglas sits. In this regard, Mr. President, if Judge Carswell's nomination were to be rejected by the Senate, I should hope that impeachment proceedings would be immediately instituted in the other body, and I would like to see Senators who oppose the Carswell nomination have to show down on a trial of Mr. Douglas, who presently is a member of the U.S. Supreme Court and whose own words condemn him, not as one who is just mediocre, but as one who advocates violence and revolution in America.

I discern a definite pattern in the nominations President Nixon has made to the Supreme Court—a pattern of seeking out men who have had experience where it really counts, in the Federal judiciary itself.

Chief Justice Burger was eminently qualified in that respect, as was Judge Haynsworth and as is Judge Carswell. I commend President Nixon for seeking this quality in making his appointments to the Court. I believe that many people in America share my opinion on this matter.

There are other factors to be taken into consideration, but certainly prior judicial experience should be a major one. The survey of the qualifications of the present members of the Supreme Court I have made shows that President Nixon is seeking to restore a balance on the Court in more ways than one. We do need to have more Justices on the Court with great prior judicial experience, and Judge Carswell is certainly qualified in this regard.

As the distinguished chairman of the Judiciary Committee pointed out on the floor of the Senate on March 17, it is very strange that the Washington Post has taken the position all of President Nixon's nominations to the Supreme Court have been undistinguished. This, of course, includes Chief Justice Burger.

I think that the ideological bias underlying this opinion of the Washington Post gives us a clue to the motive of some who say that Judge Carswell is "mediocre" or "undistinguished."

The record and the facts completely negate such an assertion. The truth of the matter is, Mr. President, that seldom has so much been made out of so little. Weeks have been dragged out in the hope that with the passage of time a hostile press could encourage wavering Senators to join the opposition.

Judge Carswell is eminently qualified from the standpoint of professional background and qualifications. The prestigious Standing Committee on the Federal Judiciary of the American Bar Association has affirmed and reaffirmed that Judge Carswell is qualified. As the Honorable Lawrence E. Walsh, the chairman of the standing committee, wrote Chairman EASTLAND, the committee investigated Judge Carswell as to his integrity, judicial temperament and professional competence.

On the basis of this investigation, Judge Carswell was unanimously found to be qualified for appointment to the Supreme Court.

After the hearings had been concluded by the Judiciary Committee, and all of the charges against Judge Carswell had been aired, the standing committee reaffirmed its previous judgment that the nominee was qualified.

I hope and trust that no one will vote against this confirmation on the misguided belief that Judge Carswell does not possess the necessary legal qualifications.

I intend to vote, if a tabling motion is made, to table the motion to recommit.

If such a tabling motion is not made, I intend to vote against the motion to recommit. If that motion to recommit is not sustained, I intend, of course, to vote for the confirmation of the nomination of Judge Carswell.

I urge the Senate to consent to the nomination of G. Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. President, I yield the floor.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Justice for the Federal Prison System "Support of United States Prisoners," for the fiscal year 1970, had been reapportioned on a basis which in-

dicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON MODIFICATION OF A LOAN TO THE CORN BELT POWER COOPERATIVE OF HUMBOLDT, IOWA

A letter from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, under the provisions of Senate Report No. 497, modication of a loan made to the Corn Belt Power Cooperative of Humboldt, Iowa, in the year 1964; to the Committee on Appropriations.

PROPOSED AMENDMENT OF TITLE 37, UNITED STATES CODE

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status (with an accompanying paper); to the Committee on Armed Services.

REPORT OF SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman, Securities and Exchange Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for July 1969–January 1970 (with an accompanying report); to the Committee on Banking and Currency.

PROPOSED LEGISLATION RELATING TO THE DISTRICT OF COLUMBIA

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to authorize the District of Columbia to issue obligations to finance District capital programs, to provide Federal funds for District of Columbia institutions of higher education, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the assistant to the Commissioner, government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to provide improvements in the administration of health services in the District of Columbia, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the assistant to the Commissioner, government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to provide for improvements in the administration of the government of the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

A letter from the Assistant to the Commissioner, Government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation relating to the rental of space for the accommodation of District of Columbia agencies and activities, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the Assistant to the Commissioner, Government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation relating to crime in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

REPORT ON SOCIO-ECONOMIC PROGRESS IN LATIN AMERICA

A letter from the President, Inter-American Development Bank, transmitting, pursuant to law, a report on Socio-Economic Progress in Latin America, for the year 1969 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements, Bureau of Engraving and Printing Fund, fiscal years 1968 and 1969, Department of the Treasury, dated March 26, 1970 (with an accompanying report); to the Committee on Government Operations.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 3655. A bill to amend the Internal Revenue Code of 1954 to allow a total of four personal exemptions for a taxpayer, and the spouse of a taxpayer, who has attained the age of 70; to the Committee on Finance.

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

By Mr. CRANSTON:

S. 3656. A bill to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans for mobile homes if used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guaranteed and direct loans made under such chapter, to remove the time limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or expiration, to eliminate the guaranteed and direct loan fee collected under such chapter, and for other purposes; to the Committee on Labor and Public Welfare, by unanimous consent, then referred to the Committee on Banking and Currency when reported.

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

By Mr. CRANSTON (for himself, Mr. YARBOROUGH, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON and Mr. HUGHES):

S. 3657. A bill to amend chapter 34 of title 38, United States Code, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist such veterans in meeting educational and living expenses during the first two months of school, and to establish a veterans' work-study program through cancellation of such advance payment repayment obligations under certain circumstances; to the Committee on Labor and Public Welfare.

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

By Mr. GORE:

S. 3658. A bill to amend title II of the Social Security Act so as to raise from $64 to $100 the minimum primary insurance amount thereunder; to the Committee on Finance.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 13448. An Act to authorize the exchange, upon terms fully protecting the public interest, of the lands and buildings now constituting the United States Public Health Service Hospital at New Orleans, Louisiana, for lands upon which a new United States Public Health Service Hospital at New Orleans, Louisiana, may be located; and

H.R. 14289. An Act to permit El Paso and Hudspeth Counties, Texas, to be placed in the mountain standard time zone.

S. 3655—INTRODUCTION OF A BILL GIVING ADDITIONAL EXEMPTIONS TO TAXPAYERS WHO HAVE ATTAINED THE AGE OF 70

Mr. MANSFIELD. Mr. President, in the past several years I have been receiving a great deal of mail from our elder citizens who have legitimate complaints about the problems they face in attempting to exist on limited retirement incomes during an inflationary period. When the Congress passed the tax reform bill last year, I believe that more consideration should have been given to our elder citizens. I think it is generally recognized that, when a person reaches the age of 70, his earning power is somewhat limited but, at the same time, there is no comparable decrease in the cost of living. In fact, there are often unusual claims against their daily income.

It is for this reason that I ask the legislative counsel to prepare legislation which would give persons who have attained the age of 70 additional personal exemptions. I introduce a bill which would amend the Internal Revenue Code to allow a total of four personal exemptions for a taxpayer who has attained the age of 70.

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

The bill (S. 3655) to amend the Internal Revenue Code of 1954 to allow a total of four personal exemptions for a taxpayer, and the spouse of a taxpayer, who has attained the age of 70, introduced by Mr. MANSFIELD, was received, read twice by its title, and referred to the Committee on Finance.

INTRODUCTION OF VETERANS LEGISLATION

REPORT OF PRESIDENT'S COMMITTEE ON THE VIETNAM VETERANS

Mr. CRANSTON. Mr. President, I note with great interest and a welcoming spirit the publication this past Saturday, March 28, of the Report of the President's Committee on the Vietnam Veteran. This report was released by the White House as it broke the news that the President had signed into law—on March 26—H.R. 11959, the Veterans' Education and Training Assistance Act of 1970, Public Law 91–219. As chairman of the Veterans' Affairs Subcommittee

and of the Senate conferees on this bill, I am most delighted that the President decided not to veto that bill as many had interpreted his October 21, 1969, statement to imply he might.

I also wish to express to the President's committee a "welcome on board" with the bipartisan congressional effort to provide new and special programs to attract and assist educationally disadvantaged and academically deficient veterans under the GI bill. Although administration support for these programs could surely have been of great assistance in the recent conference negotiations over them and would have expedited agreement, I am sure that all who worked so hard on these measures in both Houses are pleased to see the administration take an affirmative position, even so belatedly.

This interagency, Cabinet-level committee was appointed by the President on June 5, 1969, and charged with submitting its final report no later than October 15, 1969. Although almost 5½ months behind schedule, issuance of this report marks the first clear commitment by the executive branch to the importance of developing special programs to expand substantially GI bill participation by the most educationally and financially needy veterans. For this major shift of viewpoint I congratulate the Administrator of Veterans' Affairs, the chairman of the committee, and its members, and I extend my pledge of further cooperation toward these ends to him and those members—the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Postmaster General, the Director of the Office of Economic Opportunity, and the Chairman of the Civil Service Commission.

Mr. President, I commend the report to the attention of all Senators and others interested in Vietnam era GI bill participation. I ask unanimous consent, Mr. President, that the full report be printed in the RECORD at this point, and then I will comment briefly on its recommendations.

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

REPORT OF THE PRESIDENT'S COMMITTEE ON THE VIETNAM VETERAN

INTRODUCTION

Throughout our history the American people have recognized a special obligation to those who have served in our Armed Forces.

President Nixon, on June 5, 1969, created a Committee on the Vietnam Veteran to evaluate how well the Nation is meeting its debt to today's veterans.

Committee members include the Administrator of Veterans Affairs (Chairman), the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Postmaster General, the Director of the Office of Economic Opportunity and the Chairman of the Civil Service Commission.

Early in its deliberations, the Committee determined that readjustment programs should be emphasized—those programs which should be emphasized—those programs which provide education and training assistance to returning Vietnam veterans so they can obtain productive and challenging career opportunities in our domestic life.

The President has now signed H.R. 11959. This legislation provides increased educational benefits for disabled veterans, war orphans, and war widows, and additional assistance to those who need special help to prepare for and pursue further education and training.

The benefit allowance increases should both promote participation and insure completion of training for those veterans who might otherwise be forced to discontinue their training due to financial incapacity. But we must go beyond increasing GI bill benefits on an across-the-board basis. Other important innovations have been studied by this Committee and appropriate recommendations to accomplish them are contained in this report.

The Committee obtained basic information on the Vietnam-era veteran population from surveys sponsored by the Committee and from surveys already conducted by Federal agencies, including:

The Bureau of the Budget interagency survey of the disadvantaged veterans, October 1969.

Department of Defense data on enlisted reservists and project 100,000 trainees, October 1969.

Veterans Administration "Survey of expenses and income for veterans attending school under the GI Bill", July 1969.

The Committee also obtained the views and recommendations of private citizens. Requests for views were sent to national and local business, banking and industrial organizations, the National Governors Conference and the U.S. Conference of Mayors, labor unions, associations of educational institutions and educators, Members of Congress involved with veterans' legislation, and veterans service organizations.

THE VIETNAM-ERA VETERAN

Large-scale commitment of American forces to Southeast Asia began late in 1964. Since that time, 3.7 million men and women have left military service. The annual rate of separations has increased gradually from 531 thousand in calendar 1965 to 958 thousand in 1969. In 1970 and 1971, the annual rate will climb to an estimated one million. This report refers to this group of veterans as "Vietnam-era veterans".

These men and women show great potential. They are generally young with more than half falling in the age bracket 20–24. They are better educated than veterans of earlier wars. About 78 percent have completed high school at separation, compared with 63 percent of veterans of the Korean Conflict and 45 percent of World War II. The Vietnam-era veterans reflect the same racial proportions as the total American society. The economic potential of this group is high. Data available on veterans of earlier conflicts demonstrate their promise. Average earnings of post-Korean veterans are considerably higher than those of non-veterans in the same age groups. We are satisfied that the same general "economic advantage" will pertain to the Vietnam-era veteran.

VETERANS WITH PHYSICAL HANDICAPS

Significant numbers of returning veterans, however, enter the economy with severe handicaps. In 1970, over 120,000 Vietnam-era veterans are receiving VA compensation for service-connected disabilities.

In 1970, 25,000 of these disabled veterans are enrolled in VA's vocational rehabilitation program which provides for full cost of tuition, books, supplies, a substantial subsistence allowance augmented for dependents, in addition to their service-connected compensation. The VA hospital system accords them top priority for admission to care for their service-connected disabilities. In 1970, an estimated 64 thousand Vietnam-era veterans will receive VA hospital care. Because these men in many cases have difficulty qualifying for commercial insurance, they are eligible to convert the $10,000 Servicemen's Group Life Insurance to commercial coverage under a pooled risk arrangement and they can obtain an additional $10,000 coverage under VA's Service-disabled Insurance Program.

VETERANS WITH EDUCATIONAL AND SKILL DEFICIENCIES

Seven times more veterans than those who are disabled and entitled to compensation carry the invisible handicaps of inadequate or defective education and training. Measured by lack of a high school education, 16% of Vietnam-era veterans now being released from service are educationally disadvantaged. This is not, however, a full measure of those with educational deficiencies. Test results show that 30 percent of high school graduates in the Armed Forces scored as poorly or worse than the average score of those who had not completed high school.

Ironically, these factors are an important determinant in placing men in military occupations. Those who had not completed their high school education and those who perform poorly on the qualifications tests have less opportunity while in the service to acquire skills applicable to civilian jobs.

Upon discharge, the veteran with education deficiencies suffers a rate of unemployment significantly higher than that of his fellow veteran. A recent survey of veterans living in impoverished areas indicates that jobs are their main concern. The survey, based upon intensive interviews with more than 3,000 veterans, revealed 62% of those contacting Federal agencies wanted assistance in finding employment.

Statistics on the employment experience of educationally handicapped veterans bears out their need for concern. A recent survey reported unemployment rates of 5.8% for white veterans who had completed high school and 8.8% for those white veterans with less than a high school education. These rates compare with a 4.6% unemployment rate for all non-veterans in the comparable age range. The same survey reported unemployment rates of 9% for Negro veterans who had completed high school and 18.5% for Negro veterans with less than a high school education. For Negro non-veterans in the same age group, the unemployment rate was 5.9%.

The problems of many returning Vietnam veterans are demonstrated by these statistics. But they are, above all, human problems. The Vietnam veterans often return to civilian life very much the same as they entered active service, except that they are a bit older, jobless, and anxious. For many of them job prospects are worse than for non-veterans in the same age brackets.

Having assessed the problems of disabled veterans and veterans with educational and skill deficiencies, the Committee has determined that this report should concentrate on ways in which veterans readjustment benefits for education and training can be made available to all veterans on a basis of equal access.

As of February 1970, 1.06 million, or 27.8% of the 3.8 million eligible Vietnam-era veterans had used GI Bill education or training benefits. An additional 3.1 million veterans were eligible who had served in the period January 1955 and August 1964. Of these veterans, 1.7 million, or 24.6% have participated in GI Bill training. At present, approximately 70% of veterans in training are Vietnam-era veterans.

Available survey data show that participipation in GI Bill training is inverse to need. Nearly 50% of the veterans who already have college training at the time of discharge and therefore have the best prospects for immediate employment seek to upgrade their education under the GI Bill. On the

other hand, those who have serious education deficiencies show participation rates as low as 10%.

RECOMMENDATIONS

The Committee has developed three types of recommendations: (A) recommendations to improve the veteran's access to education; (B) recommendations to improve the veteran's access to jobs and job training; and (C) recommendations in related readjustment areas.

A. Recommendations to improve the veteran's access to education

Recommendation No. A–1

Encourage veterans to enter and follow through with a training program by providing an advance education assistance payment to help the veteran meet the initial costs of entering training.

The GI Bill provides monthly allowances for veterans enrolled in and attending approved programs of education. These payments do not begin, however, until after the veteran has enrolled, and completed each month of training. The effect of this after-the-fact method of payment can be to discourage program participation by the veteran who cannot afford the initial outlay required by most schools for prepayment of fees, tuition, books, and the necessary money for subsistence for himself and his family until the first payment is received. The intent of the program is thus jeopardized. Even for the financially more fortunate veteran, the prepayment of tuition and other costs constitutes a burden since the educational allowance is partial assistance rather than a full subsidy.

The proposal would authorize an advance payment to help the veteran enroll in school. This would be done on an individual application basis. The amount advanced can be gradually recouped over the whole period of enrollment.

Recommendation No. A–2

Establish an in-service program to assist servicemen to prepare for post-secondary training while on active duty. Eligibility criteria should be revised to permit participation following completion of six months active duty.

The U.S. Armed Forces Institute (USAFI) of the Department of Defense currently sponsors educational programs offering elementary, secondary, and college-level courses for servicemen. In 1969, 90,000 servicemen who had dropped out of high school took courses on an off-hours basis leading to a certificate of high school completion ("GED").

This program offers many opportunities for servicemen to upgrade their education at little cost. Its chief limitations regarding veterans with educational deficiencies are:

Lack of tuition support for non-careerists.

Lack of flexibility to get courses and remedial instruction in schools near the man's military base.

Under existing provisions of the GI Bill (38 U.S.C. 1652) men in the active military service can qualify for GI Pill payment of tuition and fees, provided they already have served at least two years. The proposal would bestow these benefits upon short-term draftees, provided they had served six months. For veterans with educational deficiencies, this benefit would provide without charge to their future GI Bill entitlement courses for high school completion or refresher or deficiency courses for admission to college or technical schools. The proposal would result in greatly increasing the options of each educationally handicapped veteran to enroll in courses of colleges and vocational schools of his home community or those near his military base. This would increase the possibility of local classroom instruction (where he now is limited to correspondence courses of college-run studies or to group study sponsored by his military base). In concert with recommendations A–4 and A–5, this proposal would provide a financial basis for enrolling educationally handicapped veterans in colleges which develop special remedial courses and offer full-time enrollment after discharge.

Recommendation No. A–3

The Office of Education and the Veterans Administration jointly work with the major organizations of universities, colleges and community colleges to develop the following types of assistance to educationally deficient servicemen and veterans desiring college enrollment:

Prior to discharge, provide clearing house services giving information on college programs for disadvantaged students and put men in contact with colleges of their choice;

After discharge, facilitate contact with VA-certified colleges by providing referrals of veterans with their consent;

Facilitate, in behalf of servicemen making commitments to particular colleges in advance of discharge, the packaging of scholarship-loan-GI Bill arrangements;

Arrangements for entry into college soon after discharge, avoiding lengthy waits for application processing and beginning of the next school term.

Testimony available to the Committee indicates widespread support of the academic community for building better bridges for returning veterans into college, particularly for veterans with educational deficiencies who need special help in the initial college years.

This testimony also indicates that a major problem is timely and effective communication between colleges and servicemen:

Colleges are willing to help recruit if there can be worked out with the Government a mutually satisfactory referral system which protects the serviceman's interests and is administratively feasible.

Colleges can include veterans in their packaging of scholarship-loan-work study arrangements if they have a commitment from the student sufficiently in advance of his enrollment.

Veterans coming out of service in mid-semester face long waits to be accepted and processed for the next school term. This waiting period can divert or discourage the educationally handicapped veteran who already may doubt his ability to qualify and succeed.

In 1970, as a part of the Hope for Education project, Michigan State University is operating a national clearing house between colleges and servicemen, financed by a Talent Search grant of the Department of Health, Education and Welfare. Participation in this type of program by men in Vietnam can meet a genuine need.

Recommendation No. A–4

The Office of Education and the Veterans Administration jointly assist the educational community in developing special programs for educationally handicapped veterans. In approving grants under the Special Services to Disadvantaged Persons program, the Commissioner of Education should give priority to institutions which indicate that their programs will include significant numbers of student veterans with educational handicaps.

Veterans with educational deficiencies need special help in making up the courses which are prerequisites to college and other training. The ability of the academic community to modify its curriculum and service is critically important to effective use of GI Bill benefits for veterans. A recent survey by the Twentieth Century Fund has shown that 59% of some 400 colleges and universities surveyed had already established or were planning special education programs for "high risk" students. These programs included such elements as special recruiting, extra financial aid, and special courses, special counseling, and reduced course load in the first year. Building upon this base, the Office of Education in HEW and the VA should develop a program of technical assistance to encourage schools to set up remedial, restorative and related programs to serve veterans with educational deficiencies.

The President has included in his 1971 budget $10 million in 1970 and $15 million in 1971 to finance a new program of Special Services for Disadvantaged students, authorized by the Higher Education Amendments of 1968. Under this program, students of deprived educational, cultural, or economic background or physically handicapped, can be given special services to initiate, continue, or resume their post-secondary education. An institution receiving a grant from the Office of Education under the program provides counselling, tutoring, summer programs, career guidance and placement, and other specialized services. In approving grants, the Commissioner of Education should give priority to institutions which indicate that their programs will include significant numbers of student veterans with educational handicaps.

Recommendation No. A–5

Authorize GI Bill payment for individual tutorial assistance when the school certifies this is necessary to overcome educational deficiencies.

The first year in post-secondary schooling is the most critical for the disadvantaged veteran. Colleges with experience in programs for disadvantaged students report attrition rates of 50% in the freshman year. The veteran with educational deficiencies must adjust his way of life to a competitive surrounding where other students have had a continuity as well as familiarity with the course material.

Situations will arise where the veteran will need some personal, specialized tutoring to comprehend and master the material and to progress at the same rate as the average student. By providing this support, the veteran can be helped to achieve his goal and be prevented from dropping out of school.

This proposal supplements any tutorial assistance provided under recommendation A–4 which is limited to grantee institutions under the Special Services to Disadvantaged Students program.

B. Recommendations to improve the veteran's access to jobs and job training

Recommendation No. B–1

The President issue an executive order authorizing a program of veterans readjustment appointments to positions in the Federal Civil Service.

The Federal Government as an employer must lead the way in meeting the Nation's obligations to returning veterans. Federal agencies must do more to facilitate employment and concurrently provide developmental opportunities appropriate to veteran's needs, potential, and aspirations.

Employment under a veterans readjustment appointment should be coupled with developmental activities tailored to the needs of the veteran and the agency in which he works.

A new system is needed which permits Federal agencies to appoint Vietnam era veterans to entry level positions up to GS–5 without regard to Civil Service lists, provided the veteran completes a program of education or training.

The Civil Service Commission should be authorized by executive order to prescribe regulations providing for the readjustment appointment system.

Recommendation No. B–2

Intensify recruiting activities at Military Separation Centers, Veterans Assistance Centers, and through community action agency programs.

Although personnel reductions are taking place in some agencies, normal turnover will continue to create many job vacancies. Eli-

gible veterans can and should be appointed to fill a high proportion of these vacancies under the veterans readjustment appointment program.

All Federal agencies should make their job vacancies known to Military Separation Centers, U.S. Veterans Assistance Centers, and community action agencies.

Recommendation No. B–3

The Secretaries of Labor and Health, Education, and Welfare, in cooperation with the Department of Defense, should use MDTA Skill Centers near major Defense separation bases to furnish educational or vocational training to servicemen prior to release from active duty.

At present, the Manpower Development and Training Act (MDTA), administered by the Departments of Labor and HEW, finances some sixty Skill Centers offering a wide variety of vocational training, together with counseling and job placement services. Several of the larger Skill Centers are located near major Defense separation centers in each quadrant of the United States.

While veterans presently are eligible for MDTA training after discharge, and before discharge in Project Transition, there has never been a concerted DoD/Labor/HEW effort to bring to educationally handicapped servicemen the diversity and specialized training resources of MDTA Skill Centers.

Growing out of the need for skill training centers for servicemen discussed in this Committee's interim report, the President already has included funds in the 1971 budget for expanding MDTA training of returning veterans. However, the following additional actions should be initiated.

MDTA contracting institutions should be encouraged to expand and diversify course offerings;

At least 10,000 additional training slots for veterans with educational deficiencies should be provided;

Defense should identify and where feasible route servicemen to the separation center nearest a Skill Center offering the vocational courses they desire. The system should attempt to assign servicemen to bases near their home to facilitate job placement. Where this is not possible, job placement will be accomplished by special arrangements among Skill Centers and offices of the U.S. Employment Service, using techniques found successful in other Federal manpower programs.

Recommendation No. B–4

The Department of Labor, in cooperation with the Department of Defense and other affected agencies, provide linkage of key facilities for veterans job assistance with the Labor Department's system of computerized job banks and thereby improve the matching of manpower needs with the skills of individual veterans who are seeking employment.

Servicemen now returning to civilian life have skills and abilities that may be in demand by both government and private industry. A critical problem is the time required to match the trade or skills of the returning servicemen with the jobs available from private and government employers. To the extent that this process of job placement can be accelerated, the veteran avoids a nonproductive, frustrating period of job search and needless drawn-down of unemployment compensation. The veteran with educational deficiencies is most likely to need assistance for job placement and to become discouraged by delays.

At present, the typical returning veteran in need of job-finding assistance returns to his place of residence prior to service. Each of the 2,100 local offices of the Federal-State Employment Service receives notice of his discharge and each includes staff ready to accord him the veterans preference for employment assistance and other services authorized by law. Each veteran's options, however, are limited by the amount and quality of job information available at the separation center and in his home community.

The Employment Service is establishing a network of computerized Job Banks to upgrade information on job availability by disseminating job information throughout each metropolitan area on a daily basis. In 1970, Job Banks will be activated in 56 cities, expanding to 81 cities by 1971.

The interim report of this Committee contained several recommendations for computerized job bank and job matching services for servicemen and veterans. Based on these recommendations and on a $20 million increase in the 1971 budget for Job Bank and job matching activities, the Departments of Labor and Defense, with any necessary assistance from the Veterans Administration, should take steps to include the larger military separation centers, Skill Centers, USVAC's, and other key veterans contact points into the Job Bank system, to the extent permitted by system capacity, locations, and other feasibility factors. In 1971, it is estimated that local Job Bank services could be extended to veterans contact points near almost all 81 metropolitan areas. In addition, selected larger military separation centers could be used as focal points for national Job Bank listings. In both cases, the Employment Service should provide interviewing and placement services at regular intervals. The proposal also contemplates that veteran job placement activities will take full advantage of automated job matching systems being tested in 14 States as these systems become operational. This proposal would have the effect of reinforcing improvements in veterans counselling and skill training in Recommendations Nos. B–3 and B–6.

Recommendation No. B–5

The Departments of Defense and Labor and the Veterans' Administration should:

(a) Conduct a survey to identify the major roadblocks to transferability of military skills to civilian jobs;

(b) Develop a program for more fully utilizing service acquired skills in related civilian occupations; including work with private groups to adopt new certification procedures which will take military training into consideration.

Many servicemen receive training and experience in military service which has potential value for civilian employment. These skills and talents often are not put to use because veterans cannot find related employment where they live. There is a lack of coordination between the military and the civilian economy as to the training these men receive, its pertinence to non-military employment, and its general acceptability. Military experience is often not recognized for credit towards obtaining a license or degree and therefore the veteran pursues employment in other fields. In areas where military experience is not fully accepted, refresher courses, credit for service experience, or revised standards could accommodate the entrance of the skilled veteran into the particular field.

We must tap this source of training to meet critical manpower shortages in the civilian economy. For instance, servicemen who served as "medics" in active service have a valuable knowledge and skill that should be tapped to meet the great need for medical technicians, aides, and related medical assistance jobs in civilian life.

At present, the Departments of Defense and Labor and VA have initiated a joint survey of the job experience of men returning to depressed areas. These agencies have additional studies underway or planned on military job transferability which should be expedited. In addition, the agencies should cooperate to identify the major road-blocks to job transferability and develop a program for promoting a greater degree of transfer of military job skills, particularly for veterans with educational deficiencies.

Recommendation No. B–6

The Departments of Defense and Labor and the Veterans Administration develop a cooperative program of civilian career counseling for servicemen with educational deficiencies, supported by DoD test data and other current relevant data on the client and job and training opportunities. This program should assure adequate coverage of overseas commands.

Within the Department of Defense, Project Transition provides civilian job counseling and training to servicemen in 290 bases of the Army, Navy, and Air Force in the continental United States. In the 18 months between program inception and June 30, 1969, 72,000 servicemen (about 5 percent of all separatees) were given training and 445,000 men received counseling. The program's strong points include the concept of enlisting private industry and government agencies to conduct on-the-job training and providing an opportunity for men in the last six months of service to prepare for civilian employment.

The Transition program needs to identify men with educational deficiencies earlier in their military careers, to give them special priority for selection, to sponsor counseling opportunities for those who spend their last months of service in overseas areas, and to improve the quality of counseling, including provision of current job data (see Recommendation B–4).

VA regularly contacts over 310 military installations and 184 military hospitals, including seven locations in Vietnam. The VA representative primarily aims to acquaint servicemen with their VA benefits, largely through mass briefings. In the third quarter of 1969, VA briefings were reaching servicemen at an annualized rate of 600,000. VA also conducts personal interviews, running at an annualized rate of 85,000 in military hospitals and 96,000 on military bases.

The Department of Labor outstations or makes available a representative of the Veterans Employment Service to each large military separation center for briefing and counseling on veteran employment rights and job opportunities.

At present, there is no system assuring VA and Labor interviews will successfully reach men with educational deficiencies, will be based upon current data on the client and job openings and available education and training programs, and will supplement military counseling efforts with a minimum of gaps and duplication. The VA's experience with quick deployment of trained counsellors to Vietnam indicates the feasibility and desirability of devising a plan whereby trained counselor teams can be readied on a standby basis for dispatch to any overseas area needing such services.

Recommendation No. B–7

The Veterans Administration utilize existing GI Bill authority to develop additional on-the-job training and cooperative education programs in areas which would serve a public need and/or provide vocational outlets for veterans for whom institutional training is not suitable. This effort should be conducted in such a manner as to take maximum advantage of other related Government programs.

The Department of Labor include returning disadvantaged veterans in the new Public Service Careers program.

VA assistance for on-the-job training is directed primarily at helping to train veterans for occupations requiring special skills.

Traditionally, such training has served to train veterans for jobs as bricklayers, carpenters, electricians, plumbers, machinists, mechanics, and repairmen. On-the-job training is a method that lends itself to preparing trainees for work in the "new technology" industries, such as automation and data processing, jet-age transportation, and the repair and servicing of household appliances and business machines and equipment.

With increasing demands for public services, a critical need has developed for specially trained personnel. Programs have already been instituted to meet the need of municipalities for additional police and firemen. Other public service occupation groups in short supply include recreational personnel, health and medical technologists, teaching assistants and sanitation workers. In line with the recommendations of the interim report for developing public service careers for veterans, VA should take steps to expand OJT opportunities in these fields. In addition, VA should develop with the assistance of the Civil Service Commission, HEW, and Labor, some public service intern programs involving use of GI Bill authority for cooperative education payments. In several areas, e.g., social work training under the Social Security Act, there is authority to pay training stipends which can augment GI Bill allowances to constitute attractive, feasible programs for educationally handicapped veterans. Another HEW program showing promise is the Career Opportunities Program authorized by the Education Professions Development Act (EPDA). The President's budget provides $25 million for this program in each of the years 1970 and 1971, in which 40% is targeted to accommodate 8,000 veteran trainees. The program aims to attract new talent into careers in education, with added opportunities for on-the-job training. The veterans component of this program is based upon favorable experience with a 1969 pilot program in which 200 Vietnam veteran trainees participated, most of them recruited from inner-city, low-income areas. Accordingly, it is important that VA work with the Department of Health, Education, and Welfare and State and local agencies in developing the new programs.

The Department of Labor's Public Service Career program, launched in 1970, is another Federal initiative which should be utilized for expanding opportunity for disadvantaged veterans. The 1971 budget contains $51 million for hiring and training 32,000 disadvantaged persons for regular positions in Federal, State, and local governments. Priority in this program should be given to veterans.

Recommendation No. B–8

The bar against the duplication of educational and training benefits be repealed.

Section 1781 of Title 38, U.S. Code, bars the payment of Federal educational assistance when it would constitute a duplication of benefits. Through the years certain federally supported programs were not subject to this bar and concurrent entitlement existed. More recently provisions enacted in Public Law 90–574 and 50–575 specifically exempted certain awards, loans and grants made to students from the non-duplication prohibition. Equivalent types of programs offered through some agencies continue to remain under the bar.

The most significant area affected by the existing bar is Manpower and Training Assistance (MDTA) programs. The lifting of the bar would entitle veteran trainees to an MDTA stipend averaging $200 per month (varies by State) in addition to the GI Bill allowance, bringing his total training income to almost $400 monthly—and more if he has dependents. This proposal likely will serve as a strong inducement for veterans to enter vocational training under MDTA sponsorship.

C. Recommendations in related readjustment areas

Recommendation No. C–1

Support minority entrepreneurship through a combination of Small Business Administration loans and cooperative GI Bill education.

Most Vietnam veterans do not have the financial capacity for starting or expanding a business of their own. The veteran requires knowledge, experience, money and business guidance to successfully operate a business.

There is need for small business, locally owned and operated in areas where a concentration of disadvantaged or minority group veterans may be found. Of those who now attempt such enterprises, many fail because of lack of business training.

Financial institutions require some training and expertise on the part of the borrower before lending money for business purposes, and consider this in determining the risk involved.

Cooperative training programs can provide the veteran with the necessary experience to carry on the business functions, the managerial, bookkeeping and other needs. Under the Small Business Administration program the veteran who agrees to take GI Bill training in a related field would be qualified for a loan up to $25,000 for the purpose of initiating or expanding a business venture. Additionally, the SBA can provide business counseling and technical advice in operating the business, and give priority to those veterans loans.

Recommendation No. C–2

VA loan guaranty underwriting of mobile home financing in order to promote an adequate supply of low cost housing for low and moderate income veterans.

Cost of single family home and mortgage financing have increased in recent years to the point that low and moderate income veterans are priced out of the housing market for all practical purposes. Some way must be found to enable these veterans to purchase suitable housing on terms that are within their payment ability.

The mobile home represents an enormous potential in meeting the housing needs of many veterans with low to moderate incomes. The increasingly higher construction cost of conventional homes is a principal factor in the sudden popularity of mobile homes. Manufacturers are able to produce these homes at relatively low price.

Existing provisions of the VA home loan guaranty law were designed to promote real estate mortgage loans to purchase conventional type housing and do not contemplate the purchase of mobile home structures on a chattel mortgage loan basis which is the customary type of loan made to individuals purchasing mobile homes. The 30 years, 100% real estate first mortgage GI loan vehicle is not a suitable mobile home financing vehicle.

To induce lenders to make loans available to veterans on liberal terms for the purchase of mobile homes, a special type of loan guaranty or insurance underwriting vehicle should be designed which will be attractive to lenders in terms of investment return and loss exposure. At the same time, it is essential that the Government's exposure be limited to the minimum required in order to insure an adequate supply of mobile home financing for veterans in the low and moderate income brackets.

Mr. CRANSTON. Mr. President, almost all the data contained in the Introduction to the report was contained in the Senate committee report on the recently enacted H.R. 11959 (S. Rept. No. 91–487) and my floor statement of March 23 on behalf of the Senate conferees on that bill, now Public Law 91–219. But the recognition by the executive branch of how disparate are the educational needs of certain categories of veterans as compared to the very low rate of GI bill participation is itself of great significance.

Regarding the report's specific recommendations:

RECOMMENDATION NO. A–1

This would be carried out by a bill I am introducing today, and which I described publicly on March 4 and have been working on for many months, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist them in meeting educational and living expenses during the first 2 months of school and to establish a veterans' work study program through cancellation of such advance payment repayment obligations under certain circumstances.

RECOMMENDATION NO. A–2

These proposals for inservice preparatory training, it seems to me, have already been fully authorized in the predischarge education program—PREP—now enacted in Public Law 91–219—new sections 1695–97.

RECOMMENDATION NO. A–3

I support these proposals for joint Veterans' Administration/Office of Education efforts and administrative coordination and clearinghouse activities for returning veterans. These actions apparently can be implemented within existing authority and no significant expenditures are apparently contemplated.

RECOMMENDATION NO. A–4

This proposal carries out substantially the crux of Commissioner of Education James Allen's June 24 testimony before our subcommittee regarding S. 2361, a bill introduced by Senator KENNEDY—which I cosponsored—to amend chapter 34 of title 38, United States Code, in order to provide special educational services to veterans. This bill was ultimately embodied in large part in provisions of title II of the Senate version of H.R. 11959 and now in Public Law 91–219, but the authorization of appropriations for special veterans' program grants to educational institutions—section 1693 in section 202(a)(3) of the October 23 Senate version—was dropped in conference at the insistence of the House conferees. I am delighted to learn that the administration intends to use its existing authority under the special services for disadvantaged students program set up by the Higher Education Amendments of 1968. These sorts of seed money grants should dovetail nicely with the new title II program of Public Law 91–219.

RECOMMENDATION NO. A–5

This provision for individual tutorial assistance is fully covered in the new program for payment of a special supplementary assistance allowance—new section 1692—in Public Law 91–219.

RECOMMENDATION NO. B–1

The President has already exercised his executive discretion in adopting this worthy recommendation by signing Executive Order No. 11521 on March 26.

I ask unanimous consent to have the Executive order printed in the RECORD.

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

EXECUTIVE ORDER 11521—AUTHORIZING VETERANS READJUSTMENT APPOINTMENTS FOR VETERANS OF THE VIETNAM ERA

Whereas this Nation has an obligation to assist veterans of the armed forces in readjusting to civilian life;

Whereas the Federal Government, as an employer, should reflect its recognition of this obligation in its personnel policies and practices;

Whereas veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers;

Whereas the Federal Government is continuously concerned with building an effective workforce, and veterans constitute a major recruiting source; and

Whereas the development of skills is most effectively achieved through a program combining employment with education or training:

Now, therefore, by virtue of the authority vested in me by the Constitution of the United States, by sections 3301 and 3302 of title 5, United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) Subject to paragraph (b) of this section, the head of an agency may make an excepted appointment, to be known as a "veterans readjustment appointment", to any position in the competitive service up to and including GS–5 or the equivalent thereof, of a veteran or disabled veteran as defined in section 2108(1), (2), of title 5, United States Code, who:

(1) served on active duty in the armed forces of the United States during the Vietnam era;

(2) at the time of his appointment has completed not more than fourteen years of education; and

(3) is found qualified to perform the duties of the position.

(b) Employment under paragraph (a) of this section is authorized only under a training or educational program developed by an agency in accordance with guidelines established by the Civil Service Commission.

(c) An employee given a veterans readjustment appointment under paragraph (a) of this section shall serve subject to:

(1) the satisfactory performance of assigned duties; and

(2) participation in the training or educational program under which he is appointed.

(d) An employee who does not satisfactorily meet the conditions set forth in paragraph (c) of this section shall be removed in accordance with appropriate procedures.

(e) An employee serving under a veterans readjustment appointment may be promoted, reassigned, or transferred.

(f) An employee who completes the training or educational program and who has satisfactorily completed two years of substantially continuous service under a veterans readjustment appointment shall be converted to career-conditional or career employment. An employee converted under this paragraph shall automatically acquire a competitive status.

(g) In selecting an applicant for appointment under this section, an agency shall not discriminate because of race, color, religion, sex, national origin, or political affiliation.

SEC. 2. (a) A person eligible for appointment under section 1 of this order may be appointed only within one year after his separation from the armed forces, or one year following his release from hospitalization or treatment immediately following his separation from the armed forces, or one year after involuntary separation without cause from (i) a veterans readjustment appointment or (ii) a transitional appointment, or one year after the effective date of this order if he is serving under a transitional appointment.

(b) The Civil Service Commission may determine the circumstances under which service under a transitional appointment may be deemed service under a veterans readjustment appointment for the purpose of paragraph (f) of section 1 of this order.

SEC. 3. Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person otherwise eligible for appointment under section 1 of this order.

SEC. 4. For the purpose of this order:

(a) "agency" means a military department as defined in section 102 of title 5, United States Code, an executive agency (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and those portions of the legislative and judicial branches of the Federal Government and of the government of the District of Columbia having positions in the competitive service; and

(b) "Vietnam era" means the period beginning August 5, 1964, and ending on such date thereafter as may be determined by Presidential proclamation or concurrent resolution of the Congress.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order.

SEC. 6. Executive Order No. 11397 of February 9, 1968, is revoked. Such revocation shall not affect the right of an employee to be converted to career-conditional or career employment if he meets the requirements of section 1(d) of Executive Order No. 11397 after the effective date of this order.

SEC. 7. This order is effective 14 days after its date.

RICHARD NIXON.

THE WHITE HOUSE, *March 26, 1970.*

RECOMMENDATION NO. B–2

Mr. CRANSTON. Mr. President, this proposal to intensify Federal agency recruiting of veterans was included as to job placement and vocational guidance in section 1698 in section 202(a)(3) in the Senate version of H.R. 11959 passed October 23, 1969. As to VA efforts to employ Vietnam veterans, section 241(c) in section 204(a) of the October 23 Senate version called for special efforts to hire returning veterans as Outreach workers in their local communities.

RECOMMENDATION NO. B–3

This proposal for Labor, Defense, and Health, Education, and Welfare Departments expanded cooperative skill centers constitutes a beefed-up version of the Department of Defense's transition program, described in the appendix to Senate Report No. 91–487. Provision of 10,000 additional MDTA training slots for veterans is most welcome and appropriate.

RECOMMENDATION NO. B–4

This reiterates the program outlined at our August 12 subcommittee hearing by Assistant Secretary of Labor for Manpower Arnold Weber and contained in general in the administration's comprehensive manpower bill, S. 2838, introduced on August 12, 1969.

RECOMMENDATION NO. B–5

Such a program for more effective utilization of military service-acquired skills in the civilian economy is badly needed. With respect to one of the major fields for such civilian employment—that of health care—I announced on March 4, and expanded on this in my floor statement upon introduction by Senator RALPH YARBOROUGH of S. 3586—a bill to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes—my intention to introduce shortly a bill to expand greatly the Veterans' Administration's mandate and capacity to educate, train, and employ in VA hospitals and clinics allied health professionals and especially physician's assistants and other new types of paramedical personnel, utilizing the skills of veterans with military health care experience wherever possible. As pointed out in Senate Report No. 91–487, however, many military skills may not be able to be made transferable, thus necessitating PREP program and transition program retraining.

RECOMMENDATION NO. B–6

This sort of interagency cooperation for career counseling of veterans as well as expansion of the transition program should be productive. Stress on military base counseling by the Veterans' Administration was laid in the new sections 1697 and 241 added to title 38, United States Code, by Public Law 91–219.

RECOMMENDATION NO. B–7

Again, with respect to the Veterans' Administration and public service careers, I plan the steps I discussed under recommendation No. B–5. The additional public service career funding for fiscal year 1971 with priority for veterans is commendable.

RECOMMENDATION NO. B–8

This repealer of the nonduplication of benefits bar was contained in section 213(1) of Public Law 91–219, after having been previously adopted separately by the House and Senate in May and October 1969, respectively.

RECOMMENDATION C–1

Given my doubts about the present effectiveness of the Small Business Administration, especially its so-called program of minority entrepreneurship, I am skeptical of the success of this recommendation, especially without any proposal for increases in funding. Also, I am unclear on the details of working out coordination between the SBA program and the GI bill training program.

RECOMMENDATION NO. C–2

On March 26 I announced my intention to introduce, in coordination with the chairman of the House Veterans' Affairs Committee, a bill to provide, among other expansions of the VA home loan program, for VA-guaranteed and direct loans for mobile home financing. Only an unexpectedly early adjournment prevented introduction of the bill that day, and I introduce it today.

As the above comments make clear, I am in basic agreement with the committee's recommendations, and as to most

of them either the Congress has already acted or I have proposed necessary legislation—generally authorizing programs broader than the report seems to recommend.

S. 3656—INTRODUCTION OF THE VETERANS HOUSING LOAN AMENDMENTS ACT OF 1970

Mr. CRANSTON. Mr. President, today I am delighted to introduce, for appropriate reference, in coordination with the distinguished chairman of the House Veterans' Affairs Committee who introduced a companion bill on March 26, 1970—H.R. 16710—a bill to amend chapter 37 of title 38, United States Code, to authorize guaranty and direct loans for mobile homes used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guarantee and direct loans made under such chapter, to remove the limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or exhaustion, to eliminate the guaranty and direct loan fee collected under such chapter, and for other purposes. I had intended to introduce this bill on March 26 but was prevented from doing so by an unexpectedly early adjournment.

Mr. President, jurisdiction over the subject matter of this bill has historically been split between the Labor and Public Welfare Committee, which has jurisdiction over the VA loan guarantee program, and the Banking and Currency Committee, which is responsible for the VA direct loan program. Mr. President, I ask unanimous consent that the bill I have just introduced be first referred to the Committee on Labor and Public Welfare and, if that committee completes action on the bill and reports it to the Senate, the reported bill be then immediately referred to the Committee on Banking and Currency. This procedure has been discussed with the staff director of the Banking and Currency Committee as well as the staff director of the Subcommittee on Housing and Urban Affairs, and they concur with this dual referral.

This bill, which would be known as the Veterans Housing Act Amendments of 1970, would make six improvements in the current VA guarantee and direct loan program.

First, the bill would extend the period during which World War II, Korean conflict and post-Korean conflict veterans may apply for VA guaranteed home loans. This provision would save from expiration of eligibility this coming July 25 approximately 2.1 million World War II veterans, approximately 223,000 of whom now reside in California. Entitlements of Korean conflict veterans under present law would expire on February 1, 1975, and this deadline would be eliminated by the bill.

Regarding post-Korean conflict veterans—those who served after January 31, 1955—under 38 U.S.C. section 1818, the duration of their entitlements are computed as follows: 10 years from the date of discharge or release from active duty plus an additional period of 1 year for each 3 months of active duty, with a maximum of 20 years' eligibility and a minimum of 10 years from March 3, 1966. So that a veteran discharged after January 31, 1955, with a full 2-year active duty tour would have an eligibility period of 18 years.

Post-Korean veterans discharged or released for service-connected disability are given a flat 20 years to apply. This bill would make both of these eligibility periods open-ended.

Second, the bill would restore entitlements of World War II and Korean conflict veterans whose entitlements have lapsed by virtue of exhaustion of their eligibility period after July 25, 1962, when the same eligibility formula now applicable to post-Korean veterans became applicable to World War II and Korean conflict veterans—with the same exception for those discharged or released with a service-connected disability. It is estimated that 8.2 million veterans have lost all or part of their guaranteed and direct loan eligibility during these last 8 years, of whom approximately 903,000 currently reside in California. Restoration of these lost entitlements was not included in H.R. 16710, the companion bill introduced in the House, but I believe it is generally consistent with the philosophy in the House bill and will be acceptable to its sponsor.

These first two provisions of the bill would aid substantially in revitalizing our badly depressed and demoralized home buying and construction industry. In this tight money market the VA loan eligibility period for many veterans has been eaten up or exhausted because they just have not been able to afford buying a home under prevailing interest conditions.

Third, the bill includes in both the guaranteed and direct loan programs for the first time loans to finance the purchase of mobile homes and land and improvements to land for such homes as long as the homes are to be used for permanent dwellings. These new provisions are modeled after amendments to the FHA program by the Housing and Urban Development Act of 1969, which, as a member of the Banking and Currency Committee and its Housing and Urban Affairs Subcommittee, I strongly supported. Under this new program the VA could guarantee up to $10,000 at the rate of 50 percent of the total loan value for a mobile home intended for use as a residence at a fixed location. Such guarantees could be increased by up to $3,000 for land to be used as the mobile homesite and by an additional reasonable amount to cover expenses necessary for appropriate preparation of such site, again up to 50 percent of the loan value for these purposes. Loans made under this provision would mature in no more than 15 years.

Unlike H.R. 16710, the companion bill introduced in the House, no downpayment would be able to be required as a condition for receiving a VA direct or guaranteed loan under this program.

Loans for low cost mobile housing are urgently needed in these days of tight money with decent homes priced out of the reach of lower- and middle-income families. Over this past weekend, the need for and desirability of such a program for veterans was recognized by release of the report of the President's Committee on the Vietnam Veteran. That report states in part:

RECOMMENDATION No. C–2

VA loan guaranty underwriting of mobile home financing in order to promote an adequate supply of low cost housing for low and moderate income veterans.

Cost of single family home and mortgage financing have increased in recent years to the point that low and moderate income veterans are priced out of the housing market for all practical purposes. Some way must be found to enable these veterans to purchase suitable housing on terms that are within their payment ability.

The mobile home represents an enormous potential in meeting the housing needs of many veterans with low to moderate incomes. The increasingly higher construction cost of conventional homes is a principal factor in the sudden popularity of mobile homes. Manufacturers are able to produce these homes at relatively low price.

Existing provisions of the VA home loan guaranty law were designed to promote real estate mortgage loans to purchase conventional type housing and do not contemplate the purchase of mobile home structures on a chattel mortgage loan basis which is the customary type of loan made to individuals purchasing mobile homes. The 30 year, 100% real estate first mortgage GI loan vehicle is not a suitable mobile home financing vehicle.

To induce lenders to make loans available to veterans on liberal terms for the purchase of mobile homes, a special type of loan guaranty or insurance underwriting vehicle should be designed which will be attractive to lenders in terms of investment return and loss exposure. At the same time, it is essential that the Government's exposure be limited to the minimum required in order to insure an adequate supply of mobile home financing for veterans in the low and moderate income brackets.

Fourth, the bill would eliminate the fee, presently set at the statutory maximum of one-half of 1 percent of the total loan amount, which post-Korean conflict veterans receiving guaranteed and direct loans are required to pay to the VA. Such moneys are accumulated in a revolving fund used to cover defaults and pay guaranty claims. According to the 1969 Annual Report of the Administrator of Veterans' Affairs, 91st Congress, second session—House Document No. 91–233:

For the third consecutive year, the number of defaults reported and guaranty claims paid declined substantially. Of the 3.5 million loans outstanding only 33,342 were in default, compared to 36,970 at the end of the previous year, and 43,561 at the end of fiscal year 1967. . . . The decrease in guaranty claims also resulted in a further decline in the number of properties acquired as the result of defaulted loans. At the end of the year VA owned fewer than 12,000 properties.

The revolving fund currently contains $458,049,000 available for these purposes. Although $163,232,000 has been paid out of the fund during fiscal 1970 through February 28, recoveries and property sales during the first half of this fiscal year have produced a net profit of $9,334,524. For example, in fiscal year 1969 a total of $282,955,000 and in fiscal

year 1968 $328,089,000 were paid out of the revolving fund, but total fiscal year receipts yielded a profit of $1,266,503 for fiscal 1969, down from a loss of $3,482,098 in fiscal 1968. At the end of fiscal year 1967, the accumulated loss for the prior 22 years of the program was $105,083,596, averaging a loss of about $5 million per year.

With respect to a similar revolving fund under the FHA program, I have received substantial expert advice from the California homebuilding community that fees being paid into that fund were no longer necessary to sustain it. In light of the above financial data, the same certainly apears to be true with respect to the VA loan guarantee revolving fund.

Fifth, the bill would entitle a veteran receiving a guaranteed or direct loan to VA payment of the first point of interest accruing on the loan principal for the first 5 years of the loan. The spreadout period proposed in the bill, rather than a one-half or full interest subsidy for 1 year, would defer maximum budgetary impact during the present period of repressed Federal spending. The companion House bill extends the subsidy for 3 years.

Finally, the sixth new loan provision in the bill would entitle a veteran recipient of a VA guaranteed or direct loan to payment by the Veterans' Administration of closing costs on the loan up to an amount equaling 1 percent of the loan amount. Under the original World War II program, a gratuity of 4 percent of the loan guarantee, limited to $4,000, was paid the veteran borrower—making the maximum gratuity $160. Assuming that generally VA guaranteed loans do not exceed $25,000, a closing cost payment of up to $250 under this bill would be comparable to the World War II program gratuity, given inflation over the last 25 years—during which the Consumer Price Index has increased 115 percent.

Mr. President, I believe that this bill provides urgently needed relief for our returning Vietnam veterans, as well as World War II and Korean conflict veterans, who have been most sorely pressed by escalating housing costs aggravated by a tight money market. I want to thank the distinguished chairman of the House Veterans' Affairs Committee for his cooperation with me in developing this important bill.

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

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

The bill (S. 3656) to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans for mobile homes if used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guaranteed and direct loans made under such chapter, to remove the time limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or expiration, to eliminate the guaranteed and direct loan fee collected under such chapter, and for other purposes; introduced by Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, by unanimous consent, then referred to the Committee on Banking and Currency, when reported, and ordered to be printed in the RECORD, as follows:

S. 3656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Housing Loan Amendments Act of 1970".

SEC. 2. The last sentence of section 1802 (b) of title 38, United States Code, is amended to read as follows: "Entitlement restored under this subsection may be used by World War II veterans or Korean conflict veterans at any time."

SEC. 3. (a) Subsection (a) of section 1803 of title 38, United States Code, is amended to read as follows:

"(a)(1) Any loan to a World War II or Korean conflict veteran for any of the purposes, and not in conflict with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 percent of the loan if the loan is made for any of the purposes specified in section 1810 of this title, and not more than 50 percent of the loan if the loan is for any of the purposes specified in section 1810a, 1812, 1813, or 1814 of this title.

"(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Veterans' Housing Loan Amendments Act of 1970 is hereby restored."

(b) Subsection (b) of such section 1803 is amended by inserting immediately after "1810" the following: ", 1810a,".

SEC. 4. Subchapter II of chapter 37 of title 38, United States Code, is amended—

(1) by inserting immediately after section 1810 thereof the following new section:

"§ 1810a. Purchase of mobile homes

"(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for the purchase of a mobile home which will be owned and occupied by him as his residence and will be so used at a fixed location. A loan made under this section may also include the purchase of land suitable for use as a site on which the mobile home will be located and the expenses necessary for the appropriate preparation of such site, including but not limited to the installation of utility connections and sanitary facilities, and the construction of a suitable pad.

"(b) No loan may be guaranteed under this section unless—

"(1) the proceeds of such loan will be used to pay for the property purchased and the site preparations made;

"(2) the mobile home has not been previously sold at retail in commerce, and the mobile home or the site, or both, as the case may be, meet or exceed such minimum requirements for general acceptability and, in the case of the mobile home, such minimum requirements for construction, as shall be prescribed by the Administrator;

"(3) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price bear a proper relationship to the veteran's present and anticipated income and expenses;

"(4) the veteran is a satisfactory credit risk; and

"(5) the loan to be paid by the veteran for such property or the cost of site preparation does not exceed the reasonable value therefor as determined by the Administrator.

"(c)(1) The amount of guaranty entitlement available to a veteran under this section shall not be more than—

"(A) $10,000 in the case of a loan covering only the purchase of a mobile home, or

"(B) $13,000 in the case of a loan covering the purchase of a mobile home and a suitable site for the home, plus such an amount as is determined by the Administrator to be appropriated to cover the cost of necessary site preparation,

less such entitlement as may have been previously used under this section or other sections of this chapter.

"(2) The maturity of any loan made under this section shall not be more than 15 years."; and

(2) by inserting immediately after section 1818 the following new section:

"§ 1819. Special closing cost and interest payments by the Administrator

"(a) In the case of any loan guaranteed or made under this chapter after the effective date of this section, the Administrator—

"(1) shall, if the loan is guaranteed, pay on behalf of the veteran recipient of the loan to the lender (A) the closing costs for the loan, or (B) an amount to be applied toward such costs equal to 1 percent of the amount of the loan, whichever is smaller; and

"(2) may not, if the loan is made under section 1811 of this title, charge the veteran for (A) the closing costs for the loan, or (B) an amount equal to 1 percent of the face amount of the loan, whichever is smaller.

"(b) In the case of any loan guaranteed or made under this chapter after the effective date of this section, the Administrator shall—

"(1) if the loan is guaranteed, pay on behalf of the veteran recipient of the loan to the lender 1 percent of the interest which will accrue on the principal of the loan during the period of 60 consecutive months beginning with the month after the month in which the loan is closed; and

"(2) if the loan is made under section 1811 of this title, take such action as may be necessary to reduce the payment of interest by the veteran with respect to such loan during the period of 60 consecutive months beginning with the month after the month in which the loan is closed by an amount equal to 1 percent of the interest which would accrue on the principal of the loan during such period.

"(c) The Administrator shall by regulation establish such procedures as may be necessary and appropriate to carry out this section."

SEC. 5. Section 1811 of title 38, United States Code, is amended—

(1) by inserting immediately after "1810" in subsections (a) and (b) the following: "and 1810a";

(2) by inserting immediately after "1810(a)" in subsection (b) the following: ", or for the purpose listed in 1810a,";

(3) by inserting immediately after "1810" in subsections (c) and (g) the following: "or 1810a";

(4) by striking out "The" in subsection (d)(2) and inserting in lieu thereof "(A) Except for any loan made under this chapter for the purpose described in section 1810a of this title, the";

(5) by inserting immediately after subsection (d)(2) (as amended by clause (4) above) the following new paragraph:

"(B) The original principal amount of any loan made under this section for the purpose described in section 1810a of this title shall not exceed the amount specified in subsection (c)(1)(A) or (B) of such section, as appropriate."; and

(6) by striking out subsection (h) and relettering subsections "(i)" and "(j)" as "(h)" and "(i)", respectively.

SEC. 6. Section 1818 of title 38, United States Code, is amended by striking out sub-

sections (d) and (e) thereof, and by amending subsections (c) and (d) to read as follows:

"(c) Direct loans authorized by this section shall not be made after January 31, 1975, except pursuant to commitments issued by the Administrator on or before that date.

"(d) Any entitlement to the benefits of this section which had not expired as of the date of enactment of the Veterans' Housing Loan Amendments Act of 1970 and any entitlement to such benefits accruing after such date shall not expire until used."

S. 3657—INTRODUCTION OF THE VETERANS' EDUCATIONAL ASSISTANCE ALLOWANCE ADVANCE AND WORK-STUDY PROGRAM ACT OF 1970

Mr. CRANSTON. Mr. President, last Monday, March 23, the Senate approved the conference report on H.R. 11959, the Veterans' Education and Training Amendments Act of 1970. And on March 26, the President signed the bill into law—Public Law 91–219.

The scope of the new special programs for educationally disadvantaged and academically deprived veterans in that bill—outlined in my floor statement last week—are beginning to be clearly understood. And I ask unanimous consent, Mr. President, that at the conclusion of my remarks and all other insertions the following articles on the bill be printed in the RECORD: an excellent account by Gene Koretz in the March 21 issue of Business Week; syndicated columns of March 10 and 13 by William Stief of Scripps-Howard; and an article from the March 27 New York Times by David Rosenbaum.

I am today introducing for appropriate reference and with bipartisan support, a bill designed to make another important and long overdue, though less comprehensive, improvement in that program. This bill, which I described in a March 4 speech to the American Legion and which I have been working out for many months, would amend chapter 34 of title 38, United States Code, to authorize advance payments of educational assistance allowances to eligible veterans upon their application at the beginning of any school year to assist them in meeting education and living expenses during the first 2 months of school. It would also authorize a work-study program under which veterans who had received such advances could perform certain services for the VA to encourage and assist other veterans in taking better advantage of their GI bill entitlements.

These two features of the bill will be of special assistance in encouraging low-income veterans and educationally disadvantaged veterans to take advantage of some of the new special veterans programs in title II of the new Public Law 91–219. But they will also benefit most every collegiate veteran, especially those with families to support, by providing initial capital to cover prepayment of fees and tuition, costs of books and supplies, and living expenses for the veteran and any dependents.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately at the conclusion of my remarks and before other insertions.

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

Mr. CRANSTON. Mr. President, briefly, the present system of assisting veterans who are attending school operates as follows:

In order to establish eligibility for GI bill benefits under title 38, United States Code, a veteran must first submit an application together with proof of separation from the armed services—form DD–214—and, when dependencies are claimed, other supporting documents, to the Veterans' Administration. If these papers are in order, the VA mails the veteran a certificate of eligibility.

The veteran presents the certificate of eligibility to his college or university registrar, who verifies the veteran's actual enrollment and provides details regarding it, so certifies on the certificate of eligibility, and mails it to the VA. Upon receipt of that certification, the VA is then authorized to issue an educational assistance allowance payment to the eligible veteran, and an account for him is then established at the VA's computerized payment center in Hines, Ill. From this point, the check should reach him within 10 to 15 days.

There are two points at which the system may in many cases break down, causing financial and emotional hardship for the veteran. One is during the processing of enrollment certificates at colleges and universities, which occurs during the first month of school when the school administration has an unusually heavy registration workload anyway.

The second difficulty may occur when the Veterans' Administration receives these hundreds of thousands of enrollment certificates in the space of a few weeks. Armed only with an authorization for an increase in overtime, rather than any augmentation of staff, the VA must process these certificates and authorize the release of the first month's educational assistance allowance payment. Prior to this past fall, it was not at all uncommon for the first check to reach the collegiate veteran in mid- or late November, or even December.

In testimony last summer before the Veterans' Affairs Subcommittee, which I am privileged to chair, the VA announced the initiation of an accelerated payment procedure increasing from five to nine per month the number of check processing cycles at the Hines Data Processing Center. It was hoped that this procedure would approximately halve the timelag in getting checks out to veterans.

Unfortunately, the new system, helpful as it has been in expediting the issuance of checks by the computer, cannot rectify delays which arise before an authorization for payment can be relayed to the Hines Center. And under that system the earliest that the first check reaches the veteran is mid- or late October; and it may well not arrive until November. Even then, the first check generally covers only a partial month's payment, since the first college month is usually abbreviated. For veterans beginning a new school year, this is too little, too late.

On September 25, 1969, I asked a number of veterans service organizations to provide me with information on the timeliness of initial payments to veterans then registering for college courses. I also requested advice on possible measures that could be taken to expedite and simplify the process of making the initial payment. Both the VFW and the American Legion were kind enough to provide very helpful replies, and Mr. Ralph J. Rossignuolo, national director of programs for AMVETS, undertook an extensive survey of 34 national service officers and accredited representatives which has been extremely useful in my study of this entire situation. The AMVETS survey will be made a part of the hearing record on this bill. Mr. President, I ask unanimous consent that my letter to the three veterans organizations and their responses be printed in the RECORD at the conclusion of my remarks and after the text of the bill itself is set forth.

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

Mr. CRANSTON. Mr. President, the most common reasons for delay cited in the AMVETS survey involved tie-ups at either the college or in the VA regional office which processes the claims. In my experience, these delays range anywhere from 1 to 6 months or more beyond a normal 1-month processing time.

For example, in October of 1969 I received a letter from Charles F. Herndon, director of financial aids at the College of Marin in Kentfield, Calif., which indicated just how serious the delays have been for some veterans. Mr. Herndon's letter said in part:

> Each year the processing of enrollment certifications takes longer and longer so that the typical date for receiving the first benefit check for the academic year is late in November or early December.
>
> As I am sure you are aware, the period when a student most needs money for education is at the beginning of a term in order that he may firmly establish his school residence, purchase his books, supplies, etc.
>
> Many colleges are striving to acquire funds to assist in the education of the many disadvantaged young people in our society. The college cannot set aside large sums of money for temporary loans to veterans who will receive aid when it means it will not then be available for needy students.
>
> May we please request that you investigate the possibilities of improved service to the veterans receiving educational benefits from the G.I. Bill.

Mr. President, an example of an excessively long delay and an interesting suggestion resembling the approach contained in the bill I introduce today, were described in a letter I received in September 1969 from a veteran's wife in Oxnard, Calif.:

> During the Nixon administration, there has been discussion about the veterans not taking advantage of their benefits. *Time* Magazine went so far as to infer that the Vietnam veteran is apathetic about continuing his education.
>
> The red tape and time involved in obtaining veterans benefits is overwhelming. My husband applied for GI bill educational

benefits the first of April, 1969, shortly after commencing studies at University of California at Santa Barbara. This past week [September 1969] he received authorization from Veterans Administration to University of California at Santa Barbara to begin payments. It will now be another four to six weeks until payments begin—a total of five to six weeks of waiting. During this time he attended spring quarter and summer session. It was necessary for us to borrow $350.00 to meet educational expenses because of delays involved in receiving benefits. My husband had planned to attend a private institution but we could not meet that institution's tuition payments without having first received GI benefits.

If all states offered a lump sum payment to GI's returning to school, this would help bridge the gap until Veterans Administration benefits begin.

Most veterans cannot return to school without having first received benefits of the GI bill but they cannot get these benefits until after they return to school. In order for more veterans to take advantage of these benefits, modifications must be made to provide for more rapid service from the Veterans Administration.

These incidents are not restricted to California, where more Vietnam veterans reside—340,000, about 11 percent of those discharged—and go to school—about 15.3 percent over the life of the post Korean GI bill program. Many other Senators have told me of receiving similar complaints.

The bill I am introducing today is cosponsored by five members of the Veterans' Affairs Subcommittee—Mr. YARBOROUGH, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. MONDALE, and Mr. HUGHES—as well as by Senator WILLIAMS of New Jersey, Senator KENNEDY, Senator NELSON, and Senator EAGLETON. I am delighted to be joined in sponsoring this bill by the distinguished chairman of the full Labor and Public Welfare Committee, who is also the ranking majority member of the subcommittee, Senator YARBOROUGH, and by Senator SCHWEIKER, the ranking minority member of the subcommittee.

The bill would seek to overcome the delays I have just described in two ways. First, an advance payment of not more than $250 would be authorized for an eligible veteran applying for it in order to assist in meeting postsecondary education and living expenses during the first 2 months of a school year. The advance payment could be made up to 30 days before the intended date of registration, but would not be available to a veteran who intends to pursue a program of education on less than a half-time basis or a program exclusively by correspondence.

Second, in addition to, and as a part of, the advance payment program, this bill would establish a new special work-study program for veterans. Under it, any veteran who has received an advance payment would have the option of offering his services to the VA to assist in preparing and processing necessary applications and other documents either at educational institutions or in VA regional or other offices or in performing the outreach functions which, by virtue of Public Law 91–219, are now the responsibility of the VA—subchapter IV of chapter 3 of title 38, United States Code. In return for such work, as a WOC—without compensation—intermittent VA employee, the veteran would have his advance obligation partially or totally canceled at the rate of $2 for each hour of services performed.

The advance payment would be made to a veteran upon receipt of evidence of eligibility as defined in 38 U.S.C. 1652 (a) (1) (a discharge paper—form DD 214—showing that he served for at least 180 days of active duty and was discharged under conditions other than dishonorable or that he was discharged for a service-connected disability) and certification by the veteran of the basic prerequisites to eligibility under the GI bill. He would certify that he intends to enroll, and has been accepted for enrollment or has enrolled, in a specified educational institution to pursue a specified approved course of education during that school year; that he still has at least 6 months' entitlement to educational assistance allowance; and the number of semester hours or equivalent he intends to pursue. Unless the local office files contain conclusive evidence contradicting the facts so certified, the VA would not be authorized to examine into the veteran's actual GI bill eligibility.

Thus, an eligible veteran would be given the advance on the basis of his good faith in truthfully certifying the facts and intentions I have just outlined. There would be no time-consuming processing by the educational institutions, which, according to the AMVETS survey, are responsible for much of the delay in processing regular GI bill payments.

I recognize that this good faith certification procedure may be subject to some abuse, and that some payments may thus be made to ineligible recipients. But I am satisfied that any abuses would be small. If I am mistaken in that, the VA has a 95-percent record of collecting regular GI bill overpayments, and the program could always be modified later legislatively.

In order to further simplify the processing and issuance of the advance payments authorized by this bill, the amount of $250 would automatically be paid to any veteran certifying his intention to pursue a program of education on a full-time basis, assuming his papers were in order. The majority of veterans who are enrolled in full-time courses and who apply for the advance payment can be expected to need the full $250 to help meet initial school and living expenses, especially the 40 percent with at least one dependent.

Any amount advanced to a veteran under the bill would be repaid, insofar as practicable, by equal deductions from his regular monthly educational assistance allowance over the school year—generally 9 months—unless the veteran should qualify for cancellation of all or part of his obligation under the new work-study program in the bill. Should a veteran fail to qualify for a regular GI bill monthly allowance within 30 days, the advance payment would become due and would bear interest at an annual rate of 6 percent.

I have considered at least two modifications to the good faith certification procedures in the bill but rejected them as too dependent on action by educational institutions to serve the purpose of the advance system: getting the money to the veteran when he needs it. The alternatives I explored were: First, requiring that the school certify to the VA that the veteran has actually registered before the VA makes any advance; or second, requiring that the veteran present proof of acceptance by an approved educational institution—the latter would have required schools to issue a special document for other than newly-admitted students. Although I have initially determined against these formats, I remain open to new arguments and proposals for tightening and improving the mechanics of the advance payment program.

This program of advance payments at the beginning of a school year would provide a vital source of funds, at a time when none are now available under the GI bill and when the collegiate veteran's needs are probably the greatest, to meet the many expenses involved in beginning a school year, as well as such living expenses and initial charges as deposits for rent, heat or telephone. The VFW, in replying to my inquiry, suggested that, because it is so important for the veteran to have "a certain amount of capital to buy books, pay fees and tuition, and meet other expenses before he can actually become enrolled in school," consideration should be given to paying for the entire first semester, or as much as would be feasible, at the time of enrollment. I believe the advance payment system in the bill offers a feasible and truly beneficial response to this demonstrated need.

Enactment of this bill should thus help prevent a veteran from being placed in a precarious financial situation vis-a-vis his schooling or his personal life as a result of a delay, justified or not, in receipt of the first regular educational assistance allowance check.

Equally important, however, is the contribution I believe the work-study part of the bill would make to improving and expediting the regular processing and certifying of enrollment of veterans in order that educational assistance allowances may be received in timely fashion.

This is particularly critical for veterans with families and for the 27 percent of veterans who enroll in nonpublic schools. The recently enacted rate increase in Public Law 91–219 would provide $1,575 over a full 9-month period. Although this is sufficient to cover average tuition, room and board charges at a public institution, it is far less adequate in meeting the average costs at nonpublic institutions.

The proposed work-study program in the bill would enable full-time GI bill postsecondary trainees with a demonstrated financial need in geographic areas where such services are determined to be appropriate and desirable to increase their total school-year income by $250, while at the same time contributing to the improvement of the entire GI bill program through increased efficiency and speed in certificate and claims processing and through outreach work per-

formed by these student veterans. Students would be limited to an average over a semester of 15 hours per week of providing part-time services, and their educational institution would have to certify their ability to maintain good standing while performing such services.

The VA would be expected to establish equitable guidelines for determining financial need and need for the services and for selecting and using the services of veterans applying to "work off" their advances. Appropriate guidance for determining financial need should be available in the Office of Education's regulations for its work-study program under the Higher Education Act of 1965, as amended.

Veterans performing such services would be deemed intermittent employees of the Veterans' Administration, serving without compensation—WOC—for all purposes—such as under the Federal Employees' Compensation Act and the Federal Tort Claims Act—except that they would not be considered VA employees for purposes of Federal employment laws administered by the Civil Service Commission—such as those governing application and selection for Federal employment, retirement and other length-of-service Federal employment benefits, and Federal employment fringe benefits such as group health and life insurance programs. Also, funds retained under the advance cancellation provision would be exempt from taxation as a "payment of a benefit under any law administered by the Veterans' Administration," as provided in 38 U.S.C. 3101(a).

A prototype for this kind of program exists at the University of Illinois, where two falls ago the Illinois Federation of Veterans in College organized 20 or so veteran students to accomplish the college's GI bill certification on the same day the veteran registered. This past fall some funds for part-time stipends for this work were squeezed from the university, but future prospects for funding this kind of program are not encouraging. The results, however, are encouraging: all veterans who registered promptly received their first checks in October.

In an effort to deal with these GI bill allowance delays, the VA allows collegiate veterans to obtain early certification for the coming school year at the end of the previous year or during the summer when the veteran completes preregistration and so notifies the VA by filling out the appropriate forms. This procedure, which is permissible at only a small number of colleges, is designed to minimize the delay in issuing the first check at the beginning of the year for which the veteran has preregistered. An effort should be made to encourage those veterans who preregister to utilize this new procedure to the maximum extent.

Finally, I want to focus on one other very important aspect of the work-study program. Veterans who have received advance payments could also work them off by performing outreach services under the just-enacted subchapter IV of chapter 3 of title 38. I tend to agree with the VA that using GS–12's or GS–13's to "pound the pavement" in search of educationally disadvantaged veterans is highly questionable on a cost-effectiveness basis. But this provision would make it possible and very economical, at $2 per hour, for the VA to improve substantially its existing program of contact and outreach.

The present outreach program has not done the necessary job to reach the large numbers of high school dropouts and other educationally disadvantaged veterans who are separated from service each year. Whereas 23 percent of those separated during fiscal year 1969 were high school dropouts, only about 8 percent of that target population have been taking advantage of their education and training entitlements. I believe that, in many cases, this serious lack of participation by those who desperately need to take advantage of their benefits can be remedied through more effective dissemination of information and more personalized and intensive counseling of potential trainees about the great advantages of the benefits available to them.

As was stressed in section 241(c) of the outreach services program originally passed by the Senate on October 23, the most effective outreach worker is one with whom the potential trainee can identify most immediately and fully. Veterans who are themselves pursuing an education should fit this prescription perfectly.

A beginning is being made in instituting this concept in the east Los Angeles community, where I have been working closely with Congressman EDWARD ROYBAL in assisting the Los Angeles County Board of Supervisors to develop with the VA and the Department of Labor an intergovernmental crash program to establish a veterans service center in east Los Angeles. In response to my request, the VA will provide for this center at least two contact officers and one clerical worker, and the Department of Labor will make arrangements to add at least one employment counselor. Los Angeles County will also assign one clerical worker and a claims counselor to the center. Negotiations are just about concluded with the Office of Education and various colleges in the east Los Angeles area to obtain funding for 20 part-time community outreach workers—Mexican-American college students currently using the GI bill—who will operate out of the east Los Angeles center, which is expected to be open in April.

Another promising new outreach program for veterans has been set up at the Harrisburg Area Community College and Pennsylvania State University's Capitol Campus. A group of student veterans have organized a fraternity—Chi Gamma Iota—one of whose major activities has been to encourage other veterans to continue their education and to counsel them in such problem areas as filling out applications, choosing courses and a college major, availability of financial assistance, and general orientation to the academic environment. The group has asked other campus organizations to refer any veterans in their organizations, in their family or neighborhood, or among their friends to the veterans' fraternity.

Robert D. Ford, the program's director, whose January 28, 1970, letter to me is among the exhibits to be printed in the RECORD at the conclusion of my remarks, has described the group's primary job in terms which apply equally well to the outreach concept embodied in title II of Public Law 91–219:

> Many aspects of college life which seem elementary to other students are simply unknown to persons who did not have college interests in high school and who now lack the channels of communication to seek their answers.

A preliminary VA estimate of the administrative costs of the bill has not been forthcoming as of today, but such costs should not be appreciable. Nor is a firm estimate yet available of the cost of the advance payment cancellations under the work-study program, but it could be considerable depending on the need for the additional services and the degree of financial need required in order to qualify for the program.

It is expected that during fiscal year 1971 there will be about 500,000 full-time postsecondary level trainees under the GI bill. Although VA statistics show that approximately 70 percent of full-time GI bill postsecondary trainees hold full- or part-time employment during school, it is estimated that perhaps as many as 25 percent—many with more than one dependent, which status generally hinders a veteran's wife from having substantial earnings—will apply for work-study cancellation and be able to demonstrate a clear need for the extra $250. It also seems reasonable to estimate that for at least 20 percent of these needy applicants there will be no appropriate or desirable work, Thus, if 20 percent of the 500,000 full-time fiscal year 1971 postsecondary trainees should apply, be considered to be in need of GI bill augmentation, and be in areas where their services are appropriate and desirable, the cost of the work-study program would be approximately $25,000,000 during fiscal year 1971.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks, and following the text of the bill and my exchange of correspondence with the veterans service organizations, a number of letters which will serve as a representative sample of the letters I have received during the past year from veterans confronted with delayed educational payments. This nationwide problem has seriously hampered or even thwarted the efforts of many veterans to obtain education and training which, as we all know, is today so vital in our increasingly complex technological society.

Furthermore, we can no longer tolerate the exclusion of large numbers of disadvantaged young men and women from participation in a program of education uniquely qualified to assist them in making the difficult transition from military to civilian life and in maximizing their future opportunities.

I believe this bill, as a complement to the new programs in Public Law 91–219, represents an important step toward the correction of these inequities. And I am delighted to note in closing that the administration will apparently support the advance payment portion of this bill, for

recommendation No. A–1 in the report of the President's Committee on the Vietnam Veterans, belatedly issued on March 28, which I discussed earlier on the floor today, states:

Encourage veterans to enter and follow through with a training program by providing an advance education assistance payment to help the veteran meet the initial costs of entering training.

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

The bill (S. 3657) to amend chapter 34 of title 38, United States Code, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist such veterans in meeting educational and living expenses during the first 2 months of school, and to establish a veterans' work-study program through cancellation of such advance payment repayment obligations under certain circumstances; introduced by Mr. CRANSTON, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Educational Assistance Allowance Advance and Work-Study Program Act of 1970".

SEC. 2. Chapter 34 of title 38, United States Code, is amended by adding at the end of subchapter IV a new section as follows:

"§ 1688. Advances to eligible veterans; work-study program

"(a) Notwithstanding the provisions of section 1681 of this title, and under such regulations as the Administrator shall prescribe, an eligible veteran shall, upon application therefor and subject to the provisions of this section, be paid an educational assistance allowance advance payment of not to exceed $250 immediately prior to or at the beginning of any school year to assist such veteran in meeting his education and living expenses during the first two months of such school year. An advance payment of $250 shall be paid to any eligible veteran who intends to pursue a course of education on a full-time basis as provided in section 1684 of this title, and the Administrator shall prescribe by regulation the amount to be paid to veterans intending to pursue courses of education on less than a full-time basis, but in no event shall an advance be paid to a veteran who intends to pursue a course of education on less than half-time basis or a program exclusively by correspondence. Any veteran making application for an advance under the provisions of this section shall receive a complete explanation of the repayment requirements of this section.

"(b) Any amount advanced to a veteran under this section shall be considered a loan and shall be repayable by the veteran over the period of his enrollment by deductions, in approximately equal amounts, being made from his monthly educational assistance allowance by the Administrator, or if the veteran fails to qualify for such allowance, the advance shall be repayable in such manner as shall be prescribed by the Administrator. Advances made under this section shall bear no interest if the veteran enrolls in an approved course of education and qualifies for an educational assistance allowance under this chapter, except that in any case in which the Administrator determines that a veteran has failed to enroll in and pursue an approved course of education within 30 days after an advance payment is made to him under this section, the amount so advanced shall (1) become due and payable on the first day of the next month following the month in which the Administrator makes such determination, and (2) from that date bear interest at the rate of 6 per centum per annum on the unpaid balance.

"(c) An advance payment shall be made under this section to any eligible veteran no more than 30 days prior to his expected date of enrollment if such veteran—

"(1) submits evidence to the Administrator showing such veteran to be an eligible veteran as defined in section 1652(a)(1) of this chapter.

"(2) certifies to the Administrator in writing (A) that he is enrolled in, or has applied for, been accepted by, and intends to enroll in a specified educational institution and is pursuing or plans to pursue a specified approved course of education during such school year at such educational institution, and (B) the expected date of enrollment if he has not yet enrolled in an educational institution,

"(3) certifies to the Administrator in writing whether the educational institution defines such course as a full-time course and the number of semester hours (or equivalent) or clock hours he intends to pursue, and

"(4) certifies to the Administrator in writing that he has at least 6 months' entitlement to educational assistance remaining under this chapter.

"(d) In determining whether any veteran is eligible for an advance payment under this section, the information submitted by such veteran pursuant to subsection (c) shall be conclusive evidence of his eligibility unless there is evidence in the file of the veteran in the processing office establishing that such veteran is ineligible for such advance payment.

"(e) In order to process applications for advance payments and regular educational assistance allowance payments under this subchapter as expeditiously as possible and otherwise to carry out the purposes of this chapter, the Administrator shall utilize, to the maximum extent practicable and where he determines such services to be appropriate and desirable, the services of any veteran who has received an advance under this section and who (1) is pursuing full-time training as determined under section 1684 of this title; (2) agrees to perform services, averaging not in excess of fifteen hours per week over a semester or other applicable term, in connection with the preparation and processing of necessary applications and other documents at educational institutions or regional offices of the Veterans' Administration, or services in connection with the outreach services program under subchapter IV of chapter 3 of this title, in return for a partial or total cancellation of his loan; (3) is in need of augmentation of his educational assistance allowance entitlement in order to pursue a program of education under this chapter, as determined in accordance with regulations which the Administration shall prescribe; and (4) is capable, as certified by the educational institution concerned, of maintaining good standing in such program while performing services under this subsection. The obligation of any veteran shall be cancelled at the rate of $2 for each hour of such services performed by the veteran.

"(f) As used in this section the term 'at the beginning of any school year' means the beginning of any quarter, semester, or other term on which an educational institution operates. While in the performance of such services, veterans shall be deemed to be intermittent employees of the United States serving without compensation; except that for purposes of laws administered by the Civil Service Commission such veterans shall not be deemed to be such employees."

SEC. 3. The table of sections at the beginning of chapter 34 is amended by adding after

"1687. Discontinuance of allowances."

the following:

"1688. Advances to eligible veterans; work-study program."

The material submitted by Mr. CRANSTON is as follows:

SEPTEMBER 16, 1969.

DEAR (VETERANS SERVICE ORGANIZATION): In testimony on June 24 before the Veterans Affairs Subcommittee, Mr. Arthur Farmer, then Chief Benefits Director of the Veterans' Administration, stated as follows regarding new procedures to expedite payment of educational assistance allowances to veterans enrolled in college:

"This summer we did make arrangements which we are convinced will make a substantial improvement. We now have an agreement with our folks at the computer at Hines, Illinois, that we will run a cycle on fixed dates, nine of them a month, whereas before they were running only five cycles a month.

"This, we are confident, will improve, so that he will actually get a half-month's check sometime in October. . . ."

This subject has been the subject of recent correspondence between me and the Administrator of Veterans Affairs, and a copy of the Administrator's September 9 letter to me is enclosed for your information. I would very much appreciate your advice regarding two questions:

(1) Beginning this October, are veterans enrolled in college receiving educational assistance allowance payments for their September participation under the G.I. Bill?

(2) What can be done to expedite and simplify the process of making the initial such payment?

I recognize that you will not be able to respond to the first question until sometime in November, but I am writing now with the hope that you will be able to devise an appropriate system of obtaining the necessary feedback on that question. Thank you for your continuing support and your cooperation in this matter.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, D.C., September 25, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: This is in response to your letter of September 16 respecting educational assistance allowance payments under the GI Bill, which has been read and noted with much interest.

Please find enclosed a copy of comments by the V.F.W. National Rehabilitation Service which was requested to respond to these two questions.

The V.F.W. is strongly in favor of paying the first check to a veteran under the GI Bill upon certification of his entitlement without waiting for a report. As soon as the VA gets this certification, a check should go forward for the first month.

The V.F.W. also supports the proposition that a veteran should be paid in a lump sum at the time of his enrollment for the first semester or as much of the first semester as would be feasible. As indicated in the attached memorandum, a lump sum payment

would be extremely helpful to the veteran who needs a certain amount of capital to buy books, pay fees and tuition, and meet other expenses before he can actually become enrolled in school.

We will respond further to your first question concerning GI allowance payments for September participation as soon as we have obtained such information.

Hoping this has satisfactorily responded to your question and with kind personal regards, I am

Sincerely yours,

FRANCIS W. STOVER,
Director, National Legislative Service.

INTER-OFFICE MEMORANDUM

This is in reference to Senator Cranston's letter of September 16, 1969. Concerning Question (1) there are a lot of factors involved, namely, if the veteran delivers the COE to the school promptly, the enrollment certification is sent by the school promptly to the proper Regional Office then the veteran would receive his check within the first week of October. However, in most of the universities the enrollment certifications are not forwarded to the VA in proper time to meet the October cycling at Hines. Last year, in this office alone, on every case we have checked on regarding a complaint of non-receipt of educational assistance check, it was learned that the school although claiming to the veteran that they had promptly submitted the certification to the Regional Office did not submit the certification until after the first of October. The veterans who were attending school last year and intended to return to the same school this year were given a card in June to be returned to the VA Regional Office and the schools were issued by the VA a supply of enrollment certificates. Therefore, when the veteran enters the same school this year the school should immediately forward the enrollment certificate to the Regional Office and the veteran's check for September should be received the first week in October. On this procedure we will have to wait and see if it will work out properly.

On Question (2) I firmly believe that if Congress would enact legislation to permit the VA to pay a lump sum payment to the veteran at the time of enrollment, this would eliminate the problem involved as the majority of veterans have to meet an initial payment at the school for tuition, books, fees, etc., and I would safely say that 90% of them do not have the initial payment to meet his needs and even the partial payment that he would receive in October would still not be enough in order that he can adjust financially. In the cases I know of personally, the veterans are in debt until the first week in December and they are only able to get by with assistance from their working wives or parents. (We recommended this proposal to the President's Committee on the Vietnam Veteran August 1, 1969, Page 6.)

THE AMERICAN LEGION,
Washington, D.C. September 23, 1969.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Veterans' Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: In reply to question (1) of your letter of September 16, the Veterans Administration advised on September 5 that they were abandoning the present fixed date of the 10th of each month for recurring institution-of-higher-learning payments. Instead, all payments, retroactive and recurring, from any payment cycle will be released by Treasury as quickly as possible. The October check will include the amount due for September attendance.

With respect to question (2), the law requires that payment of educational assistance may not be made until a certificate of attendance is received from the veteran and from the educational institution, a certification, or endorsement on the veteran's certification, that he was enrolled in and pursuing a course of education.

Notwithstanding this legal stricture, I have asked my staff to review the problem. I will be in touch with you after they have given me their discussion and recommendation.

Sincerely,

E. H. GOLEMBIESKI,
Director, Rehabilitation Commission.

THE AMERICAN LEGION,
Washington, D.C., October 16, 1969.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: This has further reference to my letter of September 23, 1969, stating I would have my staff study Question (2) of your letter dated September 16, 1969 to ascertain what steps have or could be taken to expedite and simplify initial payments of educational assistance from the Veterans Administration.

Our study of this problem reveals that the Veterans Administration is continually amending their instructions relating to educational payments to assure that those entering training will receive their checks as promptly as possible. For an example, instructions were issued in 1967 to provide for advance processing of awards to in-residence college students upon receipt of an enrollment certification from the school prior to the beginning of the term, quarter or semester. To further expedite payments, these instructions were amended on September 4, 1969 to provide the educational award without pre-enrollment certification from the school. The VA regional offices will notify the school of the new procedural change and that the success of these procedures depends upon the school assuming the responsibility of furnishing the Veterans Administration immediately the names of any students who did not enter after pre-enrollment.

The Veterans Administration has also amended the veterans "Certificate of Eligibility" by placing the Enrollment Certification on the reverse side. This change was made to expedite enrollment procedures.

The payments to veterans re-enrolling into school has created problems equal to those found in the initial enrollment.

On September 24, 1969, the Veterans Administration revised their Fall re-enrollment procedures. Under this amendment, the Hines Data Processing Center will produce and furnish regional offices pinfeed computer generated enrollment certificates and award transaction forms for students in institutions of higher learning at the end of the months of June, July and August of each year. Prior to this amendment, the enrollment certifications and award transaction forms were only disseminated at the end of August of each year.

In addition, in order to facilitate and expedite processing re-enrollment awards and payments for the Spring term for those students who have not been certified by the school for the entire year beginning with the end of the month of November 1969 and each November thereafter, a set of re-enrollment forms will be produced and furnished to each regional office for all institutions of higher learning students whose entitlement will not be exhausted with a scheduled termination at the end of the Fall term.

We believe that these procedures will expedite educational assistance payments for both initial enrollments and re-enrollments.

In conclusion, we will maintain a surveillance on this problem to assure that educational payments provided under title 38, United States Code, are made without unnecessary delay.

Sincerely,

E. H. GOLEMBIESKI,
Director, Rehabilitation Commission.

AMVETS,
NATIONAL HEADQUARTERS,
Washington, D.C., October 17, 1969.

Senator ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR: I received your recent letter wherein you wanted me to answer the following two questions:

1. Beginning this October, are veterans enrolled in college receiving educational assistance allowance payments for their September participation under the G.I. Bill?

2. What can be done to expedite and simplify the process of making the initial such payment?

I have immediately sent a memorandum to our National Service Officers and Accredited Representatives asking them to forward answers to these questions. As soon as I receive these answers, I will forward them to you.

We genuinely appreciate your interest in this matter and we are constantly hopeful that this session of Congress will enact a legislation that will provide an increase in the subsistence allowance. Meanwhile, if I can be of some other service, feel free to contact me.

Sincerely yours,

RALPH J. ROSSIGNUOLO,
National Director of Programs.

(Full survey will be set forth in subsequent hearing record on the bill.)

REDWOOD CITY, CALIF.,
April 22, 1969.

DEAR SIR: I'm a veteran of four years of military, one of which was spent in Vietnam serving my country with the best of my ability. Presently I'm a student at Canada College in Redwood City.

So far I've done everything the government has asked of me, giving them no problem. They pulled me out of college to serve and I went, they take my money in income tax and I don't complain, the state wants their share and I give. They get everything they feel they have coming. It's now time for me to get what I feel I have coming. I want the money I have coming for going to school, and I haven't got it!

The problem has come about since January 1969, at that time I transferred from College of San Mateo (where I went half time at night) to Canada College (full time). On January 24 I applied for my transfer papers, it took them until March 14 to reissue my papers of eligibility. On March 15 Canada College sent out my verification of units which are 15 to the V.A. in San Francisco, it is now April 22 and I'm still looking for my first check.

I've tried many times to find out what the hold up is by calling them and it's a toll call each time, but all I get from them is a statement like "sorry we don't know what the problem is or call us back in a week or so". It's not as if I applied one day and expected my money the next! My God it's been almost four months, and I need this money to live on, it's my only income. My bills are building up and I can't pay my rent and good meals are coming few and far between.

It's hard enough supporting a family with the money, without it it's impossible.

I know you must be a very busy man, but if you could please find time to look into my problem and try to find some way of getting my money to me the fastest way possible I would surely appreciate it.

Respectfully yours,

MICHAEL POTRAKUS.

VETERANS' ADMINISTRATION,
San Francisco, Calif., May 16, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: We have your letter of May 2 concerning the claim of Michael G. Potrakus, 1433 Oxford Street, Apartment 7, Redwood City, California.

His enrollment certification covering his attendance for the spring semester was received March 14. Although an award was not approved until April 11, checks totaling $411.33 have been issued and should have been received by now. This payment covers the period February 3 through April 30.

The Honorable Paul N. McCloskey, Jr. has also expressed interest in this claim and has been furnished similar information.

We appreciate your expression of interest in Mr. Potrakus and regret any inconvenience our delay has caused him.

Sincerely yours,

GORDON R. ELLIOTT,
Manager.

HAYWARD, CALIF.,
March 19, 1969.

Mr. CRANSTON: Sir, I am writing you in the hope that you may be able to help me get my G.I. educational benefits. I have been attending college full time since January 2, 1969. I have filled out all of the forms and followed all of the prescribed directions and have yet to receive my check.

This same thing happened to me last year I attended full time from January until June, and didn't receive any money until July. Because of the delay I had to quit school and work until December. I have a wife and child and I cannot afford to live on the money my wife earns from working part time. I am 25 years old and cannot indefinitely go on working and saving for six months and then going to school.

I would appreciate any help you can give me in speeding up the payment of my benefits.

Thank you and peace.

ROBERT BUSCHINI.

PALO ALTO, CALIF.,
March 31, 1969.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: My son, recently returned (last September) from Vietnam, is planning to complete his education at Stanford. In order to do this it has become necessary that he matriculate at Foothills College for three quarters. He is currently attending classes there.

On admission (the first week in January) he applied for his GI educational benefits from the local office of the Veterans' Administration (File Identification Number 24287603, Alfred J. Coppel III). He has now completed one quarter and is beginning his second. As of this date, he has received exactly nothing from the VA, nor have we been able to determine the cause (if any) of the delay in benefits. Can you help us?

I tend to wonder what his situation would be if he were not able to live at home and rely on me for subsistence. GI educational benefits are meagre enough without encountering the ponderous delay of the VA's bureaucracy. To keep a boy who has served his country without the funds promised by the law is intolerable. As a constituent, I ask that you light a fire under the responsible chair-polishers.

I am sorry that after so many years my first communication should be a complaint. We met a number of times in the United World Federalist days in Los Altos, when we were all younger and more sanguine, as well as at Darwin Teilhet's house. We have followed your political fortunes with an air of some satisfaction, since my wife and I share many of your convictions. Liz, my wife, works at Stanford and sees Hildegarde occasionally. She is well, as you probably know.

Please do what you can about this VA business. I hope I am not presuming on an old acquaintanceship, but I can get no satisfaction from any other source, and you are, after all, our Senator.

With best wishes for your continued success.

Your sincerely,

ALFRED COPPEL.

VETERANS ADMINISTRATION,
San Francisco, Calif., April 10, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: We have your inquiry of April 3, 1969, concerning educational assistance payable to Mr. Alfred J. Coppel, III.

Benefits of $95 per month have been awarded to Mr. Coppel for the period January 2, 1969, to March 31, 1969, based upon three-quarter time school attendance, and $130 per month for the period March 31, 1969, to June 17, 1969, based upon full-time school attendance. If not already received, he may expect an adjustment check for the period January 2, 1969, through March 31, 1969, by the middle of April. Thereafter, monthly payments will be made.

Your expression of interest in behalf of Mr. Coppel is appreciated.

Sincerely yours,

GORDON R. ELLIOTT,
Manager.

ALAMEDA, CALIF.,
December 8, 1969.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I have been a resident of the State of California for 14 years. I served in the United States Navy from 1955 to 1958. Since being out of service I have held various jobs, but nothing to substantially take care of my family the way I would like to.

In the summer of 1968 I thought I would take advantage of the benefits offered to me by being a veteran. I enrolled in a private cosmetology school. After finishing this course I decided I would like to obtain a degree in this field. In September of 1969 I enrolled in Pasadena City College. As of this month I have now been in school three months and have not received any benefits.

The reason I am writing to you sir is because I have run out of sources to contact. I have called, written and gone down to the Veteran Administration Offices, but everyone seems to just pass the buck. I have contacted Councilmen, but no one seem to be able to give me the advice I need.

I am not the only person in this predicament. Most of the other veterans I have talked to at school are in the same shape as I. They, like me, are married men with families and responsibilities and cannot continue on like this. With going to school on a full time basis, I can only work part-time, thus I need my money very, very bad.

Any information or advice you can send me will be greatly appreciated.

Very truly yours,

HARVEY N. HUNTER.

MARCH 10, 1970.

DEAR SENATOR CRANSTON: I write you as a last resort. I was discharged from the Army under Honorable Conditions on 25 August 1969 from the First Armored Division at Fort Hood, Texas, in order to attend the University of California at Santa Cruz. I returned to California and subsequently applied for the G.I. Bill benefits in September of 1969.

I have yet to receive any money from the V.A., which to date has failed to pay me any of the more than $750 they owe me. My wife and I both have worked part-time during the school year and we are *both* attending U.C.S.C. Quite frankly, the Santa Cruz area is not inexpensive and we have finally run out of money. I had no money to pay my tuition (fees for the spring quarter of 1970, and therefore have obtained a Fee Deferment which is valid only until April first. My academic record at U.C.S.C. to date is excellent.

I contacted the Financial Aid Office at U.C.S.C. about my predicament, and they have contacted the V.A. in San Francisco (where my records are being "processed") on numerous occasions to no avail. * * *

The Financial Aid Office finally has recommended that I "write my congressman." I might also add that I have yet to receive a W–2 Form from the Army despite repeated correspondence.

My records are (apparently) located in San Francisco. I recognize an inevitable inefficiency of bureaucratic structure, but in my case knowledge does not feed my wife and me, nor does it educate us. I write you as a final recourse, Senator Cranston. Please help me. No one has been able to do/done so to date.

GRANT C. GENTRY.

SAN DIEGO, CALIF.,
December 7, 1969.

DEAR SENATOR CRANSTON: I am a disabled veteran with eighteen years of service prior to my injury. I was retired with fifty-percent disability pay December 1, 1968. My complaint is this, I have not received any school benefits and I have a family. And the long delay in receiving my check from the Veterans' Administration is causing a hardship in my home. I attend law school at night, here in San Diego, and attend City College in the day time. I carry 15 units there, and 9 at the Law School. I would appreciate it very much, sir, if you would inquire about the matter. I hope you are successful. I will not have any money for Xmas, unless you are. My name is Harris Strozier, Jr. File Number Identification is 24 505 345.

I am a registered Democrat and proud of it.

Thanking you, Sir.

HARRIS STROZIER, Jr.

COLLEGE OF MARIN,
October 29, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I feel it a necessity to bring to your attention an extremely serious problem concerning the veterans attending this college and, I am sure, many other colleges.

Each year the processing of enrollment certifications take longer and longer so that the typical date for receiving the first benefit check for the academic year is late in November or early December.

As I am sure you are aware, the period when a student most needs money for education is at the beginning of a term in order that he may firmly establish his school residence, purchase his books, supplies, etc.

Many colleges are striving to acquire funds to assist in the education of the many disadvantaged young people in our society. The college cannot set aside large sums of money for temporary loans to veterans who will receive aid when it means it will not then be available for needy students.

May we please request that you investigate the possibilities of improved service to the veterans receiving educational benefits from the G. I. Bill.

This college stands ready to be of any assistance that we may be able to provide. This concern involves 538 veterans on this campus alone.

Sincerely,

CHAS. F. HERNDON,
Director of Financial Aids.

DUNCANNON, PA.,
January 28, 1970.

Senator ALLEN CRANSTON.
Chairman OLIN E. TEAGUE.

DEAR CHAIRMAN TEAGUE and SENATOR CRANSTON: I am currently in my senior year at the Capitol Campus, Pennsylvania State University. I am going to school on the G.I. Bill, and recognize the various reasons why many veterans do not take advantage of this program. Many persons have expressed the critical reason as the veterans feeling uncertain about their ability to go to college. There is, however, an even more critical reason which, combined with uncertainty, prevents many veterans from reaching the campus. This is the problem of *"HOW"*.

Many veterans are simply unaware of the basic procedures required to enter college. Accompanying this, they are unaware of all aspects of college life such as: types of courses available, study methods, and in general, just what will be required of them as a college student.

This unawareness has been repeatedly overlooked because of one main reason. The reason is that virtually everyone who is concerned with higher education is himself a product of higher education, either as a graduate or a current faculty member. These persons have been college oriented since high school days. They prepared to go on, were counseled in this respect, and finally entered the world of higher education. Because of this atmosphere, or "college orientation," persons who today are in a position to effect the enrollment of veterans are also, through no fault of their own, overlooking the critical reason for what appears to be a lack of interest in the G.I. Bill.

Many veterans indeed became veterans because of a poor economic background or simply a lack of interest in their own education. The maturity, discipline, and motivation which they gain in the service still leaves them in the dark as far as college is concerned. If anything, college has become even more unknown. In short, many veterans want to go to college if someone would only show them how.

For this reason, the veterans fraternities of Harrisburg Area Community College and the Capitol Campus, Pennsylvania State University, have initiated a program designed to recruit veterans into college. From discussions among ourselves, we have found that most of us had experienced the same problems when we were attempting to enter college.

I cannot over-emphasize the value of the human aspect of our approach. We are veterans talking to veterans. We speak the same language, and through this means we first describe our own experiences in college and generally try to reduce the fear of the unknown. We then describe different courses and methods of scheduling to fit jobs or other situations. We try to answer any questions about college and we even help to submit applications. We also have an unwritten code that once a veteran becomes a student, our best students in any particular course will tutor any G.I. who is having trouble in that particular course. In other words, when we counsel, we tell veterans, "If you go to school, we'll make sure you stay."

I feel that our methods would be highly successful nationwide with an adequate program. I am enclosing a few items about us with the hope that we may shed some light on the current problems connected with the G.I. Bill. As veterans who are now college students, we do know what others are up against and we hope to help them overcome these problems by using our experiences.

Concerning the current proposals, I have noticed that Senator Cranston's bill would provide finances for special, or developmental courses. This is most important particularly to our fellow veterans belonging to minority groups or from poor economic backgrounds. In many cases, these special courses are their only hope to be able to compete academically in the classroom with the younger students.

I would welcome the opportunity to expand on these and many other areas at your request, and hope that I have been of some assistance.

Respectfully yours,

ROBERT D. FORD.

[From Business Week, Mar. 21, 1970]

A NEW GI BILL FOR VIETNAM VETS

A new, broadened version of the GI Bill was headed toward Congressional passage this week as a House-Senate conference group came to agreement on its features—a 35% boost in basic benefit levels and a number of highly innovative provisions to attract educationally disadvantaged veterans to the groves of academe.

The measure grows out of concern over Vietnam veterans' half-hearted involvement in the government-sponsored educational program as compared with the enthusiastic participation of the education-hungry vets of past wars. Aided by the GI Bill, almost half of all World War II veterans enrolled in some sort of training program—including 450,000 future engineers, 360,000 future teachers, and countless aspiring doctors, lawyers, businessmen, salesmen, and mechanics. About 45% of Korean veterans also went back to school. By contrast, only about 23% of Vietnam's crop of ex-servicemen have made use of available educational benefits thus far.

BLACK AND DISADVANTAGED VETS HAVE SPURNED THE GI BILL OF RIGHTS

Particularly disturbing has been the failure of black and disadvantaged GIs to seize the educational opportunities offered them. With the unemployment rate rising, some government officials feel their frustrations and anger could dangerously swell the tide of urban unrest. The GI Bill is viewed as an ideal vehicle to bring them into the educational and economic mainstream.

Amendments. The new bill, a series of amendments to the "Cold War GI Bill of Rights" enacted in 1966, seeks to breach the financial barrier to participation in the benefits. The present monthly stipend of $130 for a single man covers only two-thirds of average college tuition costs—compared with the Korean and World War II bills which covered 98% of both tuition and living expenses. By raising payments 35% to $175 a month, the new measure will enable men attending public universities or community colleges to pay for virtually all of their tuition and living expenses out of their stipends.

The most innovative and far-reaching aspect to the measure is its attempt to breach the psychological barriers to college enrollment. Recognizing that many educationally disadvantaged GIs need both encouragement and considerable remedial work to succeed in college, it funds several programs to ease the transition to the lecture hall.

INNOVATIONS MAKE THE BILL MORE USEFUL TO DISADVANTAGED

The bill allows high school drop-outs to take college preparatory programs at junior colleges and regular universities instead of returning to night classes in high school, where they tend to lose interest and motivation. It provides GIs with extra funds to take special pre-discharge college orientation and remedial courses, which will be set up by colleges on military bases. It makes funds available for special tutoring and allows students to count some non-credit remedial courses toward the full-time course load requirement needed to qualify for benefits. Finally, the bill gives the Veterans Administration a mandate to set up special offices around the country to seek out and counsel new veterans.

A veto? Senator Alan Cranston (D-Calif.), a leading architect of the new measure, feels it will "go a long way toward boosting participation and getting drop-out veterans turned on educationally." The only hurdle remaining is the possibility of a White House veto due to the bill's high cost—estimated at $275-million annually. But in view of the pending Congressional elections, it seems likely that any veto would be overridden.

Meanwhile, state and private groups are already preparing to implement the bill's provisions. The American Assn. of Junior Colleges is developing a program for returning servicemen. In Pennsylvania, Governor Raymond Shafer has set up a committee to mobilize business and university support.

[From the Memphis Press-Scimitar, Mar. 10, 1970]

CONGRESS AGAIN TRIES TO UPDATE GI BILL FOR VIETNAM VETERANS

(By William Steif)

WASHINGTON.—House and Senate conferees were scheduled to meet late today to try again to resolve an impasse that since last fall has prevented Vietnam veterans who are going back to school on the GI bill from getting an increase in their monthly stipends.

But insiders were not optimistic about winning agreement to break a stalemate that has grown from a combination of Texas politics, congressional sloth and Nixon administration determination to hold down spending even where ex-GIs are involved.

As a result, the unmarried Vietnam veteran who now gets $130 a month to pay his college tuition, fees, book expenses and living costs probably will continue to get just that—nothing more—for the rest of this academic year.

By contrast, a bill passed by the Senate, 77–0, last Oct. 23 promised to raise the unmarried ex-GI's stipend to $190 a month, retroactive to Sept. 1, with proportionate increases permitted to veterans with dependents.

The Senate action came after House passage on Aug. 4 of a bill to increase the stipend to $165. So a compromise seemed assured. But:

The White House pressured Chairman Olin E. Teague, D-Texas, of the House Veterans' Affairs Committee to delay a compromise because it wanted the stipend increase held to 13 per cent to fight inflation. The conservative Teague, a much-decorated infantry veteran of World War II, was amenable.

Then, even though the House already had passed its own bill, Teague took the Senate bill to the House floor Dec. 18, stripped much of it away, and reduced the basic stipend to $170 a month with no retroactivity. Among provisions Teague had deleted through amendments were two specially favored by Chairman Ralph W. Yarborough, D-Texas, of the Senate Labor and Public Welfare Committee, where the Senate bill originated. One of these provisions would have authorized loans for private pilots' training program that critics consider outmoded.

When Sen. Alan Cranston, D-Calif., chairman of a Senate subcommittee under Yarborough's jurisdiction, sought a meeting to compromise Senate-House differences last December, Teague refused, delaying a compromise meeting until Congress reconvened in late January.

The first meeting finally took place Feb. 5. It was fruitless.

A second meeting was canceled in late February because Yarborough was ill. The liberal Yarborough takes great pride in being "author" of the GI bill; so does Teague.

At this point, a Texas Republican who is challenging Yarborough for his Senate seat this year got into the act. Rep. George H. W. Bush on Feb. 26 assailed Yarborough, Cranston and the other Senate conferees for want-

ing "to make political hay" on the proposed GI increases. "The veterans are the losers in all of this," Bush said.

That brought Cranston to his feet to defend Yarborough and to accuse Bush of making a "wholly unwarranted and counterproductive attack."

The White House position, reflected by Veterans Administration boss Donald E. Johnson, is that GI bill stipends should be increased no more than the cost of living rises.

Thus, spending in the current fiscal year for 1,325,000 veterans using the GI bill is budgeted at $891,700,000. For fiscal 1971, spending is budgeted at $990,400,000, with 147,000 more veterans expected to be in school. The Nixon budget says average cost per trainee both years will be $673.

But Cranston points out that the present stipend covers less than two-thirds of the present average cost of going to college, while the GI bill of World War II and the Korean War covered 98 per cent of the cost.

The House bill, raising the basic stipend to $170 a month, would raise the program's cost by $226,200,000 a year; the Senate bill, raising the stipend to $190, would raise the cost by $323,000,000.

[From the Rocky Mountain News, Denver, Colo., Mar 13, 1970]

PREPARING VETERANS FOR SCHOOLS

(By William Steif)

WASHINGTON.—A hidden issue has complicated the fight going on here since last summer over increasing the monthly stipend of Vietnam veterans going to school on the GI Bill.

The issue is whether or not the GI Bill should be used as an instrument of social change.

Sens. Ralph Yarborough, D-Tex., and Alan Cranston, D-Calif., the leading Senate sponsors of a measure to raise the stipends, are trying to needle the Veterans Administration (VA) into starting a program to prevent slum-raised GIs from returning to the slums. They want the VA to work with the Defense Department to prepare servicemen to return to school even before the GIs are discharged.

Cranston says about 230,000 servicemen who have not completed eighth grade leave the service each year. Only eight per cent of these men use benefits available to them to upgrade themselves at school.

After World War II 18 per cent of ex-GIs who hadn't completed eighth grade went back to school.

Most of the 230,000 are black, Spanish-speaking or Indian. They inevitably gravitate back to the ghetto life from which Uncle Sam drafted them.

The chairman of the House Veterans Affairs Committee, Rep. Olin E. Teague, D-Tex., and the committee's ranking Republican, Rep. Charles M. Teague, California (no relation), think the GI Bill shouldn't be used for social purposes.

Their philosophy is that the benefits are available as a right, but the Federal Government shouldn't be in the business reaching out to encourage—or discourage—exercise of that right.

VA Administrator Donald E. Johnson, who last June promised a report to Congress on this situation by Oct. 15, still hasn't produced his report, but the VA tends to lean toward the passive view of the two Teagues.

Cranston's view was expressed in a recent talk to American Legion officers here. He said failure to start the program he proposes in the Senate-passed bill would "waste the resources" of minority group men. He said the nation couldn't afford this waste.

New studies show the need for the program, he said. Of 109,000 Army veterans discharged in 1968, the studies "show that a veteran's likelihood of taking advantage of GI Bill benefits is determined almost entirely by his preservice educational achievement rather than by his aptitude," Cranston said.

"Three times more veterans with some prior college experience returned to school than those who hadn't gone to college. Yet both groups were found to be equally intelligent . . . men of average intelligence who complete high school are twice as likely to further their education as high school dropouts with the same aptitude. Participation rates . . . seem inverse to need."

Cranston's program would cost $4 million to $6 million to start, and would rise close to $50 million if it caught on. That is more than a couple of bucks, but it could be a lot cheaper than cops, courts and jails.

[From the New York Times, Mar. 27, 1970]

NIXON SEEKS TO SPUR SCHOOLING OF THE UNDEREDUCATED VETERAN

(By David E. Rosenbaum)

WASHINGTON, March 26.—President Nixon is expected to disclose in a few days a new [program to send] more poor, undereducated veterans back to school.

Administration sources also say that the President will somewhat reluctantly sign legislation that raises stipends under the G.I. Bill of Rights by 35 per cent and, for the first time, provides special assistance for veterans who require remedial training or tutoring.

The new Administration policy is outlined in a report of the Cabinet's Committee on Vietnam Veterans, which was delivered to the President this week.

At about the same time, Congress was completing action on the veterans legislation after more than a year of disagreement, in which Mr. Nixon hinted that he would veto the measure as inflationary.

The Administration still feels that the bill, which Congress cleared Monday, is too expensive. It wanted benefits to be raised, but only by about 15 per cent.

What worries Administration officials is that the bill will cost the Government $90-million additional in the current fiscal year and $275-million more than budget estimates in the fiscal year that begins July 1.

But there is little likelihood that the President would veto a measure that passed both the House and the Senate unanimously. Such a veto, Administration sources believe, would surely be overridden.

Furthermore, the President is said to be especially pleased that the legislation contains provisions to help returning servicemen who have poor educational backgrounds.

To keep expenditures down in the current fiscal year, the Administration may hold off until summer on its concentrated effort to get more veterans into school.

STUDY UPHOLDS EDUCATORS

The details of its plans then will not be available until the report of the veterans committee is released. But indications now are that the Veterans Administration and the Office of Education will then begin intensive recruiting of veterans into the program and put pressure on colleges to take them.

Repeated studies have shown that the G.I. Bill is not being used now at the same rate it was used by servicemen after World War II and the Korean War. About 25 per cent of the veterans released from the military in recent years have gone back to school, against 50 per cent after World War II and 42 per cent after Korea.

A further study, made by the Defense Department, documents what educators have long believed: That the better educated a veteran is when he goes into the service, the more likely he is to go back to school when he is discharged.

Of a sample of veterans who were high school dropouts, 13 percent had returned to school 10 months after they were discharged, the study showed. It also found that nearly 10 percent of these men without high school diplomas were unemployed 10 months after discharge.

Congressional leaders and Administration officials believe that the new legislation will alter these trends.

First of all, the legislation raises the monthly stipends to $175 from $130 for single veterans who are in school fulltime. There are similar 35 percent increases for married veterans and those with more than one dependent.

Perhaps just as significant are several provisions aimed to help the veteran with a limited education to go back to school.

Such veterans would be permitted to take a limited number of noncredit college courses, such as remedial reading, and still receive the stipend for going to school full-time.

A $50-a-month additional payment was made available to those who need special tutoring.

And a new program was created to pay for those who attend nearby community colleges while still in the service.

If these programs are to be successful, however, new initiatives by the Government and private sources will have to be developed to recruit poorly educated veterans into the programs and to persuade universities to seek out returning servicemen.

It is to these ends that the report of the Committee on Vietnam Veterans is expected to be directed.

OFFICIALS SIGN REPORT

There were nine months of interdepartmental negotiations before the report was finally finished this week and signed by Donald E. Johnson, Administrator of Veterans Affairs; James E. Johnson, chairman of the Civil Service Commission; Winton M. Blount, Postmaster General; Donald Rumsfeld, director of the Office of Economic Opportunity; Melvin R. Laird, Secretary of Defense; George P. Schultz, Secretary of Labor, and Robert H. Finch, Secretary of Health, Education and Welfare.

According to sources familiar with the negotiations, the Veterans Administration was at first reluctant to see the G.I. Bill used as a social force. Most of the officials directing the program have worked on it for many years, and for a time they took attacks on the program as personal criticism.

But the Veterans Administration had a major role in drafting the final version of the report. And officials in other, more socially conscious agencies see its endorsement as a milestone.

"They've finally turned the corner," one official said. "Now they're willing to go after—I mean really go after—the poor, black kid who dropped out of high school to go fight in Vietnam."

The task of the Office of Education, as described in the report, is to encourage colleges and universities to accept the veterans.

Mr. BYRD of West Virginia subsequently said: Mr. President, earlier today the able junior Senator from California introduced a bill to amend chapter 37 of title 38, United States Code, to authorize, guarantee, and direct loans for mobile homes used as permanent dwellings, to authorize the administrator to pay certain closing costs for and interest on certain guaranteed and direct loans made under such chapter, and so forth.

At the request of Mr. CRANSTON, I ask unanimous consent that the bill which he introduced earlier today be first referred to the Committee on Labor and Public Welfare, and if that committee completes action on the bill and reports

it to the Senate, the bill be then immediately referred to the Committee on Banking and Currency.

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

S. 3658—INTRODUCTION OF A BILL RELATING TO SOCIAL JUSTICE AND SOCIAL SECURITY

Mr. GORE. Mr. President, the time has come for the Senate to take a truly significant step in achieving a new level of social justice for the elderly in this country. I am today introducing a bill that will increase the minimum social security benefits from the present level of $64 to a higher and more reasonable level of $100 for each single person, and $150 for each married couple.

Those of our people who rely on the minimum social security payments as their sole means of obtaining food, clothing, and shelter—the bare necessities of life—simply cannot do so on $64 a month. It is true that this minimum figure was increased from $55 to $64 with the 15-percent increase on social security benefits that Congress passed last December. I was pleased to cosponsor that effort, and I am even more pleased that this Friday, April 3, millions of social security recipients around the country will receive a larger check to reflect this congressional recognition of the need to alleviate the cruel burden of inflation that is falling so heavily on those living on fixed incomes.

Suitable civic rallies to celebrate this forward step on the path of social justice are being held at Jackson, Tenn., on April 4, and at Kingsport, Tenn., April 7, 1970.

But, Mr. President, this 15-percent increase represents only a modest beginning toward achieving that minimum level of subsistence which should be the birthright of all our elderly citizens. My proposal to increase the minimum social security benefit to $100 per month will constitute a much more significant step to insure that retired persons may be able to live in dignity, free of the haunting specter of financial disaster.

In this time of mounting inflation, a person whose sole income is $64 per month cannot pay for the skyrocketing prices of food. Food prices were up 0.6 percent in February, bringing the Consumer Price Index for food to a level of 131.5, up from 122.0 when this administration took office. Nor can he pay for badly needed services. According to the Department of Labor, the Consumer Price Index for all services is now 150.7, up from 139.0 in January 1969. And the Consumer Price Index is now at a level of 132.5, compared to a Consumer Price Index of 124.1 when President Nixon assumed office last January. To offset this skyrocketing inflation, the person living on his minimum social security payment has received an increase of $9 per month. How can anyone pay rent or make a small monthly payment on his modest home and still try to buy the food and clothing and pay for the services he so badly needs on such small sums?

Retired persons in Tennessee write to me to tell me that they are going to have to give up their homes because they can no longer afford to make the monthly payments out of their social security benefits. This is a cruel reward for those who have looked forward to their retirement years with so much hope. Mr. President, a nation founded on the principles of social justice cannot countenance such a situation.

We should not delay further in bringing minimum social security benefits to a level that will provide a base of financial security for our retired citizens.

Mr. President, the distinguished majority leader and the distinguished junior Senator from West Virginia offered an amendment to the tax reform bill last year which would have increased the minimum social security benefit to $100 per month. That amendment, however, coupled this increase with larger payroll taxes. I think payroll taxes are already high enough. That is why I voted against that amendment as a separate item. I supported it, of course, on passage as part of the total bill.

The proposal that I am offering today does not contain a payroll tax increase. The increased benefits are to be financed out of the general revenues of the Government.

I am strongly opposed to any further increase in social security taxes, whether through an increase in the rate or through increasing the wage base, as a means of financing an increase in the minimum monthly social security benefit.

The increase in social security taxes that would have been generated by the amendment proposed last year would have virtually eliminated the tax reduction that I and others fought so hard to obtain through an increase in the personal exemption. This tax increase would have fallen most heavily on the middle-income taxpayer who realized the primary benefit from my proposal to increase the personal exemption to $750. For example, a wage earner with a wife and two children making $12,000 per year received a tax reduction under my proposal of approximately $250 per year. Increasing the wage base to $12,000 in 1973 would increase this man's social security taxes by $237.30. This tax increase would have gone into effect just after the full benefits of the tax reduction package that I succeeded in obtaining had been fully implemented.

Mr. President, we should move the social security system away from total reliance on payroll taxes alone. The man earning a hundred thousand dollars a year pays no more into the social security tax system than does the man who is earning only $7,800 a year and trying to feed, clothe, house, and educate his children at the same time. My proposal will, for the first time, place at least a part of this system for social justice on a progressive tax system.

Current high interest rates are already driving small businessmen to the brink of bankruptcy, as they are being deprived of badly needed funds to finance the expansion that is required if they are to stay in business. The Senate Finance Committee has just approved an unemployment compensation bill that will require these same small businesses to pay an increased Federal unemployment tax. Small business cannot afford the kind of tax increase that would accompany an increase in the social security wage base.

Social security is not just the concern of business in this country; it is the business of everyone. And the person who receives all his income from dividends, capital gains, and other investment income derives just as much benefit from a sound and healthy social security system as does the wage earner and his employer. Minimum social security benefits provide a cushion and a floor in times of general economic slowdown which aids the investor as well as the businessman. Placing part of the burden of financing the social security system on all taxpayers will constitute an important recognition of this fact.

But some will argue that financing the increase in the minimum monthly benefits to $100 out of general revenues will constitute a departure from the insurance principle that has been the basis for financing the social security system. So it does and so it should. The benefits for many of those who rely on the minimum social security payments are not paid on the basis of an insurance principal. Many of these persons have not paid in amounts equal to the benefits they receive. This result can flow from any number of factors—employment during low wage periods in our economy, inability to work through disability, lack of education, lack of equal employment opportunity because of race or sex, and many other factors. But these factors do not, and should not, serve to deny these persons from that minimum level of financial dignity and security to which they are entitled.

My proposal to finance the increase of minimum social security benefits is a frank recognition of this fact, and, in my opinion, is long overdue. It will mark an open acceptance that providing minimum monthly benefits to our retired persons benefits all of us. And those of us who have benefited most richly from our free enterprise system should properly contribute the most to insure that the least fortunate in our society can be guaranteed a minimum subsistence during their retirement years.

Finally, there will be those who argue that our budgetary needs will not permit shifting part of the burden of financing social security benefits to the general revenues. Mr. President, this is a question of our national priorities. My proposal will require that our society address squarely the alternatives facing it. Is the alleged security sought through an ABM system more important than the security of our own people who have reached retirement years? Is the dignity of America achieved through stationing troops abroad more important than enabling our elderly to live out their final years in the dignity that financial independence can give them? Is a defense budget that eats up more than half of our general revenues more critical than permitting those in need to have a budget that will provide them with the minimum necessities of life?

Mr. President, the United States lags far behind other civilized and highly developed countries in Western Europe

in the level of social security benefits that are paid to our retired citizens. It is time to close the gap. My proposal to increase the minimum monthly payment to $100 for each single person and $150 for each married couple is a matter of first priority.

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

The bill (S. 3658) to amend title II of the Social Security Act so as to raise from $64 to $100 the minimum primary insurance amount thereunder, introduced by Mr. GORE, was received, read twice by its title, and referred to the Committee on Finance.

ADDITIONAL COSPONSORS OF BILLS

S. 3623

Mr. GOLDWATER. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. BENNETT) be added as a cosponsor of the bill I introduced on behalf of myself and the senior Senator from ARIZONA (Mr. FANNIN), S. 3623, to amend title 39 of the United States Code to prevent insulting and profane use of the U.S. mail as a means to distribute unsolicited and unwanted sexually offensive advertisements.

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

S. 3643

Mr. DOLE. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT) I ask unanimous consent that, at the next printing, the names of the Senators from Nebraska (Mr. HRUSKA and Mr. CURTIS), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New York (Mr. JAVITS), and the Senator from Oregon (Mr. HATFIELD), be added as cosponsors of 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.

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

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

S.J. RES. 181

Mr. YOUNG of Ohio. Mr. President, for the distinguished junior Senator from Missouri (Mr. EAGLETON) presently presiding over the Senate, I ask unanimous consent that, at the next printing, the name of the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of Senate Joint Resolution 181, proposing an amendment to the Constitution to provide for the direct popular election, of the President and Vice President of the United States and for the determination of the result of such election.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON). Without objection, it is so ordered.

NOMINATION OF JUDGE G. HARROLD CARSWELL TO THE SUPREME COURT

Mr. YOUNG of North Dakota. Mr. President, the time is long overdue for the Senate of the United States to vote up or down President Nixon's nomination of Judge G. Harrold Carswell, as Associate Justice of the Supreme Court of the United States. This nomination has been before the Senate for more than a month and there has been ample opportunity for everyone to study his qualifications in detail.

A motion to recommit would mean an unnecessary delay. A substantial majority of the circuit court judges with whom he served, have expressed strong support for his confirmation. This, together with the unanimous approval of the American Bar Association's Committee on Judicial Selection, Tenure, and Compensation, provides a strong and convincing argument, for confirmation by the U.S. Senate. These attorneys should be the best judges of his professional qualifications.

Judge Carswell's membership on the Supreme Court of the United States, would provide a better philosophic balance. He has established an enviable reputation of being able to write opinions that are short, concise, and understandable. The Supreme Court of the United States, in recent years, has an overbalance of Justices who may be considered by some, as intellectual giants, but whose opinions lack both judgment and clarity.

Judge Carswell may be no Abraham Lincoln, but Lincoln, too, was belittled and ridiculed for not being a great intellectual. Time has proven the great wisdom of his judgment. The writings and speeches of this man, who was not looked upon as an intellectual giant of his time, are among the most revered of any, in all the history of this Nation.

I shall vote against recommital and for the confirmation of the nomination of Judge Carswell.

Mr. CRANSTON. Mr. President, yesterday I made a statement concerning the nomination of G. Harrold Carswell to the Supreme Court. I discussed the support or the lack of support, or the nature of that support from civil rights attorneys who have practiced before Judge Carswell in Florida.

I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT OF SENATOR CRANSTON

On March 18, I publicly accused Judge G. Harrold Carswell of bias and hostility against civil rights attorneys who argued cases in his court, in violation of Canons 5, 10, and 34 of the Canons of Judicial Ethics.

I did so on the basis of:

1. An analysis of the record of hearings conducted by the Senate Judiciary Committee, and

2. Personal conversations I had with four civil rights attorneys who had appeared before Judge Carswell. They included John Lowenthall, law professor at Rutgers University; LeRoy D. Clark, an associate professor of law at New York University—both of whom had previously testified before the Committee—and Theodore Bowers, an attorney in Panama City, Florida, who had not testified.

Mr. Bowers accused Judge Carswell of being emotional, excitable and hostile on civil rights matters, of having criticized Supreme Court civil rights decisions from the bench, and of having verbally attacked U.S. attorneys appearing on civil rights matters, as well as private civil rights attorneys.

Professor Lowenthall accused Judge Carswell of overt and close-minded hostility, of pre-judging civil rights cases, and of having acted toward him in a threatening manner.

Professor Clark charged Judge Carswell with being extremely hostile, intemperate and intimidating—especially toward civil rights attorneys—and of deliberately confusing legal proceedings to throw civil rights attorneys off balance and muddy the record so as to make successful appeals difficult. He said the other civil rights lawyers in northern Florida, all of whom he knew, had voiced similar complaints against Judge Carswell.

The fourth civil rights attorney I had talked with also had not testified before the Committee. He too confirmed Judge Carswell's biased and hostile behavior. But he asked that his identity not be made public. I, of course, honored his request. But since my March 18 statement, this attorney has decided to come forward and has given me permission to make his identity known.

He is Earl M. Johnson, an attorney in Jacksonville, Florida. Mr. Johnson is a member of the Jacksonville City Council.

I and my staff have continued this line of investigation. We have tried to contact every civil rights attorney who had argued a case before Judge Carswell while he was a federal judge in the northern district of Florida. Over the past two weeks, we have spoken to ten attorneys, including the four I have already identified. The others are: Jerome Borstein, James Sinderlin, Tobias Simons, Maurice Rosen, Reece Marshall, and Sheila Rush Jones.

Every one of the 10 attorneys told us that Judge Carswell was unfair and biased, had pre-judged his clients' cases and had a statewide reputation for being anti-civil rights. Every one declared strong opposition to the confirmation of Judge Carswell.

In addition, one of these attorneys has furnished me with an affidavit swearing that "Judge Carswell was very discourteous to me, interrupting me with frivolous comments as I attempted to argue the motion. In general he treated me in a mocking, ridiculing way. Only after I began prefacing my remarks with such statements as 'Let the record reflect I am attempting to say etc.' did he cease to interrupt and allow me to complete my argument. I have never before or since received such disrespectful treatment from a federal judge."

The signer of this affidavit is Sheila Rush Jones. Mrs. Jones had appeared before Judge Carswell in January 1967, less than two years after she had been admitted to the bar. At the time, she was 26 years old.

Thus, so far as we have been able to determine, civil rights attorneys who practiced before Judge Carswell unanimously agree to his bias and hostility in civil rights matters and unanimously oppose his confirmation.

There has been only one apparent exception.

He is Charles F. Wilson. Mr. Wilson has been with the Equal Employment Opportunity Commission in Washington since last fall. He is Deputy Chief Conciliator.

On February 5, Mr. Wilson sent a letter to the Chairman of the Judiciary Committee stating that he had represented plaintiffs in civil rights cases before Judge Carswell from 1958–1963.

In that letter, Mr. Wilson said in part:

"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."

Supporters of Judge Carswell have given this letter great weight and credence.

In his March 17 speech on the Senate floor in which he announced his decision to support Judge Carswell, Senator Fanning, for example, said he had "relied to a great extent" on statements of "lawyers and judges who have known and worked with Judge Carswell over the years."

He said he was "particularly impressed" with the Wilson letter and urged every Senator to read it.

"It is true that some witnesses appeared before the Senate Judiciary Committee and testified that Judge Carswell was biased and prejudiced against civil rights litigants," Senator Fannin said. "However, none of these witnesses had nearly as much experience in dealing with Judge Carswell as Mr. Wilson."

Balancing the "impressive testimony" of Mr. Wilson's letter against those other allegations, Senator Fannin said, "it is not difficult for me to make my decision."

On March 19, in a colloquy with Senator Hart, and again on March 20, in colloquy with Senator Mondale, Senator Gurney repeatedly cited Wilson's letter in attempting to refute my charges of ethics violations and bias against Judge Carswell. He called Mr. Wilson's letter a "very persuasive" refutation of anti-civil rights charges against Judge Carswell and said the letter was "weighty evidence" of Judge Carswell's "senisitivity" in human rights matters.

"For the life of me," Senator Gurney said, "I cannot see how Senators, in the face of evidence like that [letter], can come here and say that Judge Carswell is insensitive, that he is not interested in human rights, that he does not like black people, that he does not give them a fair shake in his court."

And the majority of the Judiciary Committee itself relied heavily on the Wilson letter in an effort to refute charges against Judge Carswell of anti-civil rights bias.

In its Feb. 27 report recommending the Judge's confirmation, the majority singled out the Wilson's letter to answer allegations by other civil rights attorneys that Judge Carswell "had evidenced hostility toward them and toward their clients' claims."

"If Judge Carswell were discourteous to civil rights attorneys or biased against civil rights litigants," the majority report declared, "Mr. Wilson would certainly know of it."

The fact is, Mr. Wilson did know of Judge Carswell's discourtesy to civil rights attorneys. Mr. Wilson did know of Judge Carswell's bias against civil rights litigants. But Mr. Wilson withheld that information from the Committee.

I have received an affidavit from Theodore R. Bowers, a Panama City attorney, who took over a number of civil rights cases from Mr. Wilson when the latter was appointed legal counsel for the Technical Assistance Program of the State of Florida.

Mr. Bowers, one of the leading civil rights attorneys in the state, declares that on September 8, 1965, he and Wilson had "a long discussion" about the cases and about Judge Carswell, who was then presiding over them.

Mr. Bowers discloses that Mr. Wilson apmeanor" in regard to school desegregation cases and swears that "Mr. Wilson described Judge Carswell as having segregationist views and tendencies and stated that Judge rised him of the Judge's "attitude and de-Carswell was antagonistic toward such cases."

Why, then, did Mr. Wilson send a letter to the Committee which he knew would be interpreted as an endorsement of Judge Carswell?

Mr. Vincent H. Cohen, an attorney in Washington, D.C., provides the answer. Mr. Cohen has given me an affidavit in which he swears that Mr. Wilson told him on Mar. 26 that his letter "was written at the request of the Department of Justice" and that "if he had not been contacted by the Department of Justice, he would have never sent his Feb. 5, 1970, letter to the Judiciary Committee.

Cohen further swears that Mr. Wilson informed him that he "does not now nor has he ever supported Judge Carswell's nomination", that "as a U.S. attorney and U.S. District Judge as well as in his private affairs, Judge Carswell has gone beyond the bounds of all propriety in taking part in discriminatory schemes and plans designed to thwart federal law," and that "Judge Carswell lacks the necessary intellectual and moral capacity to sit in judgment on the issues facing the court which are critical to the well being of American citizens, both black and white".

Besides being subjected to this pressure by the Justice Department, Mr. Wilson also acted out of loyalty to Judge Carswell.

In his affidavit, Mr. Bowers avows that Mr. Wilson confided that Judge Carswell had written "a magnificent recommendation" to help him get his new job with the Florida Technical Assistance Program.

After carefully reviewing all these facts:

1. I charge that [out of nearly a dozen civil rights attorneys who had appeared before Judge Carswell, the administration sought out the one attorney who was vulnerable to pressure—a government employee, beholden to Judge Carswell, who could be dismissed at Executive discretion.]

2. I charge that the administration used Mr. Wilson in a deliberate effort to mislead the Committee, the Senate and the American people.

3. I charge that the administration led Mr. Wilson to withhold from the Committee what he knew to be the full truth about Judge Carswell's unethical bias and hostility against civil rights attorneys and their clients.

4. I charge that this deception by the administration and Mr. Wilson materially contributed to Judge Carswell being approved by a majority of the Judiciary Committee.

I believe that President Nixon, himself, has been misled by his advisors as to Judge Carswell's qualifications and fitness for the Supreme Court. I call upon him to withdraw the nomination.

Short of that, I believe this additional evidence certainly provides new and conclusive reasons for recommitting the nomination to the Judiciary Committee.

Clearly, the full and accurate record of Judge Carswell's anti-civil rights bias, and his repeated violations of Canons 5, 10, and 34 of the Canons of Judicial Ethics, was not presented to the Committee before it sent Judge Carswell's nomination to the floor.

Mr. CRANSTON. Since I made my statement, a variety of statements have been made by those involved in this situation. The statements have been inconsistent and contradictory in a great many ways. They have also, I think, been quite revealing.

In this controversy over the letter sent to the Committee on Judiciary on February 5 by Charles Wilson, Deputy Conciliator for the Equal Employment Opportunity Commission, we must not lose sight of the main issue; that is, the qualifications and fitness of Judge Carswell to serve on the Supreme Court, particularly in light of evidence that he holds segregationist views, that he has been biased against civil rights cases, and that he has been involved in the discriminatory practices of private groups.

Mr. Wilson's letter was written to help offset this image, and it worked for a while.

Senate supporters of Judge Carswell, taking the letter on its face value, have relied heavily on it as evidence that he is not biased against or hostile to the black community, especially to civil rights attorneys and their clients.

Mr. Wilson's letter was widely interpreted as an implied endorsement of Judge Carswell's nomination by a black civil rights attorney.

On March 20, the Senator from Florida (Mr. GURNEY) placed in the RECORD a telegram from one Julian Bennett, which reads:

> First counsel for Negro plaintiffs was Charles F. Wilson, Pensacola, Florida, who I understand has filed a letter supporting Judge Carswell's nomination to Supreme Court.

There in the RECORD is a flat suggestion that the letter did amount to an endorsement of Carswell by Wilson. It is no accident that this letter has been interpreted as an endorsement. It was carefully written to give that impression. The letter was sent at the request of the Department of Justice. Mr. Wilson himself admits this. So does Mr. William H. Rehnquist, Assistant Attorney General for the Office of Legal Counsel.

More than that, the letter was actually written by Mr. Rehnquist acting as a top official of the Department of Justice. The letter was submitted to Mr. Wilson for his approval and signature.

I read from this morning's Philadelphia Inquirer:

> Wilson acknowledged he wrote the letter at the request of a Justice Department official.

I read from this morning's Baltimore Sun:

> Mr. Rehnquist asked him whether he would testify before the Judiciary Committee, prepare an affidavit, or write a letter. He chose to present his views by letter, Mr. Wilson said.

I read from this morning's New York Times:

> Mr. Rehnquist said that he had drafted the letter.

However, the letter was made to appear to be a personal, unsolicited letter from Mr. Wilson to the committee. Obviously, it was no such thing.

There is a world of difference between a letter spontaneously written, drafted by the writer himself of his own volition, and a letter requested and actually drafted by an important representative of Attorney General John Mitchell, the leading Presidential adviser charged with the responsibility of securing the confirmation of the nomination he recommended to the President.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may proceed for not more than 5 minutes.

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

Mr. CRANSTON. Mr. President, how, under these circumstances, can the Wilson letter be considered an unbiased and complete statement of fact, as Mr. Wilson intended it?

It cannot. Mr. Wilson himself now concedes that he did not intend his letter to be an endorsement of Judge Carswell.

Mr. Wilson told the press yesterday:

> My letter was a statement of fact. It was neither an endorsement nor a commendation.

I think Mr. Wilson should have said his letter was a statement of partial fact. Though given repeated opportunities by the press yesterday to endorse Judge Carswell, Mr. Wilson consistently refused to take a stand in support of the Judge's confirmation.

I read from this morning's New York Times again:

> Mr. Wilson replied that his letter had not been intended as an endorsement of Judge Carswell—as it has been characterized by some of the judge's supporters—and that he personally would have chosen a more liberal nominee.
>
> He added that he had "stated facts and not conclusions, limited to my own experience," and had not meant to say how other civil rights lawyers might have been treated by Judge Carswell. Mr. Wilson also said that he "didn't intend to say one way or another whether he [Judge Carswell] was biased."

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

Mr. CRANSTON. Let me close with these remarks.

Mr. Wilson is an intelligent man. He knew that a letter requested by the Justice Department and written by the Justice Department would be used to support Judge Carswell's nomination. He knew that his letter would be used to put on the Supreme Court a man whom he now admits he does not endorse. The question that Mr. Wilson must now explain is, What induced him to write such a misleading letter?

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

Mr. CRANSTON. I yield to the Senator from Kansas.

Mr. DOLE. As I recall last evening on television, Mr. Wilson indicated the pressure may be coming from the anti-Carswell forces and not from others. Does the Senator from California have any comment on that?

Mr. CRANSTON. It is for that reason that I did not speak, myself, or have any member of my staff talk to Mr. Wilson prior to the revelations I made yesterday. I suspected that he would then say that he had been pressed by a U.S. Senator. I did not want to give him that opportunity.

It seems to me that the administration singled out the one man who had appeared in Judge Carswell's court as a civil rights attorney who would be vulnerable to pressure, a man working for the Government now, and solicited this letter from that man, knowing it would be easier to get such a thing from him than from any other person who could give testimony.

Mr. DOLE. If the Senator will yield, I think he may do a disservice to Mr. Wilson. I understand he is a very well qualified attorney.

I have read his letter, which appears on pages 328 and 329 of the hearings. I read it as a statement of fact, as a statement indicating that he did receive courteous and fair treatment before Judge Carswell's court.

I might add that he was very active in integration activities in Tallahassee. He did practice before Judge Carswell's court many times. I assume that he has a right to make that statement, whether or not he is an employee of the Federal Government. I accept his word when he says he was not pressured by anybody in the administration; that he did make a statement and is going to stand by it. He deserves great credit for doing so, notwithstanding the indirect pressures being brought upon him.

Mr. CRANSTON. I would say the issue is, did this man write a letter that amounted to an endorsement of Judge Carswell as it has been interpreted by supporters of Judge Carswell? The fact is that he did not. He stated that it was not an endorsement; and the fact is that the main question in regard to the origin of the letter, then, is, why did he write a letter which he knew would be used to support a man whom he, himself, does not support for the Supreme Court?

Mr. DOLE. The letter speaks for itself. That is the best evidence, as the Senator from California knows. I would be happy to read the letter but we can read the letter in the RECORD. The New York Times can read the letter, though they failed to read Senator COOPER'S statement of Saturday. It did not even appear in the first edition of their paper on Sunday. We can all make our own determination concerning opponents of Judge Carswell.

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

Mr. CRANSTON. I yield.

Mr. BROOKE. Is it the Senator's contention that the letter which the distinguished Senator from Kansas has referred to was not written by Mr. Wilson?

Mr. CRANSTON. Yes. It now develops that Wilson admits he did not write the letter; that Mr. Rehnquist, the Assistant Attorney General, states he did write the letter. He submitted it to Wilson, and Wilson made a minor change, according to the press accounts, and the letter was sent to the Senate. It is an administration letter, written by officials of the administration.

Mr. BROOKE. But the Senator states that the letter was signed by Mr. Wilson, though Mr. Wilson was not the author?

Mr. CRANSTON. Yes.

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

Mr. CRANSTON. I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I shall not object—is the Senate now in the period for the transaction of routine morning business, with statements therein limited to 3 minutes?

The PRESIDING OFFICER. As in legislative session.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

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

Mr. CRANSTON. I yield to the Senator from Massachusetts.

Mr. BROOKE. I offer no judgment on this matter. I do not know Mr. Wilson, and I certainly have all respect for the distinguished Senator from California. I think the distinguished Senator from California has provided a great service to the Senate in this debate, particularly a great service insofar as the motion made by the distinguished Senator from Indiana is concerned. He raises the question as to whether the letter written by Mr. Wilson constitutes an endorsement of the candidate. As I understand it, he raises that question because he believes—and I think justly so—that several of our colleagues have relied upon this letter as an endorsement in making their decision as to whether they should vote for the confirmation of the nomination. Is that correct?

Mr. CRANSTON. That is correct.

Mr. BROOKE. So it seemed to me that this would be a perfect opportunity for the Judiciary Committee to conduct a hearing, at which time they could call Mr. Wilson before that committee, under oath, and question him as to the purpose for which the letter was written—whether pressures were brought to bear on him at the time he agreed to sign the letter, which was written by someone in the administration, as the Senator says, and whether in fact he does endorse this nominee for confirmation to the Supreme Court of the United States.

Does the Senator agree with this?

Mr. CRANSTON. I agree with that. I would add to that that the members of the committee, themselves, should reappraise their action, because the majority report cited the Wilson letter as one of the convincing elements of the case for Judge Carswell. The specific comment they make, after inserting the letter, is as follows:

> If Judge Carswell were discourteous to civil rights attorneys or biased against civil rights litigants, Mr. Wilson would certainly know of it.

The fact is that Mr. Wilson never has made any statement on that subject. He never has said that he did not know of bias being employed by Judge Carswell in his court against civil rights attorneys other than himself.

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

Mr. CRANSTON. I yield.

Mr. BROOKE. Does the Senator know whether Mr. Wilson was given an opportunity to appear personally before the Senate Judiciary Committee?

Mr. CRANSTON. No; he was given no opportunity, except that Mr. Rehnquist, of the Department of Justice, states that he offered him three alternatives; to write a letter or to appear before the committee were among those alternatives. I gather that it was decided that

it would not be wise for Mr. Wilson to appear before the committee, because under cross-examination by those who have doubts about Judge Carswell's qualifications, it would emerge that this man by no means was endorsing him, as the simple matter of a letter would enable them to imply he was endorsing Carswell.

Mr. BROOKE. The question has been raised about the best evidence. I ask this question of the distinguished Senator from California: Does he have any knowledge as to whether there was any impediment or any reason why Mr. Wilson did not—could not—appear before the Senate Judiciary Committee?

Mr. CRANSTON. I think the officials of the administration would not want him to appear, because it would become apparent under cross-examination that he was not a supporter of their cause within his heart.

It is also a fact that this man holds a position in Government and apparently is seeking promotion, a promotion which depends upon—or can depend upon—decisions made in the White House.

A further point is that I made affidavits available yesterday, and I have more, in which people swear that Mr. Wilson told them privately that he is opposed to Judge Carswell because he knows he is biased.

Mr. BROOKE. Well, with all due respect to the distinguished Senator from California, that is the Senator's opinion as to why he did not appear?

Mr. CRANSTON. That is right.

Mr. BROOKE. It would seem to me that a motion for recommittal should carry if, in effect, it would give an opportunity to the Judiciary Committee to go deeper into the several matters upon which doubt has been raised during the course of this rather lengthy debate on this confirmation. One was the question of credibility concerning the golf course incident where the committee would call in Mr. Horsky, for example, and question Mr. Horsky so that they could make some determination as to what the other facts are in that matter.

The Senator has raised another point which I think certainly would be a proper subject for inquiry by the Judiciary Committee; namely, did Mr. Wilson intend an endorsement by the letter which he sent to the Judiciary Committee? It would seem to me that this is the contribution the Senator from California has made because I am sure that many Senators feel there are matters which have not been thoroughly examined by the Judiciary Committee in its deliberations on the confirmation; is that not correct?

Mr. CRANSTON. That is correct. I thank the Senator for his comments on my efforts in this regard. Others have raised many other questions which remain unanswered beyond those cited by the Senator from Massachusetts. They all add up to a very strong, I believe, totally convincing case for recommittal of the nomination to the committee so that it can explore the unanswered questions which have arisen since they reported the nomination from that committee.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be allowed to proceed for not to exceed 10 minutes.

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

FUNDAMENTAL QUESTIONS ON LOCKHEED'S FINANCIAL CONDITION REMAIN UNANSWERED

Mr. PROXMIRE. Mr. President, I would like to make an interim report on the information I have been able to gather so far concerning the request of the Lockheed Aircraft Corp. for $641 million to alleviate its financial difficulties on its military contracts.

On March 10, I formally requested the Comptroller General of the United States to investigate Lockheed's financial condition and its ability to continue performance of its military contracts. Because of the urgency of the situation, I asked that the report be completed within a very short time period, just 10 days. Not unexpectedly, the data that has been gathered is incomplete and raises additional questions. I have therefore asked the Comptroller General to continue gathering information in answer to my original request and to provide additional facts.

LACK OF FACTS

Regrettably, I must report that as of this date, no one in the Congress or in the Department of Defense has the facts on which to base an intelligent decision on the Lockheed request.

In effect, Lockheed is asking for payment of claims growing out of four military contracts, the C–5A cargo plane, the Cheyenne helicopter, the SRAM missile, and several shipbuilding projects.

In each case, the claim is disputed by the Government.

Normally a contractor continues in the performance of his contracts regardless of the claims that he may have filed against the Government, awaiting adjudication by the administrative process. In this case, however, Lockheed complains that the amounts in question are so great that it will not be able to continue performance unless it receives immediate payment. Another way of viewing Lockheed's position is to say that it has threatened to quit working on programs deemed by the Pentagon to be necessary to national security unless the Government pays up and pays up in a hurry.

QUESTIONS NEED ANSWERS

At this point, several fundamental questions need to be answered before any decision is made.

First. What is Lockheed's financial condition?

Second. How did Lockheed's financial problems develop? Are they the result of Pentagon mismanagement, or contractor inefficiency?

Third. Do similar financial difficulties exist with respect to other military contracts with Lockheed?

Fourth. To what extent is Lockheed's present difficulty the result of problems with its non-Government, commercial ventures?

Fifth. If the Government provides Lockheed with the funds it is requesting, is there any assurance that this contractor will not come back for more in the future?

I am shocked that none of these questions can be answered at the present time. On March 10, the New York Times, on the basis of Deputy Defense Secretary David Packard's testimony to the House Armed Services Committee, reported that the "Pentagon backs aid for Lockheed." I fail to see on what basis the Pentagon could have made its decision to support Lockheed's request, if indeed such a decision has been made. In fairness, it should be observed that spokesmen for the Department of Defense have stated that they are exploring all ways to resolve this problem.

EXPLORATIONS IN THE DARK

But I cannot help but wonder whether these explorations are being carried on in the dark. For example, I asked in my letter to the Comptroller General for a list of all Lockheed military, space, and related contracts, their dollar amounts, the funds authorized and appropriated so far, and the sums paid to Lockheed as reimbursement to date. To my surprise, we learned that no such list had yet been prepared in the Department of Defense. Of course, Lockheed complains about its financial plight on only four programs. But Lockheed has many military contracts. It is the biggest defense contractor we have. It would seem to me to be fundamental to any consideration of such a monumental request for funds—that is $641 million—for the Government to review all of its dealings with this contractor.

I am now assured that such a listing is being compiled by the Pentagon, and that it will be made available within the next few days.

By the way, it is interiguing to me that only four contracts have been selected for the basis of the extraordinary claim that is being made. It is true, of course, that huge cost overruns infect each of the four programs.

But other Lockheed contracts are similarly infected. There is a multibillion-dollar cost overrun on the Poseidon program. And there is a huge overrun on the deep submersible rescue vehicle. How have these programs affecetd Lockheed's financial capability?

There is also the S–3A aircraft contract, awarded only last year to the Lockheed Corp. This is a $3 billion program and, according to my information, it is already in trouble.

NO CASH FLOW STATEMENT

A more shocking example than the lack of information is the fact that the Pentagon does not have a cash flow statement of Lockheed's finances.

The cash flow statement is the most fundamental information necessary for an analysis of short-term cash needs. It is essential for any examination of short-

run financial movements, and has become a required tool for management, and a measuring stick for creditors.

No bank in its right mind would extend substantial credit to a corporation without seeing a cash flow statement. A typical cash flow statement would show monthly disbursements and receipts over a given period of time. Using such figures, the cash requirements throughout the time period can be ascertained.

WHAT ARE CASH REQUIREMENTS?

Two of the questions I directed to the Comptroller General concerned Lockheed's cash flow statement. One question asked for the cash requirements for all major Lockheed Aircraft programs over the next 2 years. Another question asked for the cash deficts and surpluses for all major Lockheed programs. The response to these questions was most disappointing. The Pentagon responded by supplying a copy of Lockheed's letter of March 2, 1970, to Secretary Packard, and copies of Secretary Packard's testimony before the House and Senate Armed Services Committees. According to Robert C. Moot, the Assistant Secretary of Defense:

These attachments summarize Lockheed's cash deficits and cash requirements on Government programs with which the company has major problems.

I beg to differ with Secretary Moot, who should know better. Lockheed's letter and Packard's testimony, copies of which I already had, do not summarize Lockheed's cash deficits and cash requirements on Government programs with which the company has major problems. There is no way of constructing a cash flow statement from the paucity of information contained in those statements. Further, I requested information for all major Lockheed programs, not for only the four about which Lockheed is now complaining. I have pointed out that these amount to billions of dollars and some of them are in serious trouble. There is also no question about overruns in some of the others.

BOTH PENTAGON AND LOCKHEED INFORMATION INADEQUATE

The response for cash flow information from Lockheed is equally disappointing. In a letter from Keith Anderson, vice president of Government Contracts and Pricing, dated March 19, 1970, to the General Accounting Office, Lockheed claims that its earlier letter of March 2 outlined its "cash requirements on the major programs on which contractual procedures and disputes have created financial problems."

Again, I disagree. The Lockheed letter outlines its "cash requirements" only in the sense that it asks for an enormous amount of money which it claims it requires. It is a totally inadequate explanation of its condition, however, from the point of view of the Government's need to make a decision.

Lockheed also states in its letter of March 19 that it is developing additional information with respect to its cash position on its major military contracts, and that this information will be made available to the Defense Department in the near future.

I have now been assured that the Defense Department is putting together a cash flow statement on Lockheed, and that this information will be made available by April 8.

What is disturbing, though, is the fact that the Pentagon has gone for so long without this information that it ought to have.

Why did it not require a cash flow statement from Lockheed before now? Any bank would have.

Why should it take 2 weeks for the Pentagon to put together a cash flow statement? Is it possible that Lockheed has not itself prepared a cash flow statement? I could well understand how financial disaster could meet a firm too shortsighted to analyze its own short-term cash requirements. On the other hand, if Lockheed has a cash flow, why could the Pentagon simply not ask for it and not take 2 weeks to put it together?

In all of this, I detect an appalling lack of knowledge about Lockheed's financial condition on the part of the Department of Defense. It is inconceivable to me that a Government agency could have placed literally billions of dollars worth of military contracts with a corporation while knowing so little about the condition of that corporation and its ability to perform its contracts.

PUBLIC INTEREST NOT PROTECTED

I am not satisfied that the Department of Defense has acted responsibly in this matter or that the public interest, as opposed to Lockheed's corporate interest, is being given adequate consideration.

I have been informed that the administration is seriously considering submitting to the Congress within the next few days an amendment to the fiscal 1971 budget to make provision for the Lockheed claims. Such an action on the part of the administration could indicate that it has already made its decision to pay Lockheed's claims despite the current ignorance about Lockheed's finance and the reasons for Lockheed's condition.

I would hope that if a budget amendment is transmitted to the Congress, it would be accompanied with a detailed explanation of the administration's position and its analysis of the entire situation.

Presently there are many more questions than there are answers, and it would be a serious breach of the public trust if the decision were made before these questions were completely answered.

I ask unanimous consent to have printed in the RECORD the letter from Lockheed to the GAO dated March 19, 1970, and the letter from Secretary Moot to the GAO dated March 19, 1970, two articles from the Washington Post dated March 6 and March 7, an article from the New York Times dated March 10, and two articles from the Armed Forces Journal dated March 14 and March 21, 1970.

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

LOCKHEED AIRCRAFT CORP.,
Burbank, Calif., March 19, 1970.

MR. JAMES H. HAMMOND,
Associate Director Defense Division,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. HAMMOND: In accordance with your oral request we have furnished you a list of Lockheed military, space, and related contracts and the funded face value of each. (As discussed, the general rule followed was to exclude contracts with backlog values less than $1 million.) Offices within the Government must be the source for information respecting funds authorized and appropriated, and we have suggested to you that the sums paid to date could best be obtained from the Department of Defense or other Government offices.

Further in accordance with such request we provide you the information below.

The amount expended through 1969 on the model L–500 which is potentially a commercial cargo aircraft derivative of the C–5A, is $10,776,888. Such expenditures commenced in 1966. There has been no decision to proceed with a model L–500 program. Activities on the L–500 to date have been directed mainly to studies and investigations of a commercial configuration and commercial cargo aircraft system, and have also included wind tunnel tests, a cargo loading simulator and flight station mock-up.

The amount expended on the L–1011 Tri-Star commercial jet transport is included in our Lockheed Annual Report which, upon completion of the printing of copies currently in process, will be publicly released and we will at that time deliver a copy to you. Meanwhile, we have provided to you a preliminary proof copy[1] of that Report but request that no public disclosure be made of information therein other than that which was disclosed in our press release March 5, 1970, issued prior to completion of audit.

Lockheed assets values were disclosed in the condensed financial statement included in our press release mentioned above.

You requested the total amount of Government-owned property held by Lockheed. The total amount of Government-owned facilities in possession of Lockheed as of 1969 year end, had an acquisition cost of $227,723,000.[2] The estimated net depreciated value is $58,599,000. Such facilities do not include certain other Government-owned property in Lockheed's possession. For example, the dollar amount of equipment furnished by the Government from time to time for incorporation in deliverable end items is not readily ascertainable or calculable. Similarly, property is continuingly being acquired under cost reimbursement contracts, the title thereto vesting in the Government.

Progress payments totals received by Lockheed from the Government were as follows:

Unliquidated balance at 1968 end	$1,167,553,147
Amount received in 1969	972,209,201
Amount liquidated in 1969	576,494,197
Unliquidated balance at 1969 end	1,563,268,151

You have also asked us for information regarding cash requirements for all major Lockheed programs over the next two years, including the L–1011, and information on cash deficits and surpluses for all major Lockheed programs, including the L–1011, on Lockheed premises and customer premises.

[1] On delivery of this letter the preliminary proof copy was returned to lockheed at its request.

[2] Gen. Stanwix-Hay says $212 million.

In our letter to Secretary Packard of March 2, which we understand has been made available to you, we outlined our cash requirements on the major programs on which contractual procedures and disputes have created financing problems. We are developing additional information with respect to our cash position on these and other major Department of Defense programs in response to a recent request from the Department of Defense. This information will be made available to the Department in the near future.

Concerning the L–1011 aircraft, as you can appreciate, information reflecting projections on any highly competitive commercial program is extremely sensitive. However, it may become necessary or desirable to furnish the Department of Defense certain information respecting the L–1011 program to show its possible relationship to the overall financial situation. In that event, it is our intention to advise the Department that the sensitivity of such information requires that we furnish it in confidence so that it will be within the exception provided for "trade secrets and commercial or financial information obtained from any person and privileged or confidential" under the Public Information Act of 1966 and also will be protected from disclosure under 18 USC 1905.

We have not studied the cash effect if the C–5A program were terminated at 58 aircraft. If such termination were to occur and the amounts now in dispute were amplified as a consequence, the C–5A cash problems would seem to be similarly amplified.

You also alluded to "possible solutions to the Lockheed crisis considered by the Department of Defense including bankruptcy, break-up of the Lockheed Corporation, and substitution of new tenants for the Government's Marietta, Georgia, and Sunnyvale, California, plants". Serious consideration of bankruptcy or break-up of the corporation as possible solutions defies both equity and common sense. Any such steps would seriously interfere with performance of these and other major programs and in effect would resolve contractual disputes against this corporation without the benefit of adjudication.

Substitution of tenants at the Marietta and Sunnyvale plants would be grossly impracticable if not impossible. For example, at Marietta while the total operation of the plant involves the use of Government-furnished facilities, a greater amount of contractor-furnished facilities is involved as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$173.4
Net book value	99.4
Government-furnished:	
Acquisition cost	93.6
Estimated depreciated value	19.0

The Lockheed-owned property includes such most essential facilities as the C–5 test center which was built on Lockheed-owned property with Lockheed funds at a cost of $12.7 million; and the machinery and other equipment included in the total facilities amounts above are as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$65.9
Net book value	33.7
Government-furnished:	
Acquisition cost	38.0
Estimated depreciated value	4.2

Substitution of tenants at Sunnyvale would appear to be equally impracticable and virtually impossible because of the close integration of Lockheed-furnished and Government-furnished facilities as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$187.7
Net book value	109.6
Government-furnished:	
Acquisition cost	70.6
Estimated depreciated value	26.1

It is our opinion that such vital programs as Polaris, Poseidon, C–5A and C–130 simply could not be carried forward without Lockheed property and equipment which would not be available to another tenant. While conceivably some Lockheed employees including some supervisory and middle management personnel could be obtained by a substitute tenant of the Government-owned property, it is highly unlikely that a sufficient total of such personnel could be obtained to permit continued and uninterrupted performance of these programs.

Should you wish further information respecting the impracticability of tenant substitution, we suggest that your representatives examine the properties at the Marietta and Sunnyvale plants.

Sincerely yours,

KEITH ANDERSON.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 19, 1970.

Mr. JAMES H. HAMMOND,
Associate Director, Defense Division,
General Accounting Office,
Washington, D.C.

DEAR MR. HAMMOND: At our meeting last Thursday, we agreed to assist with responses to questions posed by Senator Proxmire in his letter of 10 March 1970, to Mr. Staats, concerning the financial problems of the Lockheed Aircraft Corporation.

The attachments to this letter contain the answers that we are able to provide to questions numbered (4), (5), (9), and (10), in Senator Proxmire's letter. It is our understanding that you will obtain answers to questions numbered (2), (3), (8), and (11), from Lockheed directly or from your own sources.

In response to Question 1, a listing of Lockheed's contracts with the government is being compiled. There are, however, substantial difficulties in bringing this data together from different sources and in programming our computers for a print-out which is responsive to the request. Because of these difficulties, it appears that at least two weeks will be needed to compile this information. In the interim, our answer to Question 9 partially fulfills the requests in Question 1.

In response to Questions 6 and 7, we are attaching Mr. Haughton's letter of 2 March 1970 to Secretary Packard, along with copies of Secretary Packard's testimony before the Armed Services Committees. These attachments summarize Lockheed's cash deficits and cash requirements on government programs with which the Company has major problems.

We also submit the copies of Secretary Packard's testimony as our response to Question 12. In concluding both presentations, Secretary Packard addressed himself to the range of possible solutions. Our analysis of these solutions is still in an exploratory stage, and we are simply unable at this time to outline the details of each alternative approach to this problem.

Sincerely,

ROBERT C. MOOT,
Assistant Secretary of Defense.

[From the Washington (D.C.) Post, Mar. 6, 1970]

HARD-PRESSED LOCKHEED ASKS $655 MILLION IN PENTAGON AID

(By Bernard D. Nossiter)

Lockheed Aircraft Corp., the nation's premier defense contractor, has made an extraordinary appeal to the Pentagon for up to $655 million in "critical" assistance funds.

In a letter to David Packard, the Deputy Secretary of Defense, Lockheed Chairman Daniel J. Haughton blamed "the unprecedented dollar magnitude" of its disputes with all three military services for its plight. Unless the cash is forthcoming, Haughton warned, it will be "financially impossible" for the company to continue producing the controversial C–5A cargo plane and to fulfill three other contracts.

Lockheed contends that the government owes it more than $770 million, a sum that is in dispute. The company wants an advance on this amount while awaiting settlements of its disputes with the government.

The letter was sent on Monday.

Packard and other Defense officials, it was learned, met secretly on Wednesday with six leading bankers, presumably to seek help for the giant company. The results of the meeting could not be learned. However, the Pentagon's release of Haughton's letter yesterday is regarded by procurement experts as the start of a campaign to build support in Congress for the money.

The New York Stock Exchange suspended trading in Lockheed shares yesterday until the company could clarify its position. Last night, Haughton reported that the firm lost $32.6 million last year against profits of $44.5 million the year before. The price of Lockheed shares has fallen from a high of 50 in the past year to 16 on Wednesday.

Defense Secretary Melvin R. Laird reportedly told the House Armed Services Committee in a closed session that the company's plight is "very serious."

He told newsmen that "I understand full well the need and necessity for maintaining this industrial base" and said that the aid request would be reviewed not only by his department but also "the appropriate committees of Congress."

Procurement officials called Lockheed's plea unprecedented and could not recall anything to match its size. The biggest assistance package that experts could remember was the $55 million "provisional claim" given Todd Shipbuilding Corp. last year.

A federal law also provides for relief to companies deemed essential to national security. Between 1960 and 1968, 2,553 requests were approved under this provision and they totaled only $55 million. The Lockheed request is twelve times this amount and that granted Todd.

Lockheed led the list of arms contract winners last year with awards of $2.4 billion. It employs 97,000 workers, including 48,000 at two California locations and 31,000 in Marietta, Ga., where the C–5A is being built in a government-owned plant.

Pentagon specialists said it was unthinkable that the company could be allowed to go bankrupt. They pointed out that Lockheed is the only supplier of Polaris and Poseidon missiles for submarines, the nation's least vulnerable strategic deterrent.

Lockheed argues that its claims against the services total $770 million to $835 million and that it can't wait until these are settled. However the amount of help it seeks, $590 million to $655 million, is more than the stockholder's investment in the company, an amount put at $371 million in 1968.

Sen. William Proxmire (D-Wis.), who warned last fall that Lockheed had wasted funds on the C–5A, said yesterday that the company's plight demonstrated the mistake of concentrating defense contracts in a few firms.

The heart of Lockheed's problem is the big cargo plane. The company expected to sell 120 of them, making good its losses on the first 58 through a repricing formula covering the remainder. But when Congress became aware of the plane's mounting costs, it put so much pressure on the Pentagon that

the Air Force decided to buy only 81. Air Force Secretary Robert Seamans has estimated this cutback alone will cost Lockheed $500 to $600 million.

Although Congress has authorized only 81 planes, Lockheed contends the Air Force signed a binding contract for 120. To cover the losses while this dispute is settled, Haughton asked for $435 million to $500 million in relief.

So far, 11 planes have been delivered and 26 are in what the company calls "final stages of assembly."

The other disputes involve these programs:

Cheyenne Helicopter—The Army cut off this program last year on the ground that Lockheed had not lived up to the contract's performance requirements. Lockheed still has a research and development agreement to complete, however. The company is claiming it is owed $110 million and it wants $45 million now.

Destroyer Escorts and Amphibious Floating Docks—The company is claiming the Navy owes it $175 million, which represents all its losses on nine shipbuilding contracts in the past 11 years. It wants $85 million now.

Short Range Attack Missile—Lockheed is building the missile's rocket motor; claims it is owed $50 million and wants $25 million now.

On Capitol Hill, Rep. Otis Pike (D-N.Y.), a critic of procurement practices in the Armed Services Committee, urged a speedy resolution of the issues between Lockheed and the Pentagon. However, he said, "To go beyond that and just give the money is a kind of defense blackmail we just can't yield to."

Rep. William Moorhead (D-Pa.), who along with Proxmire made public the C–5A affair, warned the Pentagon against "bailing out" Lockheed with a sum "more than three times what we spent on water pollution last year" without first seeking congressional approval.

Lockheed sought immediate aid.

In his letter to Packard, Haughton concluded: "In the absence of prompt negotiated settlements there is a critical need for interim financing to avert impairment of continued performance. We urgently solicit the assistance of the Defense Department in providing such financing."

[From the Washington (D.C.) Post, Mar. 7, 1970]

LOCKHEED'S RESCUE PLEA CREATES DILEMMAS FOR PENTAGON, HILL

(By Bernard D. Nossiter)

Lockheed Aircraft's $665-million plea for help confronts the Pentagon and Congress with a series of interlocking and painful decisions.

As the company's embattled chairman, Daniel J. Haughton, has said, his appeal is rooted in a "recognition of the interdependence of the company and the Department of Defense."

In plainer language, Rep. George Mahon (D-Tex.), the powerful chairman of the House Appropriations Committee, put it this way:

"We have to have the aircraft" but "you don't want to throw good money after bad."

The dimensions of Lockheed's request are illuminated by the company's estimate of its stockholders' investment in the firm. For 1969, this equity amounted to $321 million, or half the aid the plane maker is seeking from the government.

MANAGEMENT BLAMED

Rep. Mahon bluntly blames the Lockheed's management for its plight. "They just didn't do a good job on the C–5A," he says. "They made a lot of mistakes." But then he adds, "To wash this thing out with just a few planes would be a vast loss."

The C–5A, the world's largest cargo plane, has been plagued by cost and performance problems.

ORDER REDUCED

There is also widespread recognition that the Pentagon, under former Defense Secretary Robert S. McNamara, is responsible in part for Lockheed's woes. The Air Force wrote a contract that virtually encouraged the company to run up its costs on the first 58 C–5A planes. Under a complex repricing formula called the "golden handshake," the company stood to recover all these costs, and then some, on the next 62 planes.

The new administration, however, decided that 81 of the high-priced planes were enough. That cutoff accounts for the biggest chunk of Lockheed's claim against the Pentagon.

But if the Air Force concludes, or is ordered to concede, that the company is correct in arguing that it has a binding contract for at least 115 planes, the Pentagon faces another awkward moment.

Congress has only authorized the Air Force to buy 81 planes. The Pentagon may have to explain how it could contract for more planes than the lawmakers allowed.

UNITED STATES COVERS BILLS

Lockheed Chairman Haughton's remark about "interdependence" hints at the peculiar character of big arms makers. Typically, they turn out planes, missiles and ships with plants and machines owned in some substantial measure by the government. At Marietta, Ga., where Lockheed builds the C–5A, the General Accounting Office estimates that $114 million, or 59 per cent, of the investment was made by the taxpayers. Lockheed contends that the government share is nearer 36 per cent, but in either case it is considerable.

Moreover, and again unlike conventional firms, defense contractors spend little of their own working capital on a project. They turn to the government for "progress payments" to cover their bills as they go along. The Pentagon is now considering labeling a relief fund for Lockheed an "accelerated progress payment."

In a sense, the major defense firms own little but their managerial skills and their claims to pools of engineering talent. It is just these assets that are being called into question at Lockheed.

SURVIVAL NECESSARY

The Pentagon is arguing that Lockheed can't go under, that the nation needs uninterrupted production of its C–5A's and Polaris and Poseidon missiles, that 97,000 workers can't be thrown into the streets.

But there is another view. Economic historians point out that almost every railroad has gone through the bankruptcy wringer and continued to operate until new, and perhaps more efficient, management could be found.

A. Ernest Fitzgerald, the former Air Force efficiency expert who began warning of Lockheed's troubles four years ago and ultimately lost his job because of his persistence, points to another alternative.

Yesterday he recalled a 1964 negotiation in which General Dynamics threatened to shut down a missile production line unless its demands were met. Fitzgerald made some informal soundings and discovered that Boeing and even Lockheed would have been delighted to take over the operation. The only persons affected by the change, he discovered, would be two dozen General Dynamics executives who would have been dismissed.

Indeed, Fitzgerald and other procurement specialists like Gordon Rule of the Navy argued that a wasteful industry might mend its ways if one or two major corporate names were allowed to disappear.

At the moment, however, nothing so drastic is in sight. When Deputy Defense Secretary David Packard meets on Capitol Hill next week with the two Armed Services and Appropriations Committees, he is expected to propose a carrot of money not a stick of transferred contracts, for his troubled Lockheed supplier.

[From the New York Times, Mar 10, 1970]

PENTAGON BACKS AID FOR LOCKHEED—PANEL TOLD OF ALTERNATIVES TO SOLVE FISCAL CRISIS

WASHINGTON, March 9.—The Defense Department suggested today that public financial support would be required to solve the funding difficulties of the Lockheed Aircraft Corporation.

In its first public response to a request for about $641-million from Lockheed, the nation's largest defense contractor, the Government suggested that either interim financing of a negotiated settlement over the disputed contract money were the only "attractive solutions to the problem."

The Pentagon's position was outlined by David Packard, the Deputy Defense Secretary, to the House Armed Services Committee in a 13-page statement that noted: "There is no question about the need to preserve this important capability, which Lockheed has provided over many years."

CRITICALLY IMPORTANT

Mr. Packard told the committee, which is usually favorably disposed to Pentagon requests, that Lockheed faced a "severe financial crisis" and that it was a contributor of programs that were critically important to national defense.

"We do not intend to make a hasty decision and are not now prepared to recommend what the final actions should be," Mr. Packard continued.

He suggested two courses of action: resolution by "established procedures," which would require a substantial amount of interim financing by the Government, and a negotiated settlement with the company.

The first alternative would use a law permitting revision of signed contracts in cases that would "facilitate the national defense." If this course of action were approved, the Government would presumably revise the four defense contracts at issue.

These agreements involve the C–5A jet transport, the AH–56A Cheyenne helicopter, a short range attack missile and a number of Navy ships, including five destroyer escorts.

Secretary of Defense Melvin R. Laird has said that the Pentagon and the contractor were about $1-billion apart in estimates of how much Government money is owed on these four programs.

In a letter dated March 2 and made public last Thursday, Daniel J. Haughton, chairman of the board, said that Lockheed could not continue to work on these programs because of "the unprecedented dollar magnitude of the differences to be resolved between Lockheed and the military services."

Most of the money is involved in the C–5A program. The dispute over this contract has gone before the Armed Services Board of Contract Appeals, an administrative agency whose judgments can be appealed to the Court of Claims.

The C–5A dispute centers on the difference between the contractor's original cost estimate and the final cost figure. In this case, the final cost estimate for 81 airplanes is $3.2-billion, compared with $1.9-billion in the 1965 contract.

Lockheed contends that it cannot wait until a final adjudication is made on this contract and on the others. It asked for "interim financing" in the meantime. This is apparently the first alternative mentioned today by Mr. Packard.

He said the second alternative, a negotiated settlement, "would require carefully worked out procedures to protect the public interest." He did not elaborate on this alternative.

"There are other possibilities," Mr. Packard added, "including reorganization of the company, merger possibilities and of course, bankruptcy proceedings."

But he contended that such possibilities "do not, at this time, appear to offer very attractive solutions to the problem, either from the standpoint of the Government or of the company."

Regardless of the alternatives selected, Mr. Packard said, "significant additional financing" will be needed to obtain the products that are now under contract. He added that this would probably require a Congressional appropriation.

The Deputy Secretary indicated that, while no decision had been reached, Lockheed had been asked to provide data that would support their short-term cash needs.

"This will enable us to assure interim funding is available for the company to continue their work on these contracts, pending a final solution to the problems," Mr. Packard said. "We will take every step necessary to assure that the Government's interest is protected during this interim period."

Asked by reporters whether this indicated that the Pentagon had already decided to extend at least some public assistance to Lockheed, Mr. Packard replied: "We are considering a lot of things, but we have made no final decision."

[From Armed Forces Journal, Mar. 14, 1970]

LOOK TO LOCKHEED FOR LEADERSHIP?

(By Joseph Volz)

The slogan on the company letterhead reads: "Look to Lockheed for Leadership." But last week Lockheed officials themselves were looking elsewhere—to DoD, which was asked to keep the company afloat with a $650-million progress payment on four problem programs.

Lockheed's biggest headache is the giant cargo carrier, C–5A. The Air Force—and Congress—lost enthusiasm for the plane. The buy was chopped from 5 R&D and 115 production planes to 81 aircraft after a huge cost overrun surfaced.

DoD and Lockheed are trying to resolve contract differences, but Lockheed Board Chairman D. J. Haughton said, in an unprecedented letter to Deputy Defense Secretary David Packard, that the company couldn't wait out four years of negotiations. In order to complete delivery of the 81 aircraft during 1971 and 1972, Lockheed must have an extra $435- to $500-million, Haughton said.

Other Lockheed problem children are: the Shipbuilding Contract (including DE 1052 and LPD), for which Lockheed wants an $85-million "interim financing" cure; Short Range Attack Missile (SRAM), $25-million; and the Cheyenne helicopter, $45-million.

Lockheed was the top company in defense industry in FY 69, with $2-billion received in contracts. It reported a $4.5-million profit in 1968 and, at one point in 1969, its stock was traded at $50 a share.

But when trading was temporarily halted last week, pending DoD's release of Haughton's letter, the stock was down to $15.87 a share, and the company announced a $32.6-million loss for 1969. Since 1965, Lockheed's stock has ranged from $73⅞ to about $14 per share. As of late 1969, there were 11.259-million shares outstanding. The total market value of these shares dropped from $575-million in late 1968 to $208-million by late 1969.

Although Haughton emphasized Lockheed's financial problems, the company also has been plagued by technology difficulties. The Cheyenne rotor problem became so acute, for example, it was a major factor in the Army decision last May to terminate a letter contract by default.

THE BREAKTHROUGH BROKE DOWN

Yet Haughton blamed a major share of the company's problems on the contracting formulas. Former Defense Secretary Robert McNamara once said the C–5A contract "represents a major breakthrough in contracting techniques," and former Asst. Air Force Secretary Robert Charles said as late as January 1969 that program was "outstanding."

Last week, Haughton had a different outlook: "We believe that hindsight of today shows us that the procurement procedure utilized for these programs (C–5A, Ships, SRAM, and Cheyenne) was imprudent and adverse to our respective interests." He called total package procurement (TPP) "virtually unworkable." TPP is an attempt to fix the final price tag when the intial contract is signed and *before* all R&D is finished.

Haughton also argued that "in absolute candor, we do not consider that Lockheed, even if it were capable of so doing, should be expected alone to sustain for an indefinite period the financial burden while awaiting the outcome of litigation resulting largely from drastic innovations in procurement procedures utilized by the military services."

The Lockheed chairman did not mention the "reverse incentive" formula (strongly criticized in Congress) which plays a major role in the company's C–5A fiscal troubles. Cost overruns on the 58-plane Run A of the C–5A were to be compensated on Run B. Critics charged Lockheed was, in effect, going to be rewarded, not penalized, for overrunning the Run A costs.

But the compensation for losses was not scheduled to begin until production of the 91st aircraft, and the Air Force cut back from a total Run A and Run B buy of 115 planes to only 81. One C–5A critic, A. Ernest Fitzgerald, who was fired by the Air Force after he testified in Congress about the C–5A's mushrooming costs, predicts the Air Force-Lockheed negotiations will eventually result in no loss for the company. Deputy Defense Secretary David Packard told the House Armed Services Committee on 9 March that, by current estimates, Lockheed would lose over $640-million on the 81-aircraft buy—if the Air Force's interpretation of the contract is supported by the Armed Services Board of Contract Appeals. But Lockheed says it cannot wait for a ruling. It needs an infusion of cash—now.

As of early March, Air Force progress payments on the C–5 program totaled $2.04-billion. But DoD estimates the 81-aircraft buy will now cost $3.164-billion, exclusive of spares and other support items. The Air Force contends that it would be obligated to pay Lockheed only $2.516-billion, although Packard admitted last week that the contract at issue has several "ambiguous provisions" and called it a "very inadequate instrument."

DOD FAVORABLE TO INTERIM FINANCING

Packard told the House and Senate Armed Services Committees early this week that he had asked Lockheed officials for "additional data which will support, by specific periods and programs," their short-term cash needs. "This will enable us," he said, "to assure interim financing is available for the company to continue their work on these contracts pending a final resolution to the problems." Packard said, however, that "every step" will be taken to protect the Government's interest. He told the House group that he was not prepared to "recommend what the final actions should be." He termed other possibilities such as "reorganization . . . merger and, of course, bankruptcy proceedings" as not very "attractive" solutions.

MISSING SENTENCE?

In testimony before the Senate Armed Services Committee on 10 March, Packard deleted from his prepared testimony to the House, on 9 March, a sentence on Lockheed's ship contracts. The sentence read: "The contractor cost estimates now appear unrealistic." He also failed to tell the Senate group that he wrote the Navy on 25 February threatening to cancel on 30 June Lockheed's most recent contract, for the S–3A.

THE LOCKHEED LETTER

Here is the text of the 2 March letter from Lockheed Board Chairman Daniel J. Haughton to Deputy SecDef David Packard. (At the bottom of the first page was printed the company slogan, "Look to Lockheed for Leadership."

"DEAR MR. SECRETARY: We have completed a review of the current status of a number of our major Department of Defense programs in connection with which our corporation has filed claims or has been compelled into contractual disputes with the military services. It has become abundantly clear to us that the unprecedented dollar magnitude of the differences to be resolved between Lockheed and the military services make it financially impossible for Lockheed to complete performance of these programs if we must await the outcome of litigation before receiving further financing from the Department of Defense. We consider it imperative that some alternate method of resolution of these differences be immediately and seriously pursued in order to avert impairment of the continued performance of programs essential to the national defense.

"We realize that the military services normally expect their contractors to continue performance, including financing, pending administrative review and resolution of any disputable matter. In the present instances, however, the cumulative impact of the disagreements on four programs create a critical financial problem which cannot be supported out of our current and projected assets and income. We have intensified our cost reduction efforts, have eliminated dividends to our stockholders, have reduced drastically our planned expenditures for fixed assets, and intend to reduce our overhead costs and cut discretionary outlays in all other possible areas. We also intend to continue pursuit of all possibilities of financing from the private sector. Despite these efforts, we must state that we cannot maintain uninterrupted performance on these programs without receiving significant financing assistance from the Department of Defense. Also, in absolute candor, we do not consider that Lockheed, even if it were capable of so doing, should be expected alone to sustain for an indefinite period the financial burden while awaiting the outcome of ligitation resulting largely from drastic innovations in procurement procedures utilized by the military services.

"However, if absolutely necessary the parties may be forced to have their major disagreements involved in these programs settled through litigation. Indeed our obligations to our stockholders will require us to take this course of action if the only settlement proposals which can be evolved would ruinously deplete our corporate resources. Moreover, it should be recognized that contractual disagreements of such enormous magnitude represent a breakdown in the procurement processes.

"Without disregarding our own deficiencies, the common ingredient in three of the four programs which cause our present difficulty, namely, the C–5A, the SRAM, and the AH–56, is the fact that under the Total Package Procurement procedure development was required to be undertaken under a fixed price type contract with concurrent production commitments with respect to price, schedule, and performance. Although it was assumed that state-of-the-art advances were not required in these programs, it is generally admitted that these assumptions were incorrect. Although industry generally, including our company, perhaps erred in competing for contracts under this system, the system itself and its use were the responsibility of the military departments.

"We believe that the hindsight of today shows us that the procurement procedure

utilized for these programs was imprudent and adverse to our respective interests. We did not contemplate, nor do we believe anyone in the Department of Defense ever contemplated, that these contracts could generate differences of opinion involving such vast monetary amounts as, for example, exist on the C–5A program. Nor did either party appreciate the major hazards involved in undertaking production on the Cheyenne program before technical problems on the development program had been solved. Considering that these problems were known to the Army at the time the letter contract for production was issued in January 1968, and that the parties subsequently had been unable to reach agreement on a definitive contract, the unprecedented action of terminating this letter contract under a fixed price default clause is difficult to understand.

"Despite the growing awareness that the total package method utilized in these programs is virtually unworkable, there seems to be little disposition to correct existing contracts on terms which most contractors can accept or to recognize that litigation is a seriously inadequate avenue. Even on the shipyard contracts where the total package concept was not involved, the fact the bulk of the shipbuilding industry has encountered grave trouble as indicated by the more than a billion dollars in contract claims suggests that the system, rather than solely individual deficiencies, was a major contributor to the problem.

"Apart from the disastrous potential for our own company and its effect on Department of Defense programs, litigation of these problems may well have grave consequences on the Department of Defense's ability to secure the industrial support which it traditionally has required, regardless of who ultimately wins. With this in mind, whatever steps may be taken to alleviate our immediate financial problems I wish to urge that the way be left open to negotiate settlements which are within the ability of the corporation to absorb.

"Although I know you are generally familiar with the aforementioned programs, I would like briefly to recapitulate the critical financial problems they cause and to urge interim financing actions which should be taken immediately to avoid impairment of continued performance.

"C–5A

"On January 19, 1970, our appeal from the Contracting Officer's decision concerning the C–5A contract dispute was docketed by the ASBCA and our complaint has been filed. All parties are cooperating toward the earliest possible resolution of these issues by the Board, but most optimistically it would appear this cannot be accomplished before late 1971.

"In addition, there is a distinct possibility that the decision of the Board may be appealed to the Court of Claims, and consequently a final decision may not be made until 1973 or 1974. The Air Force has indicated it will not provide funds for this contract which will exceed the estimated contract price as the Air Force interprets this contract. Under these conditions, the Air Force funding would at best be adequate only until near the end of this year. However, in order to complete the delivery of 81 aircraft and related items during 1971 and 1972 an additional $435 million to $500 million will be required to cover production expenditures. Lockheed cannot provide such funding and believes the Air Force should advance the necessary funds pending the outcome of the litigation. This could be accomplished by an amendment to the current contract which could contain appropriate safeguards for both parties with respect to preserving their rights in litigation.

"SHIPYARD CLAIMS

"At the present time, the Lockheed Shipbuilding and Construction Company has performed, or is performing, on 9 contracts for several classes of new ships. More than $175 million of contractual adjustment claims have been presented to the Navy to date. As of December 29, 1969, amounts expended by Lockheed on these claims exceed $100 million and are expected to continue at a rate of $3 to $4 million per month. These claims have been under consideration for many months with provisional payments of only $14 million made to date.

"We believe the solution to this problem lies in an immediate increase in provisional payments to an aggregate of $85 million. We understand the Department of the Navy plans to settle the majority of these claims during the last three months of 1970 which should permit the payment of the balance of the amounts due Lockheed Shipbuilding and Construction Company by the end of this year. Should there be any delay in the Navy's present schedule an additional amount of provisional payments would be required. Immediately increasing provisional payments to $85 million would substantially ease the financial burden at the Shipbuilding Company and permit continued work toward the completion of the DE 1052 and LPD class ships now in process. In addition, arrangements can be made which will not impair the rights of either Lockheed Shipbuilding and Construction Company or the Navy with respect to negotiation and final settlement of these claims.

"AH–56A, PHASE III

"On May 19, 1969, the Army Contracting Officer issued a final decision terminating this letter contract for default. Lockheed's appeal from this decision was made to the ASBCA on May 22, 1969, and both Lockheed and the Army are proceeding in accordance with the rules of the Board. It is unlikely that the Board will hear this case before midyear and that a final decision can be made before the first quarter of 1971. As of the end of 1969, total costs incurred by Lockheed (both prior and subsequent to the Contracting Officer's decision) amount to approximately $89 million. Prior to the Contracting Officer's decision the Army had made progress payments amounting to $53.8 million. We have reached an agreement with the Army under which these progress payments may be retained by us pending a decision by the ASBCA. However, during the early part of 1970, costs incurred may reach a total of some $110 million requiring a total cost participation by Lockheed of some $60 to $65 million which may be increased by the necessity of payment by Lockheed to subcontractors of additional amounts. We suggest that the Army increase the amount of progress payments to a minimum of 90% of the costs incurred, and continue such payments until resolution of this case by the Board of Contract Appeals or the Court of Claims. The same agreement under which Lockheed is currently retaining the $53.8 million or progress payments could apply to these additional provisional payments.

"SRAM

"The Lockheed Propulsion Company is the propulsion system subcontractor to the Boeing Company under its prime contract with the Air Force for DDT&E [sic] of the Short Range Attack Missile (AGM–69A). On December 29, 1969, Lockheed Propulsion Company and the Boeing Company presented a Contract Adjustment Claim to the Air Force under Contract AF33(657)–16584 in the amount of $50 million. At the present time, Lockheed Propulsion Company is continuing its performance of its subcontract and has incurred costs approximating $30 million in excess of the $16.9 million received to date. Continued performance during 1970 is expected to add more than $15 million. Negotiations of the issues involved in our claim are currently being sought jointly by Lockheed Propulsion Company and Boeing with the Air Force. It is possible that most of all of the issues will become the subject of an ASBCA case in the next few months. We believe that a provisional payment to Lockheed Propulsion Company of $25 million should be authorized under the Boeing prime contract pending final resolution of the issues. As is the case with the AH–56A and the C–5 programs, suitable arrangements protecting the rights of both parties could be arranged.

"In summary, in the absence of prompt negotiated settlements there is a critical need for interim financing to avert impairment of continued performance. We urgently solicit the assistance of the Department of Defense in providing such financing.

"Very truly yours,

"D. J. HAUGHTON,
"Chairman of the Board."

LOCKHEED'S BIGGEST PROBLEM

Lockheed is now complaining it cannot continue with the C-5A unless it receives an infusion of $435- to $500-million from DoD.

D. J. Haughton, Board Chairman, argues that "hindsight of today shows us that the procurement utilized . . . was imprudent."

"Hindsight" also reveals other factors about the C-5A, however, which Haughton did not mention in his letter to Deputy Defense Secretary David Packard last week.

Contractors bidding on the program, for example, were not given the detail criteria (weightings or "measures of merit in percentages") by which their proposals would be judged. Nor were the same weightings used throughout the source selection process.

Additionally, the findings of the principal group evaluating the relative merits of the competing contractors' proposals were overturned. A 23 September 1965 Air Force memorandum shows an evaluation board headed by two AF major generals and two brigadier generals unanimously recommended Boeing, not Lockheed, for the job. That recommendation, however, was overruled by a three-fourths majority vote when the Air Force Chief of Staff, the AFSC Commander, the Military Airlift Commander, and the Air Council cast their votes (Journal, 22 November).

A 1965 Air Force independent cost estimate put the C-5A program cost at $3.3-billion. By 1969, AF officials estimated the total cost of the program, without spares, at $4.348-billion (Journal, 26 April 1969).

In mid-1969, AF Secretary Robert Seamans said the C–5A program had suffered a $1.1-billion cost overrun (Journal, 2 August). A. Ernest Fitzgerald, AF cost expert, contended, however, that the figure was more like $2-billion.

Seamans also revealed comparative target prices submitted by Lockheed and its two competitors, Boeing and Douglas (now McDonnell-Douglas). The proposals were for Runs A and B (115 aircraft) plus RDT&E (five aircraft), without engines.

Lockheed was low bidder with a target price of $1.886-billion, compared to a $1.972-billion bid by Douglas and $2.216-billion by Boeing. Lockheed critics contend that the company bought in low at an unrealistic target price, hoping for additional funds later.

The Journal noted editorially on 25 January 1969: "One of the reasons the Air Force picked Lockheed as the C-5A contractor was that Lockheed's airplane was cheaper. The program has been an expensive way to save money. For what the overrun alone will cost, the Army could equip, train, and operate for five years a full airmobile division force of close to 40,000 men."

PACKARD TELLS NAVY HE MAY CANCEL S–3A, BUT FAILS TO MENTION IT TO CONGRESS

No mention of S–3A problems was made in Lockheed's 2 March letter to DoD, or in Packard's statement to Congress of 9 March on the company's "severe financial crisis." But reliable Pentagon sources tell The Journal that the $2.9 billion ASW program may soon become one more nightmare for Lockheed stockholders. Deputy Defense Secretary David Packard told the Navy on 25 February that unless S–3A costs were brought under control, the ASW program would be "subject to cancellation" on 30 June.

Testifying before Congress on 9 March, Packard referred to the S–3A only briefly as an example of Lockheed's contributions (along with the still-in-production P–3) "to this country's anti-submarine warfare capability." No hint was given of problems on the program, either in Packard's prepared testimony or in subsequent discussion with the House Armed Services Committee.

S–3A bears Packard imprimatur

Packard stressed that the present "Lockheed financial problem results from contracts which were executed before the present Administration took office." The S–3A, by contrast, is the first major weapon system to bear Packard's personal imprimatur: in previous Congressional testimony, DoD officials have cited the S–3A's milestone contracting technique as a key example of DoD's new way of doing business to avoid C–5A type of cost overruns.

Navy planning estimates originally cited a total S–3A program cost of $1,763.8-million. The latest Selected Acquisition Report (SAR) given to Congress shows a total program cost of $2891.1-million. According to one source, Packard's memo to the Navy was prompted by a revised SAR showing still higher costs.

The Navy's latest cost estimate shows roughly a $100 million increase in S–3A production costs. It also "confused the issue," The Journal was told, by showing the ceiling instead of the target cost for the R&D program. Previous SARs had referred only to the lower target cost figure.

The $100 million cost increase apparently results from a proposed stretch-out of S–3A production to meet FY 71 and FY 72 budget constraints.

In his 25 February memo, Packard directed the Navy to review the S–3A program at an exceptional, as opposed to normal, 19 March meeting of the Defense Systems Acquisition Review Council. The meeting since has been called off, however.

June 30 cancellation?

Packard told the Navy to determine areas in which S–3A "costs can be reduced" and in which "simplification can be achieved." He specifically told the Navy that unless it could demonstrate by 30 June that S–3A costs were being brought under control, the program would be "subject to cancellation on that date."

Navy sources confirmed that Packard explicitly mentioned that he would "consider" cancelling the S–3A contract. But these same sources told The Journal that "there is little or no basis for the concern expressed in [Packard's] letter." As one senior official put it, "We don't have any wild programs—our aircraft programs are on cost, on track. So far, everything seems to be okay." He said that Packard's memo, which he termed "very stern," resulted from a "misunderstanding" and that Packard had been "poorly informed" by subordinates in OSD on how to interpret the S–3A SAR report.

Packard gave no hint whatever of possible S–3A problems in his testimony before Congress on 9 March about Lockheed's current financial crisis. One Representative, The Journal was told, asked Packard bluntly if he would have okayed the S–3A award to Lockheed last summer if he had known then of the company's pending cash flow crisis. Packard "dodged the question," according to a Capitol Hill source, by replying that he did not then know of Lockheed's problems and that he had "not made any such conjecture." One senior Congressman told The Journal that Congress "would take a dim view" of any DoD proposal to "bail Lockheed out, if while asking for help on four Lockheed programs, DoD is hiding problems it suspects may exist on another."

The S–3A contract was awarded to Lockheed on 1 August (Journal, 9 August).

INDISCREET SENTENCE

Perhaps the most intriguing sentence in Lockheed Chairman D. J. Haughton's five-page letter to DoD is one about the troubled Cheyenne helicopter program that begins: "Considering these (technical) problems were known to the Army at the time the letter contract for production was issued in January 1968 . . ."

Army sources flatly deny any such contention. One very senior Army official told The Journal: "That sentence is an overdramatization—an indiscretion is about the only thing I could call it and still be polite."

Discussing Lockheed's problems before Congress last Monday, Deputy Defense Secretary David Packard also disputed the Lockheed claim. As he put it: "Evidently it was not apparent to the Army that there were significant developmental problems at the time the production option was exercised (January 1968) and Lockheed expressed confidence in its ability to meet the production schedule."

One Army official who apparently was unaware of any major Cheyenne technical problems at the time of contract award is Deputy Assistant Secretary of the Army (Research and Development) Charles L. Poor. In a Journal interview (14 December 68), 11 months after the contract was signed, Poor said flatly: "There are no red flags flying." He said the Army had had "some problems" with the chopper's transmission systems and rotor but emphasized "the transmission problems are behind us and the rotor is beginning to look good. . . . Present indications are there are no serious problems outstanding. It looks as if we will have almost a zero retrofit posture."

Haughton, in asking DoD for a $45-million progress payment on the program, argued that because the Army was aware of technical difficulties when the contract was signed, the "unprecedented action of terminating this letter contract under a fixed price default clause is difficult to understand." Haughton said that the AH–56 program might require "a total cost participation by Lockheed of some $60- to 65-million," pending settlement of its contractural dispute with the Army. The statement confirms an earlier Journal report (20 September 1969) citing an early September visit from Haughton to Army Secretary Stanley Resor in which estimates were made that an additional $20- to $70-million of R&D work would be needed for Lockheed to bring Cheyenne's performance up to contract specifications.

If the Army position prevails on Lockheed's obligations under the March 1966 developmental contract, and on Lockheed's liability on the defaulted January 1968 production contract, Lockheed will have spent in the range of $200-million more than it could receive under the two contracts. According to Packard, Lockheed already has incurred costs of about $72-million above the $96-million ceiling on the R&D contract. Haughton's estimates show that an additional $45-million will be needed to complete performance under a restructured developmental program.

Lockheed's original bid for R&D program was $77.5-million, against a Sikorsky bid of $13.7-million (Journal 22 November).

HOW FORBES RATES LOCKHEED

In a recent annual survey of American industry, *Forbes Magazine* rated Lockheed 132nd (out of 563 companies surveyed) in terms of 5-year return on equity, 427th in terms of return on equity for the latest 12-month period, 86th in five-year return on total capital (equity plus debt financing), 563rd in terms of 5-year annual sales growth, and 529th in terms of 5-year annual *growth in earnings per share*. Source: January 1, 1970 Forbes 22nd Annual Report on American Industry.

LOCKHEED SALES TO U.S. GOVERNMENT

Calendar year	Sales in billions		Percent of sales to Government
	Total	Government	
1960	1.332	1.105	83.0
1965	1.818	1.682	92.7
1966	2.084	1.909	91.6
1967	2.335	2.128	91.0
1968	2.217	1.969	88.0

LOCKHEED'S DOD PRIME CONTRACTS

Fiscal year	Rank	Dollar volume in billions	Percent of DOD total
1960	2	1.071	5.1
1961	3	1.175	5.2
1962	1	1.420	5.6
1963	1	1.517	5.9
1964	1	1.455	5.8
1965	1	1.715	7.1
1966	1	1.531	4.6
1967	3	1.807	4.7
1968	2	1.871	4.8
1969	1	2.040	5.5

DOD, CONGRESS DEBATE LOCKHEED PLIGHT—PACKARD CALLS FOR FINANCIAL BLOOD DONORS—WILL MAKE PERSONAL REVIEW AT LOCKHEED-BURBANK—LOCKHEED'S SINGAPORE VENTURE MAY HURT COPTER INDUSTRY—PROXMIRE AIMS GAO AT LOCKHEED

(By the Journal Staff)

DOD, Congress, and the press have not been idle during the past week since The Journal's first report (14 March) on Lockheed Aircraft Corporation's "critical financial problem." The company itself describes the problem as being of "enormous magnitude," with "disastrous potential" and "grave consequences" for four military weapons programs—C–5A, AH–56 Cheyenne, SRAM, and shipbuilding.

In response to Lockheed's unprecedented 2 March importunity for financial succor, Deputy SecDef David Packard has been meeting with big bankers (see box) to seek a means of financial resuscitation for the nation's number one defense prime contractor ($2.04-billion in 1969, 5.5% of DOD's total).

Prompted by a question from the press—and just as The Journal broke in its 14 March issue the news about possible trouble with a fifth Lockheed program, the S–3A—Deputy Assistant Secretary of Defense (Public Affairs) Jerry W. Friedheim admitted that the S–3A program has been the subject of correspondence and talks between Deputy Secretary Packard and the Navy.

Friedheim said Packard had gigged the Navy in a 25 February letter on a number of possible management discrepancies, including alleged cost increases in the S–3A program.

Friedheim quickly added, however, that the Packard letter had resulted from a misunderstanding. After further talks with Navy officials, Friedheim said, Packard issued another memo to the Navy on 11 March which in effect cancelled the 25 February blast.

Friedheim quoted excerpts from the 11 March memo which called for S–3A cost reduction through "sound management," said that "a full-scale review" of the program by the Defense Systems Acquisition Review Council (DSARC) would not now be necessary—The Journal reported 14 March that the exceptional meeting had been called off—

and that he, Packard, would visit Lockheed-Burbank in early April to conduct a personal review of the program.

The planned trip to California for a personal S–3A review, however, is considered by many observers almost as "unprecedented" as the whole Lockheed *contretemps* itself. As one observer was heard afterwards to ask: "If the S–3A program is, as Mr. Friedheim and the Navy say, 'satisfactory, on track, and continuing,' why should it be necessary for Mr. Packard to make a personal trip to the plant for a review?"

(One Navy official suggested to The Journal that both Packard actions—the initial 25 February stern letter and the promised personal review at Lockheed-Burbank—are "for the record." Inasmuch as the S–3A program is a Laird-Packard "baby" under the new "milestone contracting technique" Defense wants to be covered "whether the program is really in trouble or not," the Navy official said.)

BIG BUREAUCRACY

Asked for specifics about the apparent difficulty in communications between Packard's OSD analysts and Navy's Office of Program Appraisal which had prompted the stern 25 February memo, Friedheim could only reply: "Well, its an awfully big bureaucracy here in the Pentagon."

As if Lockheed's "sea of troubles" was not adversity enough, skeletons in other nooks and crannies of the conglomerate's corporate house began to appear. First to see the light of day was Lockheed's Singapore aircraft repair venture, uncovered by Col. R. D. Heinl, jr, USMC-Ret, military editor of the *Detroit News* (see Heinl article).

Lockheed, according to Heinl has paid the Singapore government some 10-million Straits Dollars (about $4-million U.S.) for the privilege of setting up an aircraft repair facility which will utilize RAF shops and airfields, due to be abandoned upon Britain's 1971 East-of-Suez withdrawal.

The shops, employing Singapore's abundance of cheap but skilled overseas Chinese labor, will rework Singapore Government aircraft. It was revealed by Heinl, however, that Lockheed will also repair the UH–1 series of Bell helicopters, a high-density item for all four U.S. Services and South Vietnamese forces in SVN. The machines are now being reworked at Bell facilities in Texas and Louisiana. Both U.S. full-employment objectives and balance of payments would seem to suffer under the Lockheed Singapore plan.

An additional question raised by the Heinl article relates to the source of the nearly $4-million—if Lockheed needs a $650-million transfusion how can it come up with $4-million for a foreign venture or, alternatively, is the $4-million part of the $650-million shortage?

(Heinl suggests that Lockheed may be acting in neutral Singapore more or less as a corporate "cover" for the Pentagon. And in all fairness it should be pointed out that Sikorsky and Boeing-Vertol helicopters used in Vietnam are repaired in Japan under programs similar to Lockheed's proposed Singapore plan.)

Meanwhile, back on Capitol Hill, the Congress was fulfilling its responsibilities. Senator William Proxmire (D-Wisc), on the day after Deputy Secretary Packard 9 March message to Congress on Lockheed, transmitted a coupe of messages of his own in his role as Chairman of the Subcommittee on Economy in Government of the Joint Economic Committee.

Proxmire's first *billet doux* was dropped on the desk of Elmer Staats, Comptroller General and head of GAO. It requested Staats "to immediately undertake an investigation of the financial condition of Lockheed and its ability to continue performance of its military contracts," and gave him 10 days to report. The bill of particulars amounted to 12 brutally pointed questions, three of which mentioned Lockheed's bid for the commercial air-bus market, the L–1011, which also is reputed to be in difficulty through lack of enough orders for production to reach the break-even point.

OLD THEMES, NEW WAYS

The second missive was to SecDef Melvin R. Laird, informing him of the GAO investigation and laying down guidelines on Congress' expectations from DoD in the matter. Proxmire established as his basic premise the requirement "that an application for funds of this magnitude ($641-million) be passed upon by the Legislative Branch." He then requested "that no administrative actions be taken to approve the Lockheed application"—for what the news release from Proxmire's office dubbed "bail-out money"—prior to the GAO report and its consideration by the Congress.

Proxmire revealed skepticism about Lockheed's plight in echoing the question, uppermost in many minds in both the military and financial worlds, "as to whether we are witnessing only a variation of one of the oldest military procurement themes: buy-in-now get-well-later.

"Is it possible," Proxmire asked, "that the contractor is attempting to develop a new way to pay for massive cost overruns?"

The General Accounting Office investigative report on the "financial condition" of "all of Lockheed's military, space, and related contracts" is due in the office of Senator Proxmire by Monday 23 March.

FINANCIAL BLOOD DONORS

As previously reported (Journal March 14) the Lockheed Aircraft Corporation entered, in a 2 March letter from Board Chairman Daniel J. Haughton to Deputy SecDef David Packard, an "urgent plea for a financial blood transfusion" to cure four ailing and cost-overrun military weapons programs.

In a statement to the House and Senate Armed Services Committees 9 March, Mr. Packard indicated that program contingency and budget funds—representing three-fourths of the $650-million interim financing rquested by Lockheed—are sufficient to see Lockheed through Calendar Year 1970 on the C–5A. The balance of the amount, as well as financing for CY 71, may be a different matter, however.

The Pentagon last week announced—just after The Journal broke the story on the fifth Lockheed program, the Navy's S–3A ASW aircraft, in financial trouble—that Secretary Packard has been meeting with a group of bankers to discuss Lockheed's "continuing severe financial situation."

Secretary Packard stressed several points at the meeting, DoD said:

Any action which may be taken to assure the continuing availability of required facilities for national defense needs will be based on the public interest.

DoD has established a special team of experts to pursue studies into all aspects of the complex situation involving the four financially ailing programs—C–5A, AH–56 Cheyenne, SRAM, and shipbuilding.

"Precipitate action should not be taken" but the matter "must continue to receive priority consideration."

In no case will any solutions to the major problem be implemented "without prior consultation and discussion with appropriate Congressional committees."

Among those at the meetings were:

David Packard, Deputy Secretary of Defense

Barry J. Shillito, Assistant Secretary of Defense (Installations and Logistics)

Robert C. Moot, Assistant Secretary of Defense (Comptroller)

Fred J. Leary, Jr., Senior Vice President, Bankers Trust Co.

John Breeden, Executive Vice President, Wells Fargo Bank

James P. Mitchell, Vice President, Chase Manhattan Bank

Dewitt Peterkin, Jr., Executive Vice President, Morgan Guaranty Trust Co.

Ronald G. Ross, Vice President, Bank of America

Robert C. Suhr, Senior Vice President, Continental Illinois National Bank and Trust Co.

LOCKHEED SINGAPORE DEAL

(By Col. R. D. Heinl, Jr.)

WASHINGTON, March 14.—Lockheed Aircraft Corporation, which has asked the U.S. taxpayers for an immediate $655-million financial transfusion to avert "ruinous consequences" to the company, has just put nearly $4-million to finance a Singapore aircraft overhaul venture which will drain U.S. dollars abroad and deprive the foundering U.S. helicopter industry of badly needed government business.

In deep financial trouble with what the company recently described to the Defense Department as a "disastrous potential" over four (and possibly five) foundering major defense programs, Lockheed has privately informed the Pentagon it has signed "a firm and binding contract" to establish Lockheed Air Service Corporation Singapore which will take over two former British RAF Stations. Besides putting up $10-million Straits Dollars (equal to $3.7-million U.S.), the company will pay the Singapore Government the substantial royalty of six cents U.S. for every hour of maintenance work performed.

Although the nominal purpose of the new company will be to maintain military and civil aircraft for Singapore on a six-year contract, Defense Department sources said one of its primary activities would be the overhaul of UH–1 "Iroquois" helicopters from the Southeast Asia theater of war.

The Bell UH–1, used by all Services, is one of the principal U.S. helicopters in Vietnam. Until now, major overhaul on the Iroquois has been performed in the United States by Bell and other concerns primarily located in Louisiana and Texas. The new Lockheed plant (using cheap Chinese labor) will deprive these companies of multimillion dollar repair business.

The U.S. helicopter industry has been recently described by the authoritative Armed Forces Journal as "in desperate flight." After Fiscal Year 1971, Kaman, Sikorsky and Hughes will have no funded defense production at all. Boeing and Bell (which will suffer by this venture) will have a small military production base, which will apparently be further undercut by the Singapore transaction.

Where Lockheed—which Senator William Proxmire's Joint Economic Subcommittee has characterized as facing possible bankruptcy, corporate breakup, or substitution of new contractors to complete its disastrous C–5A Air Force cargo plane contract—found the $4-million to fund its Singapore venture is regarded as something of a mystery by Pentagon and Congressional observers . . .

One speculation advanced here is that, conceivably, Lockheed may be acting as a conduit to set up a nominally private U.S. Military aircraft overhaul facility in neutral Singapore using the extensive Royal Air Force facilities at Seletar and Changri which would otherwise be abandoned as the British Socialist Government retreats from Southeast Asia. Under this theory, U.S. Government funds might, in some elaborate bookkeeping legerdemain, be channeled via Lockheed as a cover activity.

Such an explanation would solve the mystery of where Lockheed has found the money and why, in its precarious financial circumstances, it is launching out into a distant risk venture in Southeast Asia and paying Singapore in U.S. dollars for the privilege.

THE FEDERAL EMPLOYEES' STRIKE AGAINST THE GOVERNMENT

Mr. GOLDWATER. Mr. President, the time has come in the minds of most citizens of this country, and I hope in the minds of many Members of Congress, that we must give serious consideration and discussion to whether or not a Federal employee may strike against the people. I have always believed that the right to strike is really the only weapon that a worker has; but when a person goes to work for the Federal Government, he is in effect working for the people, and in my opinion, he should be denied the right to strike.

At the same time, the Congress should pay constant attention to the problems of the various jobs involved in working for the Government, and they should be always alert to the needs of the workers, both as to salary, retirement, and the other facets of employment that concern the worker.

Two hundred million Americans should not be made to wait for mail, or to circle airports in holding patterns, or to wait hour after hour for transportation to and from different cities of this country, or to and from loved ones with whom they might spend a few precious days of a vacation.

Title 5, section 7311 of the United States Code says in part:

> An individual may not accept or hold a position in the Government of the United States or the District of Columbia if he . . . participates in a strike, or asserts the right to strike, against the government of the United States or the government of the District of Columbia;

I wish to point out that I have been a pilot for over 40 years and have kept abreast with most of the problems of aviation and its associated industries.

I have had great sympathy for the dedicated professional air traffic controllers and expressed my feelings before this body on February 25, 1970, during the airport/airways user bill debate. I would like to read into the RECORD a portion of my remarks at this time:

> Mr. President, I would like to mention a fact that we have not talked about as yet. This is the continuing problem that our airway controllers face—not just the controllers who operate the control towers, but also the man who sits in the Washington center, the Albuquerque center, or wherever it may be, and is required to look at a very difficult radar screen most of the period of his 8-hour working day.
>
> Mr. President, any of us who have been acquainted with radar knows that this is a very, very difficult assignment. It is difficult on their eyes. And it is difficult mentally. It is an extreme responsibility to place on one man, the responsibility for a dozen or more aircraft in a heavily congested part of the airway system. This would include both those controllers in centers and those controllers in the tower.
>
> I am glad to see that in the pending legislation there is a recognition of this problem.
>
> I do not go along with those who feel that the controllers should be allowed in effect to join a union so that they could threaten the system with strikes or even to strike. I think we should be a head of them and provide all they are asking. We are long overdue on this. In that way, we could prevent another catastrophe from happening such as the sick-out we had before or a strike because the controllers justifiably think they should be getting something more than they get today.
>
> I cannot think of a job today that is more exacting or demanding on a man's physical ability than the jobs I am talking about.

The deliberate defiance by the controllers of their responsibility to the traveling public, to the Federal Government, and to the courts of our land is inexcusable. These controllers have refused to recognize that Congress is cognizant of their problems. The airways/airport bill was passed by both Houses of Congress last month and is now in conference committee.

Under subsection 2(b) of section 204 we provided a provision for improving air navigation facilities. It states:

> The Secretary is authorized within the limits established in appropriations acts to obligate for expenditure not less than $250,000 for each of the fiscal years 1970 through 1979.

Last year Congress authorized hiring 2,000 new controllers and the new legislation provides for additional controllers. The number of controllers will be increased in 1971 by 4,141; in 1972 we will add another 1,075 new controllers; in 1973 another 1,380 will be added and so on, with the result that between today and 1980 we will have provided funds to hire an additional 19,109 air traffic controllers.

The controllers that have refused to work have been so gullible as to be led by the "Pied Piper," F. Lee Bailey, who has only his own interest at heart. He has convinced 50 percent of the air traffic controllers to join his organization PATCO. He guaranteed these controllers that his competency as a criminal attorney enables him to protect them from any harm coming to them as the result of defying Federal law by walking off their jobs and then sweetened the pot by guaranteeing each controller shorter working hours, better equipment, and an increase in pay.

Mr. President, since the time I have prepared these remarks and the present time, I am glad to note that the head of the FAA has read the riot act to them and stated that they will be back to work at the end of the first shift or they will be fired and will be subject to rather heavy fines.

The controllers who have left their jobs have certainly lost my support. They are playing with the lives, safety, and well-being of all air travelers. This utter disregard for safety is inexcusable and cannot be tolerated. I have listened and read with disgust the TV, radio, and newspaper coverage of F. Lee Bailey and his attempt to justify his irresponsible actions.

He has organized the most militant group of controllers into striking for additional benefits, shorter working hours, improved equipment and more controllers. Yesterday, F. Lee Bailey finally indicated what his real goal is, the removal of air traffic controllers out of Government service into a quasi-public corporation such as the one proposed to operate the strife-torn postal service. Bailey would, as head of such a corporation, have all the dictorial powers he indicates he must have to improve the conditions of the controllers.

The selfishness of the controllers has resulted in tragic financial losses to our already depressed airline industry. Executives of one airline inform me that the first week of the controller slow down has resulted in a loss in excess of $2½ million. They were forced to cancel 740 hours of revenue flying and the additional holding over airports waiting to land have totaled in excess of 730 hours of additional flying time.

It is my hope that Congress will voice unanimous support of the administration's ultimatum that those controllers who abided by the law be rewarded and those controllers who defied the responsibility they accepted when they became controllers be suspended or dismissed.

If we add to the two crippling strikes, whether they be called sick-ins or what, the threatened strike of the Teamsters Union, this country can face total economic paralysis within the coming few weeks.

I think it is past time that the Congress conduct hearings to look into the problems involved relative to the complaints of the workers and to, at the same time, reassess the position of the Federal Government that it is illegal to strike against the Government, which in effect is striking against the people.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BROOKE addressed the Chair.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BROOKE. I am happy to yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Massachusetts may be permitted to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. BROOKE. I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

THE NOMINATION OF JUDGE CARSWELL

Mr. BROOKE. Mr. President, there are several ways in which the matter of G. Harrold Carswell can be disposed of: First, Mr. Carswell could withdraw his name from consideration; second, the Senate could vote on confirmation and vote favorably on that confirmation and thus confirm him; third, the President could withdraw Mr. Carswell's name, and that has been suggested by the very distinguished and able senior Senator from Oregon (Mr. HATFIELD).

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram which was addressed to the President by the Senator from Oregon (Mr. HATFIELD), and sent to the President on Thursday, March 26, 1970.

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

MARCH 26, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I shall vote yes on the motion to recommit the nomination of Judge Carswell to the Judiciary Committee and I am prepared at this point to vote the nomination up or down.

I write you as one of your early supporters for the Presidential nomination and as one who has remained publicly uncommitted on Judge Carswell. I write also as reflecting my own evaluation of the mood of the Senate and the thinking of many of my close colleagues.

You and I share the common goal of restoring the needed balance to the Supreme Court. We share a common concern about the need to restore confidence in our entire judicial process. I was a strong supporter of Chief Justice Warren Burger and would welcome the nomination of a man of his stature.

I stand ready to support a nominee from any geographical area of the country. Just as every section should be open for consideration for an appointment, so should any nominee represent the best in professional excellence and personal integrity. There are men within the Southern states who represent these composite traits and who do justice to the best and to the future of that region.

As I spoke very recently with my constituents and with many others from throughout the country, I have become more deeply concerned about the crisis of confidence that confronts our governmental process. In all such discussions I continually urge the full utilization of our constitutional and judicial process in seeking the orderly redress of grievances. Yet, the name of G. Harrold Carswell has become a symbol of the despair, distrust, and disillusionment that beguiles our admonitions to work peacefully within our democratic institutions.

You and I share the commitment to promote a national reconciliation between the polarized factions in our land. We can do no better than to give our words the ring of authenticity by granting to our institutions the assurance of complete credibility.

Therefore, I respectfully urge you to withdraw the nomination of G. Harrold Carswell.

Sincerely,

MARK O. HATFIELD.

Mr. BROOKE. Mr. President, then the nomination could be sent back to the Committee on the Judiciary for further hearings and further study and examination. Most of the debate which has taken place on the floor of the Senate has been addressed to confirmation. Proponents have argued for confirmation and the opponents, of course, have argued against confirmation. But we now have before the Senate a motion to recommit, and by unanimous consent the Senate has agreed to vote on that motion on April 6 at 1 p.m.

Mr. President, my purpose today is to suggest that in the waning days of this debate the opponents of Mr. Carswell and those who have questions in their minds address themselves mostly to reasons why the motion for recommittal should carry. Many persons have suggested both in the press and in conversation that the purpose of the motion to recommit is really to deny Mr. Carswell's confirmation. But I suggest there are many valid reasons for this motion to recommit, and that, in fact, the Senate would be doing Mr. Carswell a great service, doing the President a great service, doing the country a great service, and doing itself a great service by acting favorably upon the motion to recommit.

I will not go into all of the questions of doubt that have been raised, but certainly one was raised on the floor of the Senate today by the distinguished junior Senator from California relating to a letter which was sent by a Government employee to the Committee on the Judiciary stating, in effect, that he, as an attorney appearing before Judge Carswell, received fair and courteous treatment. The Senator from California has raised the issue as to why this letter was sent by Mr. Wilson. He has charged that Mr. Wilson was acting under pressures from the administration. He has further charged that Mr. Wilson's letter did not constitute an endorsement, but that, in fact, several Senators had used this letter as the basis for their decision to vote favorably upon confirmation. I do not propose to argue the truth or the falsity of these charges, for, in fact, I do not know, Mr. President, but they do raise a very serious question which I think should be resolved.

One of our distinguished Senators, the senior Senator from Arizona, said that his decision—and his decision was to vote favorably upon the nomination—was based primarily, if not entirely upon Mr. Wilson's letter which was certainly favorable to Mr. Carswell. This raises a question as to the weight of that letter, a question as to the reasons why the letter was sent. I think these questions can be resolved only by calling Mr. Wilson before the committee, placing him under oath, and asking him these questions instead of speculating upon them, as we have heard done.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I am pleased to yield to the Senator from Kansas.

Mr. DOLE. I wish to point out that the letter appears in the RECORD as part of the hearings on pages 328 and 329. I do not think anyone questions Mr. Wilson's honesty and integrity and see no reason to have further hearings. The letter is in the transcript of the hearings and it speaks for itself. The letter states that he is a civil service employee. Mr. Wilson states in the letter that he was treated courteously in the courts of Judge Carswell. It seems to me that just because someone says Judge Carswell is courteous does not mean we should start a new hearing.

I assume many hundreds of lawyers appeared before Judge Carswell, and under the thesis the Senator is pursuing, perhaps we should call all of these people before the Committee on the Judiciary, every one of them.

Mr. BROOKE. Will the Senator yield?

Mr. DOLE. The Senator from Massachusetts has the floor.

Mr. BROOKE. I wish to say to the Senator that I think a question of integrity has been raised.

Mr. DOLE. Not of Mr. Wilson.

Mr. BROOKE. Yes. I think the question of Mr Wilson's integrity has been raised. This is the sort of question I think could and should be resolved by the Committee on the Judiciary. I think that by raising the issue as to his motives, stating publicly and on the floor of the Senate that Mr. Wilson was not motivated by anything other than his desire to tell the truth to the committee, one does raise a question as to the man's integrity.

I think that, whether it is raised directly or indirectly, the effects are the same. Mr. Wilson is an employee of the Justice Department, and as such was appointed by the present administration. He has given testimony in the form of a letter to the Judiciary Committee. The distinguished Senator from California says that that letter was drafted by a member of the Justice Department in the present administration, and that it was signed, after some minor corrections, by Mr. Wilson.

If the facts are as the Senator from California states them, it certainly raises a doubt in my mind, and as the distinguished Senator from Kansas well knows, I try to be as fair and as objective as I can. As I say, I do not know the facts in this case. I do not know Mr. Wilson, I do not know whether he would be motivated by career considerations; whether he feels his job may have been in jeopardy had he not signed the letter. I do not know that.

I do not make any such charge. I do state that the best way to resolve the question is by letting the Judiciary Committee conduct hearings on this issue; let members of the committee ask Mr. Wilson questions. Let them sit, look into his eyes to judge whether he is telling the truth; whether he really believes Mr. Carswell is the man to sit on the Supreme Court of the United States; whether the statements he signed were, in fact, truth and fact. I think that question can best be resolved by giving him the opportunity to testify. I do not know of any impediment——

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

Mr. BROOKE. In just a moment I shall be pleased to yield.

I do not know why this man cannot appear before the committee, or why he did not appear before the committee. Apparently he is in good health. He is right here in Washington, D.C. He would not have had to travel very far to come before the Senate and testify before the committee.

I certainly do not want the Senator to feel that I am now suggesting that all the possible witnesses in the whole country be brought in to take the committee's time, but the committee, at least, had before it the letter of Mr. Wilson, on which several members said they based their judgment. From what I read in the RECORD, these Senators not only based their judgment on it, but said they were voting for the nomination because of the high endorsement made by Mr. Wilson.

Now, did he make an endorsement, or did he not?

Mr. DOLE. I do not know which Senators the Senator from Massachusetts is referring to. Several Senators have commented on this letter—I have, myself—as an indication that Judge Carswell was courteous to civil rights lawyers

appearing before his court. But the basic question raised is that every time somebody says Judge Carswell was a fair and a courteous man, we question his integrity. What about the others? Are they entitled to different treatment?

Mr. BROOKE. No; I think they should be called before the committee and given an opportunity to testify. Many testified that Judge Carswell was discourteous, that he was downright rude to them when they appeared before him in court. I do not know. I am not charging anyone with anything. All I am saying is that, under our system of law, when a man has some testimony to give to a committee, he ought to be given that opportunity to come before that committee, that he ought to take an oath, that he ought to testify, and be subjected to examination and cross-examination. I think there is nothing wrong with that.

The fact that a man is a Federal employee does not make him immune to this sort of procedure. In fact, there is a stronger case that he ought to be given an opportunity to come before the committee, particularly, as I said, as he is here in Washington and could readily testify. I suggest to the Senator that this is a wonderful way to give him that opportunity; namely, by sending this nomination back to the committee and inviting him back to testify.

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

Mr. BROOKE. I yield.

Mr. DOLE. I will comment generally on that. That is one way to defeat the nomination of Judge Carswell. If that is what the Senator from Massachusetts has in mind, that is one way to proceed. But I believe the President has a right to have the nomination voted up or down on the Senate floor. We have a right, under the Constitution, to advise and consent to nominations. We should have the courage to express ourselves; we should be willing to vote them up or down. I see no reason why we should resort to a stratagem or subterfuge of sending it back to committee, where it can die an unnatural death. Why not vote on the nomination on the Senate floor?

Mr. BROOKE. That is precisely why I raised this question on the Senate floor. I am glad the distinguished Senator from Kansas, in his customary and usual honest and forthright stance, has come out and said what many have been saying quietly—that the only purpose of the motion to recommit is to, in effect, kill the Carswell nomination. I am saying today that there are many reasons—very valid and compelling reasons—for recommitting this particular nomination.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. Certainly.

Mr. DOLE. Does the Senator know any Senator who is promoting the motion to recommit who might vote for Judge Carswell if there were further hearings?

Mr. BROOKE. I, frankly, have not asked any Senator that question.

Mr. DOLE. What about the Senator from Massachusetts?

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

Mr. BROOKE. Mr. President, I ask unanimous consent that I may be permitted to proceed for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Massachusetts may proceed for an additional 15 minutes.

Mr. BROOKE. Let me say to the distinguished Senator from Kansas that I have already stated very clearly my intent to vote against the nomination of G. Harrold Carswell. I have stated my reasons for such a decision, and a painful decision it was. And still is.

I have also stated that I hope that there will never be a time in my life when I cannot change my mind. I think a man who cannot change his mind should not serve in the U.S. Senate.

Mr. DOLE. Or on the Supreme Court.

Mr. BROOKE. Or on the Supreme Court. I quite agree with that. So I will not say I cannot change my mind. Perhaps some evidence will come before the Judiciary Committee, and ultimately the Senate, which would cause me to change my mind. There is that possibility. I do not rule out that possibility. I do not rule it out for my colleagues, either.

As I have said, there are many valid and compelling reasons for recommitting the nomination to the Senate Judiciary Committee, where I think it may be given a more thorough and exhaustive examination and inquiry than it had in the first instance.

Mr. DOLE. Mr. President, if the Senator will yield further, I think the nomination might be given a more quiet burial in the Judiciary Committee than on the floor. If we are being practical, as I think the Senator from Massachusetts is——

Mr. BROOKE. Is that a fair statement, that it will be given a quiet burial if it goes back to the Senate Judiciary Committee?

I have great faith that members of the Judiciary Committee will perform their duties, as they should; and that if there is new evidence to come before them, they will hear that evidence and judge it fairly. If there are witnesses who can shed light on some of these areas of darkness—and there are areas of darkness—I think the Judiciary and the country should be given an opportunity to hear, and judge, and ultimately decide about that testimony.

I would be less than candid if I did not say that I certainly recognize the possibility that the committee may not vote to return the nomination to the floor. But the committee certainly could also vote to report the nomination favorably a second time or it could report it adversely.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I yield.

Mr. DOLE. I am merely discussing this nomination. I have no quarrel with the Senator from Massachusetts.

Mr. BROOKE. I think the Senator's comments have been helpful.

Mr. DOLE. I respect his position and trust he respects mine.

Mr. BROOKE. That is a proper assumption.

Mr. DOLE. I know how a motion to commit is used in the other body.

I would point out to the Senator from Massachusetts that this is a straight motion to recommit. There are no instructions to report the nomination back.

Mr. BROOKE. That is correct.

Mr. DOLE. I am advised by the Parliamentarian that it is too late to change that motion, to add instructions. The Senator from Indiana made the motion last Thursday. It was accepted and is a straight motion to send the nomination back to committee.

I would say, based on my experience in Congress, that what we are doing is, in effect, killing the nomination. I can visualize that there are Senators saying, "Send the nomination back to committee," who will say if they are successful, "The President should withdraw the nomination. Why should we continue hearings on it? The Senate has indicated it is not in favor of the nomination. There are 50–x votes for recommittal"—ad infinitum.

This might be a fair argument. I believe the President recognizes the practicality of it. My only point is—and I would hope that the Senator from Massachusetts might agree with me——

Mr. BROOKE. Is that not true at the present time? Could not the President withdraw the name now because of speculation that at this very moment at least 40 Senators are prepared to vote against confirmation?

Mr. DOLE. At least 40 other Senators might vote the other way.

Mr. BROOKE. Such widespread opposition, such widespread doubt would seem to me to be more than cause for a motion to recommit. Does the President have to withdraw a name merely because 51 Senators said the name should be recommitted?

Mr. DOLE. In a case where there is a yea-and-nay vote, and it is on a motion to recommit, I would hope the Senator from Massachusetts would favor a motion to table the motion to recommit. The Senator from Massachusetts and other Senators recognize that we have an obligation to vote the nomination up or down. We have had adequate hearings. Only a few votes were cast against the nomination in committee.

Mr. BROOKE. That is precisely what I am saying. We did not have adequate hearings, as is borne out by the many clouds, the many areas of doubt, that have been raised since the Committee on the Judiciary reported this nomination to the Senate.

Mr. DOLE. Did the Senator from Massachusetts raise those doubts when he made his speech against confirmation? Did he raise the question that there should be more hearings?

Mr. BROOKE. I made my speech relatively soon after the Committee on the Judiciary had reported the nomination, and the report had been completed. I studied the record as best I could, and based my decision upon the record and my own personal inquiries. But since that time many things have come to light which I, frankly, did not know of, and I think many other Senators did not know of.

Take the matter of Judge Tuttle. There

is certainly some question as to Judge Tuttle's endorsement or withdrawal of his endorsement, about how, in fact, the judge stands on this nomination. Things of that nature could be cleared up, once and for all, if the nomination goes back to the committee.

Questions were raised by the Senator from California (Mr. CRANSTON) yesterday and today about the letter of Mr. Wilson. Mr. Wilson's credibility and the credibility of Judge Carswell himself have been questioned. Those are important things to consider and I think the Judiciary Committee should consider them.

No one wants to have sitting on the Supreme Court a man whose credibility has been challenged, unless that issue has been resolved. I do not make such a charge. I do not say Judge Carswell did not tell the truth to the Committee on the Judiciary at the time I believe my distinguished colleague from Massachusetts (Mr. KENNEDY) was interrogating him as to whether he knew when he signed the incorporation papers that he was setting up a device to circumvent the law of the land as determined by the Supreme Court. But there is a question—a doubt—in my mind. I would like to know whether Judge Carswell was or was not telling the truth. I do not think the interrogation was exhaustive or complete.

I think that certain things which have happened since the hearings have raised doubts in my mind and have raised doubts in the minds of other Senators. I am looking for a means to resolve those doubts.

It seems to me that if I were in Judge Carswell's position and my name were before the Senate for confirmation, and if some doubt had been raised as to my credibility, and I were about to sit on the Supreme Court of the United States, I would want any and all doubts resolved promptly and decisively. I would want them resolved by the official body that should resolve them.

I do not think the Senate has all the facts before it at the present time. Nor has it an opportunity to get those facts. The Senate itself does not take testimony. The Committee on the Judiciary does. I think that a further hearing by that committee is the only way these doubts can be resolved.

Mr. DOLE. If the name of the Senator from Massachusetts were before the Senate, I would vote for its confirmation.

Mr. BROOKE. I am certainly honored. I thank the Senator from Kansas.

Mr. DOLE. Many statements have been made since the hearings were concluded. There was the telegram, released the past Sunday, by 11 of 15 active members of the fifth circuit, endorsing the nomination of Judge Carswell. Judge Wisdom was the only one who said he could not endorse Judge Carswell because of his record on civil rights. The others said they felt they should not because of the doctrine of the separation of powers.

Seventy-nine lawyers in Tallahassee, who have engaged in Federal practice before Judge Carswell endorse the Judge's experience and nomination.

So if we were to reopen the hearings on a day-by-day basis, the hearings would never end. When would we start, and when would we stop and say to the committee, "You have performed your task"?

If we want to kill the nomination, let us do so on the Senate floor next Monday, April 6—at 1 o'clock.

Mr. BROOKE. Would not the Senator agree that the whole question of the weight that should be given to the American Bar Association's endorsement is one that should be resolved? Certainly the American people have been led to believe that when the American Bar Association gave its approval to Mr. Carswell's nomination, the American Bar Association, the most distinguished and most prestigious legal body in the country, had conducted a rather extensive, if not exhaustive, investigation; and that, therefore, if they approved a nomination, their approval was one upon which the Senate, the President, and the Nation could rely.

But it would appear now that no such thing happened. The American Bar Association did not conduct an extensive examination into Mr. Carswell's qualifications. The American Bar Association merely gave him a rating of "qualified," whatever this means.

As I have said, I am a member of the American Bar Association, but I think it was certainly misrepresentation to the Senate, to the President, and to the Nation for that association to say that Judge Carswell was qualified, considering the minimum of investigation which the ABA's committee conducted.

I think the same thing applies to the Department of Justice. I think it is a shame, some would say a scandal, frankly, that the Justice Department did not know or did not report to the Committee on the Judiciary the statement which some television reporter discovered, by happenstance or through diligence—well, not by happenstance, but by diligence—that created some serious doubts in my mind and in the minds of other people across the Nation as to this nominee's fitness to serve on the Supreme Court.

Many of these things came out after the Judiciary Committee had made its report. If these were just more things that had already come before the Committee on the Judiciary, then, as the Senator from Kansas has wisely pointed out, we could not keep the record open for an indeterminate period. The hearings have to be ended at some time.

All I say now is that serious questions of doubt have been raised since the Senate began to consider this nominee. We can resolve those doubts and the way to do that is to vote favorably upon the motion to recommit and thereby give the Committee on the Judiciary an opportunity to conduct further hearings, which conceivably and hopefully could resolve those doubts.

Is that not a logical argument?

Mr. DOLE. That is a logical argument; I will agree to that. I would add—this is my notion again—that we have the right to have differing opinions. Surely many headlines have been written about the fact that 400 or so lawyers had signed petitions saying that Judge Carswell was not fit to sit on the Supreme Court.

If we review that—and that is a great number of lawyers—we find that of those 400 lawyers, only 126 are practicing attorneys; the other 300 odd are law professors. About 4,000 law professors teach in 145 law schools in America. We find the names of 126 practicing lawyers appeared in the advertisement published in certain newspapers.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. BROOKE. Mr. President, I ask unanimous consent that I may be permitted to proceed for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—I shall not object—there is other morning business; and I would hope that after this 15 minutes the Senator will not request additional time.

The PRESIDING OFFICER. Without objection, the Senator from Massachusetts may proceed for 15 additional minutes.

Mr. DOLE. There are 300,000 practicing attorneys in America. 143,500 of them are members of the American Bar Association. The ad carried the names of 126. My point is this: That is approximately .3 percent who oppose, at least publicly, the nomination of Judge Carswell. There may be others. But there has been so much notoriety and so much publicity given to 126 out of 300,000, and 334 law professors out of 4,500, why not call these people in if there are to be more hearings.

Mr. BROOKE. Does the Senator know whether a poll was taken of every lawyer in this country and every law professor in this country?

Mr. DOLE. In the State of Kansas we have approximately 3,000 practicing lawyers—and not a single Kansan's name appeared in the ad. Perhaps there are some Kansas lawyers who oppose Judge Carswell and I am certain there are.

The point is some seem to put great reliance on and give great credit to small numbers of people if they oppose Carswell, and it makes little difference how many are not opposed. We find one who is or five who are; then we should take this into consideration and weigh it very heavily, but should we forget about the 300,000 we have not heard from, the 3,000 in Kansas, or the approximately 1,480 members of the bar association in my State.

Mr. BROOKE. Does the Senator want to state that all 3,000 lawyers in Kansas agree that G. Harrold Carswell should sit on the Supreme Court?

Mr. DOLE. No. And they do not all agree that I should be in the Senate.

Mr. BROOKE. The Senator knows the realities of these things. I would presume that those names were solicited by some interested group from one side or the other.

Mr. DOLE. One side or the other.

Mr. BROOKE. They would get the

people they were interested in, and they would make out the best case they could. In the list of lawyers to which the Senator has referred are some of the most distinguished lawyers in the country who practice law, deans of law schools, members of faculties, who are merely stating that in their opinion G. Harrold Carswell should not sit on the Court.

The Senator has referred to 11 judges in the fifth circuit who said G. Harrold Carswell should sit on the Supreme Court, and he has also very fairly pointed out that Judge Wisdom was not one of them. I think we can point out now that Judge Tuttle also did not sign that telegram.

Mr. DOLE. But he is not an active circuit judge. I believe he is on call.

Mr. BROOKE. I am merely saying that these men disagree. So do other men disagree on this serious constitutional question. We have an almost evenly divided Senate at the present time. We had an equally close division on the nomination of Mr. Haynesworth, as the Senator will recall. I do not put too much weight on that. I certainly respect the rights of all these lawyers, law school deans, members of the faculties, members of the judiciary, and others to voice their opinion. But when we get to the question of how much weight should be given to a particular piece of evidence and how much weight should be given to a statement or a petition, that really becomes an individual matter. I think that is as it should be.

We have been having all sorts of discussion about this judge as a conservative. A speech was delivered on the floor of the Senate today the thrust of which was that if this man were a liberal, perhaps those opponents who are arguing most eloquently against him now would be arguing in favor of him. That distressed me when I heard it. I do not believe it to be true; let me say that. We are not here to decide whether a man is a Republican or a Democrat or whether he is a liberal or a conservative. The Senate's job is to decide whether this particular individual is qualified to sit on the Supreme Court of the United States. That is a very weighty and a very heavy responsibility. I think frivolous considerations should not be taken seriously by any of us, frankly.

It does not matter to me whether the man is from Florida or from Massachusetts. If he is not qualified to sit on the Supreme Court, he should not sit on the Supreme Court. It does not matter to me whether he is a Republican or a Democrat. Mr. Carswell happens to be a Republican; I happen to be a Republican. But if I do not think he is qualified to sit on the Supreme Court, I should vote against him.

I do not know where I fall on the philosophical spectrum. Whether some put me in all three camps—liberal, moderate, and conservative—does not matter to me. At any rate, if I am considered a liberal-moderate and he is a conservative that matters not to me. The issue is the question whether Judge Carswell is qualified to sit on the Supreme Court of the United States. This is what we are trying to determine, and I think this is what this debate is all about.

I am merely saying to the Senator from Kansas, at this time, that in my opinion there are sufficient questions which have not been resolved, there is sufficient doubt which should be resolved, in fairness to Mr. Carswell; in fairness to the President, who has made this nomination; in fairness to the American people, who have the right to expect only the best, and in fairness to the Senate, which has this very grave responsibility.

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

Mr. BROOKE. I yield.

Mr. DOLE. Who would the Senator call as additional witnesses? I will not trespass on the Senator's time further. I realize that I have interrupted too often.

Mr. BROOKE. I certainly would call—I have not gone over it in detail—Mr. Horsky, for one.

Mr. DOLE. He is a former adviser to President Johnson. I assume he might have a little leaning against a Republican nominee.

Mr. BROOKE. I just cannot presume that a Democrat is going to come before the Senate Judiciary Committee and, under oath, is going to give testimony which is not truthful, merely because he is a Democrat. I have to presume that he would be honest and forthright.

The Senator is a distinguished lawyer. He knows that there is a presumption of truthfulness, and we have to go on that presumption. I have traveled all my life on that presumption, and I have been very happy with it. I have never presumed a man to be wrong until he is proved wrong, and I think that is what this country stands for.

Mr. Horsky should be called. Then I think Mr. Wilson should be called before the committee. I will not repeat the reasons.

I think Mr. Carswell should come back before the committee because of the question of credibility which has been raised. I think very serious questions have been raised about his credibility.

I would call before the committee some of the incorporators of the golf course in Florida. I think they should come before the committee so that the committee might question them.

I think our judicial system is the best that has ever been devised by man. Although I know that under our system of laws at times we have to use affidavits, I think the best system is to have a man appear before a committee so that its members can look into his eyes and make a determination as to whether that man is telling you the truth or the untruth. You cannot always tell by this method; but, generally speaking, judges and juries have been very successful. They might convict the wrong man occasionally, or a convicted man might escape occasionally. But, generally speaking, our system of examination and cross examination, as I have said, is pretty reliable. I do not think we should change that system insofar as making a decision on the confirmation of a nominee for the Supreme Court of the United States.

So I just want to say to the Senator that I know he has some serious doubts as to the reason for a motion to recommit, and generally his doubts might be very valid. He has served in the House, and he has said that generally in the House a motion to recommit is a motion to kill. But I merely am trying to point out—and I hope I have—that sufficient questions have been raised since the Judiciary Committee reported this nomination that would justify recommittal of this particular nomination to the Judiciary Committee for the purpose of resolving those doubts.

I do not think I could make any stronger statement than to say that I think that in the end Mr. Carswell's interests will be better served if the Senate, in its wisdom, votes favorably upon the motion to recommit. I do not say this in any threatening manner at all. I do not mean by that that if it is not, he will be denied confirmation. I frankly really do not know that. But I think the Senator would agree that at this moment the Senate is so divided, there are some who still do not know how they will ultimately vote. The issue hangs in the balance. But we have the opportunity to resolve the doubts and I think the way to do that is by voting favorably upon the motion to recommit. I hope that the motion carries when it is voted upon on April 6.

I understand that the Senator intends to make a motion, prior to that vote, to table the motion. He invited my support of that motion to table but I will have to say that unless I hear more convincing arguments than I have heard so far, I would be disposed at this moment to vote against the motion to table and vote for the motion to recommit and hope that these questions can then be favorably resolved.

I thank the distinguished Senator from Kansas for joining this colloquy, which I hope will set the tone for the few remaining days of debate. I think that we have practically exhausted all the arguments on the evidence that we have before us, and fear that we soon may get into the area of speculation, charges, countercharges, innuendoes, guilt by association, and all of that murky area, which would make our decision even more difficult. I think that we can avoid that pitfall if we direct the few remaining days to intelligent and exhaustive debate on why we should or should not vote favorably on the motion to recommit.

Again I thank the distinguished Senator from Kansas.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

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

Mr. WILLIAMS of Delaware. Mr. President, President Nixon has nominated Judge G. Harrold Carswell to be Associate Justice of the Supreme Court and the question before the Senate is, Should he be confirmed?

For the past several days I have carefully reviewed the testimony before the Senate Judiciary Committee and I have also followed the arguments presented in the Senate by those who would support and those who would oppose his con-

firmation. It appears that the principal arguments against his confirmation are confined to two basic points:

First, there are those who oppose his confirmation because they do not want a man of Judge Carswell's conservative background to be a member of the Supreme Court. These opponents criticize some of his earlier decisions as a judge on the basis that they were not as favorable to labor or the civil rights movement as they would like.

Second, others base their arguments on the premise that while Judge Carswell may be a man of integrity they do not think he is the best qualified man that the President could have found to fill this vacancy.

I first comment just on argument No. 1; namely, that Judge Carswell's conservative background would justify a vote against his confirmation.

As I have stated on earlier occasions, in my opinion agreement or disagreement with a man's political philosophy is not a valid basis for support or opposition to the confirmation of a Presidential appointment.

In fact, if this argument were to be accepted as the basis for a decision all conservatives would have voted for Judge Haynsworth and they would have opposed the confirmation of men such as Justice Goldberg, and many others who admittedly had liberal views. Yet men with liberal views were confirmed with scarcely any opposition by the Senate.

At the time of Justice Goldberg's appointment, I received many letters of protest on the basis that as a former representative of labor he would be prejudiced against management. I took the position then that, while Mr. Goldberg's views were more liberal than mine and that had it been my choice I would have selected a man with a more conservative background, this was the President's appointment and Mr. Goldberg was in my opinion a man of high integrity. I supported his confirmation.

Justice Goldberg proved to be an able member of our Court and no one has challenged his decisions as being biased. Justice Black had been a member of the Ku Klux Klan, yet he proved to be a liberal on the Court.

Under our constitution nominations to fill vacancies on the Supreme Court are made by the President and it is expected that in making this selection the President will nominate men whose social or political philosophy more nearly coincides with his own. Had Mr. Humphrey been elected President I am sure he would have named a liberal to fill this vacancy, and the country expects Mr. Nixon to name a man of more conservative background.

Therefore, in my opinion objection to or approval of Judge Carswell's conservative record is not a valid basis upon which to base our decision.

That brings us to the second question; namely, is Judge Carswell qualified for this position and does he represent the best possible choice the President could have found to fill this vacancy?

As to his qualifications, I point out that the Senate has on three occasions unanimously confirmed Judge Carswell, once as a U.S. attorney and twice as a member of the Federal court.

In 1953 Harrold Carswell was appointed and confirmed by the Senate as the U.S. attorney in the Jacksonville, Fla., area. He served in this position until 1958 at which time he was appointed and again unanimously confirmed by the Senate to be a Federal district judge in that same district. He served in that capacity until 1969. In June 1969—just last year—President Nixon recommended that Judge Carswell be elevated to the position as a member of the U.S. Court of Appeals for the Fifth Circuit.

At the time of this later appointment, in 1969, Judge Carswell had already served as a Federal Judge for over 10 years or between 1958 and 1969.

The Senate Judiciary Committee again considered both his qualifications and his record as a Federal Judge and in June 1969—less than one year ago—unanimously reported his nomination to the Senate and the Senate unanimously confirmed his appointment.

Significantly, while some may disagree with certain of his decisions, at no time has anyone presented any challenge to the honesty or integrity of this man.

I repeat three times Judge Carswell has been unanimously approved by the Senate Judiciary Committee and three times he has unanimously been confirmed by the U.S. Senate and at no time was any question raised as to his qualifications.

That brings us to the last argument, namely do we think that Judge Carswell is the very best qualified man that President Nixon could have found to fill this important position.

I will answer that question in exactly the same manner as if the question was, did I think that I or any of the other 99 Members of this body are the best qualified men that our States could have found to represent them in the U.S. Senate. Let's face it, no man is so great that it would be impossible to find a better man to replace him and I would hope that there is not a single Member of this Senate who is so egotistical that he would try to claim that he is the best man his State could have selected.

This is true of every other man in public or private office and I would suggest that Senators not push this argument too far, our constituents may get ideas.

One last point: an argument has been raised concerning a speech that Judge Carswell made about 20 years ago wherein he supported segregation.

Twenty years ago when Judge Carswell made that statement we had segregated schools, segregated restaurants, and segregated clubs in every State in the North as well as the South. Right here in Washington Members of Congress lived in, ate in, and were members of such segregated facilities.

On June 7, 1948, the Senate by a rollcall vote of 67 to 7 rejected an amendment which would have abolished segregation in our Armed Forces. Only two of the present Members of the Senate supported that amendment and as I recall no effort was made in the House to eliminate this discrimination in our Armed Forces. Who are we to point the finger at Judge Carswell for his views of 20–25 years ago?

Then too, Judge Carswell has been criticized because of a segregation clause in a deed. Senators know such clauses have been declared null and void years ago by our courts; therefore, they have no meaning. Besides half the property on the Atlantic seaboard carries such a historic clause. This includes much of the property right here in Washington and its surrounding areas.

In one area of my own State all property—including some property which I own carries such a clause that was initiated years ago by some former owner.

Only recently it was pointed out that one of the candidates for President on the Democratic ticket had owned property bearing such a clause.

Did this mean that he or the other property owners were segregationists? Certainly not. I doubt if many of them even knew such a clause was in their deed. I did not until 10 years later.

Then too, how many Senators have made speeches, cast votes, or done something during the past 25 years that we would rather have forgotten?

Mr. President, in the light of the Senate's own record on civil rights I suggest we be careful as to how we point a finger of criticism at Judge Carswell for his views of 25 years ago.

I respect all my colleagues who are members of the American Bar. Early in life my ambition had been to be a lawyer but let it be remembered that there is nothing in the Constitution which requires even a member of the Supreme Court to be a lawyer. Ability, integrity, and good commonsense are the essential ingredients for public offices and not the least of these is good commonsense.

Mr. President, in my opinion Judge Carswell's 17-year record as a public servant with 10 years service as a Federal judge fully justifies our support. He is a man of high integrity, well qualified to be a member of the Supreme Court and I shall vote for his confirmation.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GRIFFIN. Mr. President, I know that the Members of the Senate and the American people have waited with interest to hear the views of the distinguished Senator from Delaware on this nomination.

Of course, the Senator from Delaware is generally acknowledged to be, and often is referred to as, the "conscience of the Senate."

Naturally, I am pleased that his conclusions concerning the nomination of Judge Carswell coincide with mine; I am pleased that the distinguished Senator from Delaware supports the nomination.

Speaking of the qualifications of Judge Carswell, I dare say that there have been few Supreme Court nominees in this century who have had the training, qualifications, and experience on the bench that Judge Carswell would bring to the High Court. Having served as a district attorney, as a trial judge on the district court, and as a member of the circuit court of appeals, he is much bet-

ter qualified than most who have been nominated.

When one considers the number of nominees in the past with less experience and had less background who over the years developed into outstanding Supreme Court justices, it occurs to me that we have good reason to believe that this nominee is even more likely to develop into a great justice of the Supreme Court.

I wish to commend the distinguished senior Senator from Delaware for his very excellent statement—a statement which is bound to have an important effect upon the vote to confirm this nomination.

Mr. WILLIAMS of Delaware. Mr. President, I agree completely. I reviewed this matter very carefully.

In making this selection we are confirming a man to a very high and very important position. In my opinion, he is fully qualified. His record during the time he has been in public service as a district judge and later as a judge of the circuit court of appeals reflects to the credit.

I think Judge Carswell's record fully justifies the support of the Senate, and I welcome the chance to vote for his confirmation.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, first I commend the Senator from Delaware.

As the distinguished acting minority leader, the Senator from Michigan, has pointed out, many of us applaud the statement of the Senator from Delaware. The Senator from Delaware has a unique way of cutting through much of the morass and putting things in proper perspective by example and by illustration which is very helpful to this Senator.

I would say, as the Senator from Michigan has said, and as the Senator from West Virginia (Mr. BYRD) said earlier today, that Judge Carswell has more experience than all of the present occupants of the Supreme Court combined, having been a U.S. attorney, a Federal district judge, and a judge of the circuit court of appeals.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BYRD of West Virginia. That is true with the exception of Chief Justice Burger.

Mr. DOLE. The Senator is correct.

Mr. President, I fear that the merits of the Carswell nomination have recently been obscured by a swelling tide of misleading statements on the part of those who oppose confirmation. Whether this represents desperation tactics in the stretch drive, or whether it is the normal way opponents go about trying to influence public opinion, I do not say. I believe the U.S. Senate and the American public are entitled to fair play on this issue.

Let me take only the most recent example of these tactics. Yesterday the junior Senator from California called a press conference to make the charge that Charles F. Wilson, a black lawyer who had submitted a letter to the Judiciary Committee telling of fair treatment he had received at the hands of Judge Carswell, had been "pressured" into doing so. He further stated that the administration had used Mr. Wilson in a "deliberate effort to mislead" the Senate committee. He further stated, according to the Washington Post account of the matter this morning, that the "letter was widely cited by Senate supporters as showing a leading civil rights lawyer felt Carswell was fair."

As I said before and as I say again—and it appears on pages 328 and 329 of the hearings record—there is not one word of his statement that constitutes an endorsement. It states a fact, and that fact is that he was a black attorney, a civil rights attorney who had appeared many times before the court presided over by Judge Carswell. And he said, and I repeat, that he had never been treated discourteously, that the had been treated fairly every time and any time he appeared before that court.

Now, what are the facts of the matter? Mr. Wilson told the newsmen who swarmed around him after the junior Senator from California's press conference that, and here again I quote from the news account, that "he had 'absolutely not' been mistreated in court by Carswell and had 'absolutely not' been used by the administration."

He said that he had not been pressured or used by the administration in an effort to gain support for the nomination of Judge Harrold Carswell.

It also is a fact that Mr. Wilson holds a civil service position, from which he could not have been dismissed without good cause.

So the record is now straight. The charges are demonstrated to be false. But what of the tactics used? What of the tactic of making public statements indicating that a man has repudiated a position he has taken, without ever going to the man himself? What of the tactics of relying only on hearsay affidavits to support such a conclusion? What would some of our great advocates of civil liberties say if one of the Internal Security Committees of the Senate or of the House of Representatives formed its conclusions as to a witness' testimony on such a basis—on the basis of third-party affidavits.

Unfortunately, this is but one of several similar forays in which the opposition has recently engaged. On Friday, March 27—less than a week ago—the Baltimore Sun carried a leading article containing, among others, two statements which were totally without factual foundation.

First, it attributed to Clarence M. Mitchell, Jr., the National Association for the Advancement of Colored People representative in Baltimore, the report "that the FBI did an exceedingly thorough investigation into Judge Carswell's background and turned up, among other things, the 1948 white supremacy speech."

"However," he continued, "somewhere along the way it got dropped."

The Attorney General and the Director of the FBI categorically denied the truth of this statement later the same day, and the record on that has now been set straight.

Second, the Sun attributed to "a source in the Senate" that "according to 'unimpeachable information' he had received, Senator GEORGE MURPHY, Republican of California, who is facing a reelection campaign this fall, will vote to recommit the nomination in the face of minority group pressures being brought to bear at home."

That very evening, the senior Senator from California issued a flat denial of any intention on his part to vote to recommit the nomination, and reaffirmed his strong support for Judge Carswell.

And so the record is now straight on these two matters. But what of the tactics of the opponents in resorting to misstatements, distortions, and falsehoods such as this?

This does not by any means exhaust the list. The United Auto Workers news release of February 1970, for example, states that Dean Pollak of Yale Law School, an opponent of Judge Carswell, supported Judge Haynsworth. Dean Pollak did not support Judge Haynsworth. Such a statement is critically misleading, because it suggests that Dean Pollak is actually quite neutral in matters of liberalism versus conservatism, that he supported one conservative nominee of the President, but could not bring himself to support the second nominee. Actually, Dean Pollak, as vice president of the NAACP's lawyers defense fund, has been a leading activist and liberal in the field of civil rights. He is certainly entitled to his opinion as to whether or not Judge Carswell should be confirmed, but no one ought to suggest in opposing the nomination that Dean Pollak is neutral or unbiased on the ideological issue involved.

Let me carry my catalog of misleading information one additional step further. We have recently been treated to long lists of law school deans and law school professors who have opposed Judge Carswell. The Washington Post this morning devoted the latest in what must have been at least a dozen editorials attacking Judge Carswell to a list of law school deans, pro and con, and of law school faculty members.

Now, the question that comes to my mind, is whether or not these law school deans and professors are against Judge Carswell because they are teachers of the law, or whether they are against him because they are liberal Democrats. A liberal Democrat has every bit as much right as any other kind of Democrat, or any kind of Republican, to express his view about the nomination of Judge Carswell or about any other matter in the public forum. And a liberal Democratic newspaper, in its campaign to help defeat the nomination of a conservative, has every right to quote liberal Democrats. But is there not some departure from strict accuracy when law school deans and professors are treated by editorialists as if they were a neutral or relatively neutral class of participants in the debate? To be more specific, and

a good deal more blunt, how many of the law school deans and law school professors who have opposed Judge Carswell's confirmation voted for or supported in any way President Nixon in the 1968 election?

And while I am on the subject of the Washington Post's editorial of this morning, after observing that 79 lawyers in Tallahassee supported Judge Carswell, the editorial noted that "it is useful to note there are 284 lawyers in that city listed in a national directory." A national directory, no doubt, kept in the editorial office of the newspaper in question. But the important point here is that the Washington Post recognizes in this context that it is not just the number of signers, but the number of nonsigners out of the class as a whole that is important. Unfortunately, it has not chosen to recognize this fact in the case of a very similar petition circulated by law school professors and practicing lawyers opposing Judge Carswell's confirmation. Here, the news media headlined that 400-odd prominent attorneys and law professors opposed Judge Carswell's confirmation. They did not point out that of this 400-odd, only 126 were practicing lawyers, as opposed to law professors. Nor did they point out the number of nonsigners of this petition, the way they did with respect to the Tallahassee lawyers. Since the press did not do it, I am going to do it for them. On this petition, 334 law school professors signed in opposition to Judge Carswell. There are 4,062 professors who teach at the 145 law schools approved by the American Bar Association. This is useful to note.

There are 126 practicing lawyers, as opposed to law professors, who signed the petition. There are approximately 300,000 practicing lawyers in the United States, excluding law professors. This is useful to note.

Finally, there are 143,449 members of the American Bar Association as of December 31, 1969. If all 400-odd signers of this petition against Judge Carswell were members of the American Bar Association, that number would represent something like three-tenths of 1 percent of the membership of the American Bar Association. This is useful to note.

In my State of Kansas, there are 2,974 lawyers, and 1,480 members of the American Bar Association. Not a single practicing lawyer in Kansas signed this petition. This, too, is useful to note.

The senior Senator from Iowa, in his very able speech on the floor of the Senate March 20, made the following comment, and I quote:

> Not being a member of the Judiciary Committee and not having any personal knowledge of Judge Carswell, it seemed prudent for me to study the hearings record before reaching a final decision on this matter. To do otherwise would be to make a judgment on a most important matter without considering the evidence—to indulge in "trial by the press" and to thus shirk the duties of a Member of a separate, co-equal branch of our federal government in his exercise of the constitutional power of confirmation.

I fully endorse the comments of the senior Senator from Iowa with respect to the dangers of "trial by press." I deplore the misleading tactics of the opponents of this confirmation in these closing days of the debate. I reaffirm more strongly than ever my determination to vote against recommital of the nomination—I shall offer a motion to table the motion to recommit—and vote in favor of Judge Carswell's confirmation.

Mr. CURTIS. Mr. President, the Senate of the United States is on trial. For some months there has been a vacancy on the Supreme Court waiting to be filled.

President Nixon's nomination of G. Harrold Carswell is before the Senate. This nomination should have been confirmed a long time ago. Now there is a move underway which would avoid a vote for or against the confirmation of Judge Carswell. This is through a motion to recommit the nomination to the Committee on the Judiciary.

Mr. President, the people of the United States and the President of the United States are entitled to have the Carswell nomination voted upon. The motion to recommit it to the Judiciary Committee should be tabled and I shall vote for the tabling motion that will be offered by the distinguished Senator from Kansas (Senator DOLE).

Few nominees for the Supreme Court have possessed the fine qualifications of Judge Carswell. It was the late President Dwight D. Eisenhower who appointed him as U.S. Attorney. Judge Carswell's many years in that capacity gave him valuable courtroom experience. President Eisenhower, recognizing the high qualifications of the then U.S. Attorney Carswell, appointed him as U.S. District Judge. This gave him a decade or more of experience as a trial judge. It was logical that some months ago President Nixon should elevate this outstanding man to the U.S. Court of Appeals. Judge Carswell has been confirmed by the U.S. Senate three times prior hereto.

This fight against President Nixon's nomination of Judge Carswell to the Supreme Court is being carried on by an unholy alliance of rank partisans and militant pressure groups. Their arguments are phony and the facts are against them.

Mr. President, the people of the United States are entitled to have a balanced court made up of jurists who can act independently of all vested interests and pressure groups. The President of the United States is entitled to have his nominee voted upon and confirmed.

Mr. HUGHES. Mr. President, in considering a nominee to the Supreme Court, those of us who are not lawyers must inevitably give some special weight to the views of the legal profession. I have found it to be a particularly persuasive factor that Judge Carswell is widely opposed by his professional colleagues, including those who might have been expected to follow their custom of refraining from entering into this controversy if it were merely "political," as recently asserted by the Deputy Attorney General.

When law faculties and members of leading law firms throughout the Nation join in opposing a nominee, it is ridiculous to suggest that their position stems from either political or regional bias.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point a letter signed by 45 members of the well-known Washington law firm of Hogan and Hartson, and an editorial from the Washington Post of March 31, 1970.

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

MARCH 17, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: We, the undersigned are all lawyers practicing in the District of Columbia, and many of us have worked in the United States Government. We write in strong opposition to the appointment of Judge G. Harrold Carswell to the Supreme Court of the United States.

The hearings which were held with regard to his appointment, the attitudes and judicial temperament of Judge Carswell himself, the judicial posture which he has taken on significant issues, and the careful analysis of his fitness for the Supreme Court by respected members of the legal profession throughout the nation demonstrate beyond any question that Judge Carswell does not possess the requisite attitudes or abilities which warrant his being made a member of the highest court in the land.

Not only has he demonstrated callous disregard for, and open hostility to, the clear constitutional rights of Black Americans, but he has, in his capacity as a United States Attorney and United States District Judge, as well as in his private affairs, gone beyond the bounds of all propriety in taking part in discriminatory schemes and plans designed to thwart federal law. If, as he claims, he was not aware of any wrong-doing, then he betrays a shocking lack of awareness of the events around him, which alone should disqualify him from sitting on the Supreme Court of the United States.

Although callous disregard and indifference toward Black Americans is not the same as having been guilty of financial impropriety, it is clear that the Canons of Judicial Ethics require that a judge avoid even the "appearance" of impropriety, and that his personal behavior "not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach" (Canons of Judicial Ethics, No. 4). Clearly, it cannot be said that Judge Carswell has met this critical test.

Finally, at a time when Black Americans are finding it increasingly difficult to believe that the leadership of this country is concerned about their legitimate and constitutional rights, the appointment of a Justice of the Supreme Court whose past history is full of denial of those rights, both in his public and private life, would represent a most serious blow and one from which it may well be difficult to recover. Particularly when so many issues critical in the well-being of our citizens are awaiting judgment by the Supreme Court, this country cannot afford to have on that Court one who lacks the necessary intellectual and moral capacity to sit in judgment.

Because you and those Senators to whom we are sending copies of this letter are in a position to prevent this appointment, and thus, a tragic mistake, we urgently request that you heed the advice of the legal community, as well as other concerned Americans, and reject the appointment of Judge

G. Harrold Carswell to the Supreme Court of the United States.

Very truly yours,

James A. Hourihan, Edward A. McDermott, Jay E. Ricks, George W. Miller, William T. Plumb, Jr., Joe Chartoff, Harold Himmelman, Vincent Cohen, Peter F. Rousselot, Eric H. Smith, Stanley Marcuss, Robert H. Kapp, Seymour S. Mintz, Arthur J. Rothkopf, Timothy J. Bloomfield, Bob G. Odle, Raymond E. Vickery, Jr., Curtis E. von Kann, Kevin P. Charles.

Sherwin J. Markman, Jerome N. Sononsky, David B. Lytle, David A. Ludtke, Lee Loevinger, Stuart Philip Ross, Gerald E. Gilbert, Matthew P. Fink, Marvin J. Diamond, William A. Bradford, Jr., Douglas A. Nadeau, Richard S. Rodin, Sara-Ann Determan, C. Ronald Rubley, Alfred T. Spada.

David J. Hensler, Peter W. Tredick, Francis L. Casey, Jr., Alvin Ezrin, James J. Rosenhauer, Robert M. Jeffers, Alfred John Dougherty, Arnold C. Johnson, Austin S. Mittler, Richard B. Ruge, Robert K. Eifler.

JUDGE CARSWELL: KEEPING THE RECORD STRAIGHT

Things are beginning to happen so rapidly in the battle over confirmation of Judge Carswell that it is a little hard to keep them in perspective. The weekend began, for example, with Senator Cooper's announcement of support for the judge, and while we would not wish to pretend to anything but regret about this, the fact is, of course, that his decision was expected and largely discounted in advance, as will be a string of such announcements in the coming days, as both sides play for psychological advantage. Leaving this part of the struggle aside, there were these weekend developments which bear closer examination: 11 judges from the Fifth Circuit Court of Appeals signed a telegram endorsing Judge Carswell: 79 lawyers from Tallahassee, the judge's home, sent a similar endorsement; and Deputy Attorney General Kleindienst unloosed a broadside attack against assorted Carswell critics, expressing the belief that those who oppose him for political reason have run out of "misleading" and "deliberately untruthful" charges against him.

Well, on this last count we would certainly hope so, too. But we would also hope that those who support the judge would be a little more precise in what they say, and a little more to the point, which in the case of the Fifth Circuit judges and the Tallahassee lawyers and some of the complaints of Mr. Kleindienst have to do, at bottom, with what people in the legal profession think of Judge Carswell.

Turning to first things first, Judge Carswell's nomination did get a timely phychological lift from the telegram signed by those 11 judges—which only goes to show what trouble it is in. What would have been the outcry about any preceding nominee if it had become known publicly that any substantial number of his closest colleagues opposed confirmation? Remember that if Judge Carswell is not confirmed his colleagues, specifically including those who did not sign the telegram, must continue to sit on the bench with him. And there are four sitting judges as well as three retired judges who did not sign. Interestingly, only three of the eight judges who were active when that court underwent its most serious attacks between 1955 and 1965 are openly supporting this nomination. And none of the court's big four in those days (three of them, incidentally, appointed by President Eisenhower)—Tuttle, Rives, Wisdom and Brown—signed that telegram.

As to other matters, the Ripon Society did not, as Mr. Kleindienst said, first say Judge Carswell was reversed 54 percent of the time and then on further study change that to 40 percent. It reported originally that Judge Carswell was reversed in 58.8 percent of those cases in which appeals were taken from his printed opinions. No one that we know of has challenged that figure. The Ripon Society subsequently examined all the appeals from all Judge Carswell's decisions and reported the reversal rate was 40.2 percent, noting that the rate got worse the longer he was on the bench—25 percent for the first quarter of his appeals, 33 percent for the second, 48 percent for the third, and 53 percent for the fourth. Either Mr. Kleindienst misread the Ripon Society's statements or chose to ignore its careful distinction between written opinions (which judges usually file only in major cases) and all decisions.

It is true, as Mr. Kleindienst said, that the official voice of the American Bar Association is for confirmation. But we suspect that columnists Mankiewicz and Braden (see letter on this page) were more accurate than was Mr. Kleindienst when they suggested that a majority of that Association's members who have an opinion are against confirmation. At least, that's the feeling we get from reading the Congressional Record, which senators love to stuff with communications from home—and from reading our own mail. With less than a dozen exceptions, all the letters we have seen in the Record or received ourselves from lawyers supporting Judge Carswell come from his home state of Florida. As for the list of 79 Tallahassee lawyers, it is useful to note there are 284 lawyers in that city listed in a national directory.

Certainly one segment of opinion is heavily against Judge Carswell's confirmation; these are the people who teach law. We have collected the following tabulation of the universities which have law schools that have been heard from during this debate:

LAW SCHOOL DEANS

Against confirmation (22)

Boston College, Catholic, Chicago, Columbia, Connecticut, Georgetown, Harvard, Hofstra, Illinois, Indiana, Iowa, Kansas, New York U., Notre Dame, Pennsylvania, Puerto Rico, Rutgers, Stanford, UCLA, Valparaiso, Western Reserve, Yale.

For confirmation (2)

Florida, Florida State.

FIVE OR MORE FACULTY MEMBRERS

Against confirmation (31)

Arizona, Boston U., California (Berkeley), Catholic, Chicago, Columbia, Connecticut, Florida State, Georgetown, Harvard, Illinois, Indiana, Iowa, Kansas, Loyola (Los Angeles), Maine, New York U., New York U. (Buffalo), North Carolina, Notre Dame, Ohio State, Pennsylvania, Rutgers, Stanford, Syracuse, Toledo, Valparaiso, Virginia, Washington & Lee, Willamette, Yale.

For confirmation (0)

None.

It is impossible to dismiss this overwhelming vote of no confidence in Judge Carswell from the legal teaching profession; certainly it reduces to irrelevancies the complaints of Mr. Kleindienst about the calculations of the Ripon Society or the argument over who speaks for the American Bar Association—the members who are plainly split on the matter, or the ABA's 12-man Committee on the Judiciary which rated him "qualified." Still less is it any longer possible to argue from this listing that the opposition to Judge Carswell is narrowly sectional and confined to the northeastern corner of the country, as some of the judge's supporters have argued in the Senate debate. It is in every sense a national list—South as well as North, Midwest and Far West as well as East. And it is a devastating list. For it is made up of men and women who teach lawyers and who therefore care deeply about the quality of the law they must teach.

Mr. BROOKE. Mr. President, the debate thus far has shown that the Senators who oppose Judge Carswell do so because their study of his record has compelled the conclusion that he lacks the basic intellectual qualifications necessary for service on the High Court and that he is hostile to the precepts of the 14th amendment. The discussion has largely dealt wtih the totality of his record, which is, of course, of vital significance in setting the basic theme of the debate. But I believe a further insight can be achieved by examining in depth the judge's performance in a single proceeding. For this purpose I have analyzed Judge Carswell's handling of the case which was most thoroughly discussed in the Judiciary Committee, County of Gadsden against Wechsler. In my view, Judge Carswell's performance in the Wechsler case graphically illustrates his judicial deficiencies. At the outset, I shall summarize the significant aspects of this episode.

First: A fee was required to remove civil rights prosecutions cases to the Federal court despite a square holding by the fifth circuit that no such fee was to be charged. *Lefton* v. *City of Hattiesburg*, 333 F. 2d 280, 285, reprinted in the hearings 460, 465.

Second: Judge Carswell insisted that petitions for habeas corpus be filed on a special form designated by the court, although the rule which prescribed the form was adopted for an entirely different class of cases, so that form called for information which was entirely irrelevant since mere filing of the removal petition entitled the defendants to habeas corpus.

Third: Defendants' attorneys were directed to obtain the signatures of the defendants on the petition, which further delayed their relase, although it is universal practice that court papers are to be signed by attorneys rather than the parties whom they represent.

Fourth: Judge Carswell criticized the defense attorney because he was from out of the State, although no local lawyers were available to represent the civil rights workers. He did so despite the recent opinion of the court of appeals in Lefton which, in the clearest terms, instructed district judges in its circuit to permit out-of-State attorneys to represent civil rights workers who would otherwise be without counsel. See 333 F. 2d 285–286, hearings, 465–466.

Fifth: Judge Carswell refused to permit his marshal to serve the writ of habeas corpus and required defendants' attorney to do so themselves, although 28 U.S.C. 1446 provides that when the court issues its writ of habeas corpus "the marshal shall thereupon" take the defendants into custody and deliver a copy of the writ to the clerk of the State court.

Sixth: Judge Carswell permitted his marshal to notify State authorities of the order of remand by telephone, although 28 U.S.C. 1447(c) provides that such notice shall be given by mail. By this violation and that of 28 U.S.C. 1446(f) Judge Carswell enabled the State to rearrest the civil rights defendants immediately after their attorney served the writ.

Seventh: Judge Carswell remanded the case to the State court without affording the defendants a hearing on the question of the propriety of the removal. He did so, although that question was, at the very least, one of considerable complexity and although the only authority which Judge Carswell cited was not even remotely in point.

Finally, Judge Carswell denied a stay pending an appeal, although such an appeal was expressly granted by Congress, the question raised on the appeal was substantial, and there was no danger that the defendants would flee or commit any illegal acts.

Before discussing these matters in detail, it is appropriate to describe the context in which the Wechsler proceeding arose. A group of civil rights workers came to northern Florida, as they did to some other areas in the South, to engage in a voter registration campaign among Negroes. The activities of these civil rights workers were in the finest tradition of democracy for they recognized, as Congress recognized in the Voting Rights Act of 1965, that Negroes would remain second-class citizens as long as they were denied the franchise. For precisely that reason the white community and more particularly the incumbent Government officials who benefitted from the retention of the status quo and the denial of suffrage to the Negroes resisted these efforts. The atmosphere which greeted the civil rights workers was well described by Norman Knopf who at that time was a law student but who presently is an attorney in the Department of Justice and appeared before the Judiciary Committee pursuant to subpena:

The CORE volunteer workers, many of whom were from Florida itself, and some of whom came from the North, would assist black people in getting to the registration place to register so that they could vote in the Federal elections scheduled in November.

As I heard Mr. Rosenberger testify and as this committee has heard, the project met with a great deal of hostility by the white people of the area. There were assaults. There was a bombing. There was a shooting, and so on. There were frequent arrests.

Specifically with the arrests, this is where the Lawyers' Constitutional Defense Committee attorneys came in, and tried to defend project workers that were arrested or remove the cases." (Hearings 175.)

Mr. Rosenberger testified:

Hostility to us was patent throughout the area. The postman in Quincy would not deliver mail because the mailbox was mounted about 6 inches back from the line of mailboxes.

Senator TYDINGS. Who is "us"?

Mr. ROSENBERGER. Well, sir: volunteers working in voter registration, that is student volunteers, the lawyers and law clerks. All of us stayed in this house in Quincy. Now there were places where voter registration volunteers had put up posters and those posters were regularly torn down by a deputy sheriff.

There were restaurants, several, where I was refused when I tried to enter.

Voter registration workers were assaulted. Firebombs were placed under an automobile. Shots were fired through the window of a house where volunteers were staying. That was just to indicate what the general aura of hostility was in the area at that time." (Hearings 150.)

This characterization of community attitudes was confirmed by Mark Hulsey, Jr., a witness who appeared on behalf of Judge Carswell:

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. (Hearings 107.)

If the President of the Florida Bar Association regards occasionally procivil rights rulings by a Federal judge who is protected by life tenure and the full panoply of Federal power to be a display of unusual courage, what words are there to describe the fortitude of private individuals who came into this altogether hostile climate to help Negroes register to vote? I cannot believe that Judge Carswell was unaware of these community attitudes; indeed, for him not to have known it would display an insensitivity and unworldiness which would ill fit him to perform the functions of a justice of the Supreme Court of the United States. Moreover, he cannot have been unaware of the circumstances under which the Wechsler defendants had been arrested and tried in the State courts, for these were set forth in the papers before Judge Carswell. See hearings 178. The defendants were arrested for trespassing on private, nonposted ground, and without having the opportunity to leave after they were requested to do so:

Mr. ROSENBERGER. Yes, sir; that is correct. In the case of Wechsler, there were seven young people, seven volunteers, who had been arrested in Gadsden County. Three of them were adults and four were under the age of 17. I believe five of the seven were residents of Gadsden County and two were volunteers from elsewhere who had come as voter registration workers. They were arrested for trespassing on lands which were not posted, which were reached by a road leading from the public highway, which had no indication that it was a private road, not posted, not fenced, and they were arrested while they were talking to people about registering. They were arrested by sheriff's officers of Gadsden County, Fla.

The CHAIRMAN. Now someone swore out an affidavit against them in a justice of the peace court; is that correct?

Mr. ROSENBERGER. An affidavit was sworn after the time of the arrest; yes, sir.

The CHAIRMAN. After the time of the arrest?

Mr. ROSENBERGER. They were taken into custody on the road.

Senator TYDINGS. Go into a little more detail. Tell the chairman the whole story.

Mr. ROSENBERGER. All right, sir. These seven people were on this road. This was a place where tenant farmers lived on a larger farm. Actually on this farm there lived, I believe, the cousin of one of the people who had been arrested and she had frequently visited on this farm to visit her family.

Now the overseer of the farm came down the road and saw these people talking to tenant farmers. He came up to them. He told them that they were trespassing, that this was private property. They explained that they were there to talk to people about voting. He said they were trespassing. They said, All right, we'll leave. He said, No, I am having you arrested. And he told them to wait, which they did, and they were arrested there, for trespassing on unposted lands while talking to people about registering to vote.

The CHAIRMAN. What is the Florida statute on posting?

Mr. ROSENBERGER. The Florida statute, as I understand it, did not require posting.

The CHAIRMAN. So they were trespassing. You keep saying that the land was not posted.

Mr. ROSENBERGER. Yes, sir, but there was no way for them to know it was a trespass.

The CHAIRMAN. A man is presumed to know the law, is he not?

Mr. ROSENBERGER. He is presumed to know the law, sir, but he is not presumed to know the fact.

The CHAIRMAN. I know, but a lot of States in this country have got a statute that provides when you are on private property if you are told to get off and you do not do it you commit trespass.

Mr. ROSENBERGER. Yes, sir, if you are told to get off.

The CHAIRMAN. And that is what you tell me the Florida statute is.

Mr. ROSENBERGER. When told it was private property they said they would leave, and the man said, No, you are going to be arrested.

Senator TYDINGS. In other words he would not let them leave?

Mr. ROSENBERGER. He would not let them leave. Had he said get off, that would have been a different circumstance. He said, this is private property. They said, we will leave. He said, No you won't, you will be arrested.

The CHAIRMAN. They stayed there until when? They went to the justice of the peace court?

Mr. ROSENBERGER. No, sir, he did not go to court prior to their arrest. He had them arrested while there, while they were on the premises.

Because the civil rights workers felt that there was no chance for a fair trial in the State courts, they removed the prosecutions to the Federal court. (Hearings 175.) Thereupon the State court was advised that it had been ousted of jurisdiction, and the State court judge not only ignored the removal—in direct definance of Judge Carswell's jurisdiction—but tried and convicted the defendants without giving them the opportunity to be represented by counsel:

Senator TYDINGS. Now go back to the Wechsler case. What happened in the Wechsler case in the local court when the removal papers were filed?

Mr. KNOPF. Did you say local Federal court?

Senator TYDINGS. In the State court.

Mr. KNOPF. In the State court? I was present when Mr. Rosenberger served the papers on the judge, and the defendants were already in the courtroom, and the trial was just about to start when Mr. Rosenberger gave the papers and explained to the judge who appeared to be unfamiliar with removal proceedings exactly what had occurred and that the State court no longer had jurisdiction to try the case.

The judge indicated, as Mr. Rosenberger said, that he was going ahead. He didn't know anything about removal. He wasn't going to pay any attention to it and told him to sit down and get away from these people because he asked Mr. Rosenberger whether he was a member of the Florida Bar, and when he said "No," the judge said, "Well, then, get away from these defendants. You cannot represent them."

I believe sometime before Mr. Rosenberger was thrown out of the courtroom it was stated that there was no attorney present to represent these people, that they could not get an attorney and they would like a continuance at least to get an attorney to represent these persons, and at one point one of

the—when the trial had started the judge had asked the workers some questions. One of the workers turned around to look at Mr. Rosenberger who was sitting in the back, for some kind of advice, and at that point the judge threw Mr. Rosenberger out of the courtroom. He ordered him out and when he was slow in going somebody came along and helped him out.

Senator HRUSKA. Would the Senator yield? That is a reference, when you say the courtroom, that is the city court.

Mr. KNOPF. This is the local Gadsden County.

Senator HRUSKA. The local court?

Mr. KNOPF. That is correct.

Senator HRUSKA. You wouldn't want the impression to be gotten that Judge Carswell suffered any lawyer to be kicked out of his courtroom at any time?

Mr. KNOPF. Oh, no, I am referring to the Gadsden County Court; yes sir. (Hearings 176.)

It was immediately thereafter that the defendants' attorney prepared an application for habeas corpus and presented it to Judge Carswell, which the Judge refused to entertain until it was filed on a form purportedly prescribed by the rules of his court, on which he originally required the signatures of the defendants themselves, and which he granted with obvious reluctance, although it was absolutely mandated by statute.

I shall now discuss separately and in detail the ways in which the release of the civil rights workers from State custody was delayed and ultimately frustrated and the other means by which Judge Carswell demonstrated his dislike of the civil rights workers and his disregard of applicable law.

First. When Mr. Rosenberger, who was representing the Wechsler defendants at the beginning of this episode, filed a removal petition in Judge Carswell's court, he was required to pay a filing fee of either $5 or $15 for each of two removal petitions. See Hearings 165, 180. Such a fee had been exacted in Judge Carswell's court for the removal of other criminal prosecutions. This requirement was contrary to a decision which had been issued approximately 2 months previously by the United States Court of Appeals for the Fifth Circuit in *Lefton* v. *City of Hattiesburg*, 333 F. 2d 280, which is reprinted at pages 460–467 of the hearings. In Lefton the Court of Appeals squarely held:

Filing fees are not to be collected in connection with criminal removal petitions. Such fees are regulated by statute, and a comparison of the present statute with its predecessor shows that there is now no authority for the clerk to charge fees in such proceedings. (333 F. 2d at 285, Hearings at 465.)

The Wechsler defendants were thus denied the right of removal without fee which had been granted them by Congress and recently been declared by the appellate court to which Judge Carswell's court was subordinate. While the amount of money involved may appear to be insignificant to us, it was not to these defendants (hearings 156, 180), and even a petty harassment had symbolic significance under the circumstances. Whereas the Court of Appeals had made clear that the Federal courts should be freely open to defendants seeking protection of constitutional rights who were being jeopardized in State courts, an artificial and illegal barrier was imposed in Judge Carswell's court.

In the Judiciary Committee hearings Judge Carswell's supporters pointed out that the collection of the fee was the immediate responsibility of the clerk of the court rather than that of the judge. However, Judge Carswell did not assert either in his oral testimony or in the letter which he wrote to the Committee in response to opposition testimony that he was unaware of the practice followed by the clerk of his own court, of which he was the only judge. In any event, Judge Carswell bore statutory responsibility for the actions of his clerk, for the clerk and his deputies "shall exercise the powers and perform the duties assigned to them by the Court" 28 U.S.C. section 956. Indeed, the Court of Appeals in Lefton itself recognized it to be the duty of the judge to enforce the statutory right to remove criminal cases without prepayment of filing fees. That case, as the report shows, was a mandamus action against the district judge, and the court declined to issue the writ only on the assumption that the judge—not the clerk—would follow the law as there declared (333 F. 2d at 283–284, 286; hearings at 463–464, 466). Judge Carswells' obligation to instruct the clerk of his court with respect to his duties was particularly manifest where those duties were affected by a judicial decision, for such decisions come to the judge's attention, not the clerk's; the clerk said that he first learned of the Lefton decision when he received a new manual from the administrative office of the United States Courts in 1966 (hearings 198). The upshot is not that Judge Carswell is to be absolved of responsibility for requiring the Wechsler defendants to pay a filing fee; rather, it is that he is chargeable for the denial of the rights declared in Lefton to defendants generally for almost 2 years.

Second. The filing of the removal papers in Federal court automatically ousted the State court of jurisdiction Mr. Rosenberger testified that the following then transpired:

Mr. ROSENBERGER. Now the judge in Gadsden County was Judge Blackburn. I told him the cases had been removed. He said that he had the papers, but that he did not recognize this removal. He was going to proceed. I explained to him the provisions of the statute dealing with removal, that is that he no longer had any jurisdiction. He said he would proceed with the case.

I asked for a continuance. He said he would proceed with the case. I then left the front of the courtroom and seated myself in the spectators' section of the courtroom behind the rail. I sat down there. At that point Judge Blackburn told the sheriff, who was present in the court, to remove me from the court, and I was physically ejected from that courtroom by deputy sheriff Martin.

Senator TYDINGS. Was there any other attorney in there to defend those boys?

Mr. ROSENBERGER. No, sir. They went to trial without counsel, were convicted without counsel, and were sentenced without counsel. I drew an affidavit that covered what had happened, and the next day I left Florida to come back to New York, and I understand that later Mr. Lowenthal served a writ of habeas corpus in the northeastern district based on the facts as I have briefly outlined them here.

Senator TYDINGS. What happened to those four boys and three adults after the trial? Did they go to jail?

Mr. ROSENBERGER. Yes, sir. They were sentenced to jail immediately that morning. (Hearings 154).

The volunteer attorneys for the civil rights workers operated on shifts, and Mr. Lowenthal arrived at 2 o'clock the next morning to replace Mr. Rosenberger. In his words:

It was obvious that since my clients were now in jail, the first move was habeas corpus, so I prepared habeas corpus petitions at once.

It was evident to all those with experience in northern Florida that it was not safe for voter registration people to be in local jails. Moreover, the voter registration drive was stalled while the workers were in jail, and the local blacks were intimidated from registering. (Hearings 141).

Mr. Lowenthal and Mr. Knopf, a law student who was assisting him and who also testified, pursuant to subpena, drafted the habeas corpus petition. Judge Carswell would not entertain it as filed because it had not been prepared on the form prescribed by rule 15 of his local court rules. As Mr. Knopf explained:

In addition I remember typing out, I mean this stuff was done on an emergency basis, the habeas corpus, I remember staying up very late at night typing out a habeas corpus petition only to have it rejected the next day by the judge because we hadn't done it on the special forms his office provided for, and so we had to then go and make out special forms which really involved quite a lot more work. They had to be typed, information had to be gotten, and then when those special forms were filed the matter was before Judge Carswell. In addition I specifically——

Senator TYDINGS. Tell us about those forms. Were they pursuant to, did Judge Carswell say that they were required pursuant to rules of his court?

Mr. KNOPF. I don't really recall. I presume—I don't really recall. I just know he said he couldn't entertain it unless they were on the forms provided by his court. I do know that with regard to the rules of the court, since I was more or less responsible for getting the papers in proper order, and typing them up and so on, I was very sensitive to this. I had been rebuked by Judge Carswell for failing to follow rule 15, a local rule of his court, and I seem to recall on several occasions we had been criticized because our papers were not proper in that they failed to follow local rule 15. (Hearings 180.)

Thus, the prisoners were denied habeas corpus relief while counsel rewrote the application, and while they sought to obtain the signatures of the prisoners as required by the form. Judge Carswell's insistence on compliance with his own rule was contrary to law for two reasons: First, the statute does not authorize the court to delay or deny relief as the basis of a local rule of procedure; and, second, the rule itself was misconstrued because it prescribed for an entirely different class of cases and served no useful purpose for a habeas corpus application in a removal case.

First, the applicable provision of the Judicial Code commands:

If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of heabeas corpus * * * 28 U.S.C. § 1446(f).

This language appears to impose upon the district courts an absolute duty to issue the writ of habeas corpus when a prosecution has been removed and does not authorize the court to condition its exercise of that duty on the filing of a particular form or in any other manner. It will be noted that this provision of the Judicial Code serves an important function for the Federal Government. United States Code 28, section 1446(f) applies with respect to all removals of State prosecutions, an important class of which is described in 28 United States Code section 1442(a)(1):

> Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

Plainly, the United States is vitally interested in the immediate release from State custody of United States officers who are being subjected to State prosecution for any acts committed as Federal officers. As the Supreme Court said in the leading case of *Tennessee* v. *Davis*, 100 U.S. 257, 263:

> The Federal Government can act only through its officers and agents, and they must act within the States. If, when thus acting, and within the scope of their authority, those officers can be arrested and brought to trial in a State court, for an alleged offense against the law of the State, yet warranted by the Federal authority they possess, and if the general government is powerless to interfere at once for their protection—if their protection must be left to the action of the State court—the operations of the general government may at any time be arrested at the will of one of its members.

Similarly, 28 United States Code, section 1442(a)(4) gives a right of removal to "Any officer of either House of Congress, for any act in the discharge of his official duty under an order of such House." Obviously, if an officer of the Senate were to be arrested by a State officer in the course of the exercise of his duties, for example while serving subpena authorized by one of our committees, we would be extremely anxious that he obtain habeas corpus immediately to be released from State custody.

Second, even if Judge Carswell had been empowered to promulgate a rule prescribing a form on which an application for habeas corpus under 28 United States Code, section 1446(f), rule 15 of his court was not such a rule, for it had been designed solely for a different purpose. It is clear from the history of rule 15 that its objective was to facilitate the disposition by Federal courts of the growing number of applications by State prisoners, unrepresented by counsel, for release on the claim of an infirmity of their State or Federal convictions.

The language of Judge Carswell's rule is identical to that which had first been adopted by the U.S. District Court for the Northern District of Illinois, which is reprinted at 33 Federal Rules Decisions 391–393. Rule 15 of the Northern District of Florida, reprinted at pages 203–204 of the hearings, is identical except for the numbering and lettering of the paragraphs and, of course, the name of the court to whose clerk petitions should be addressed. Adoption of the Northern District of Illinois' rule had been recommended to all Federal district courts by the judicial conference pursuant to the Report of the Committee on Habeas Corpus of the Judicial Conference dated September 19, 1963, which is reprinted at 33 F.R.D. 367–408. That report makes clear that, as I have stated, the rule was addressed to applications made by prisoners in custody pursuant to a State or Federal court judgment attacking the validity of that judgment. The information which the prisoner was required to supply on the form was prescribed by the rule to enable the Federal court to determine whether a hearing was necessary on such application; particularly pertinent is the observation—33 F.R.D. 382–383—that it was amended in light of the new standards enunciated in 1963 by the Supreme Court in *Townsend* v. *Sain*, 372 U.S. 258; *Fay* v. *Noia*, 372 U.S. 391; and *Sanders* v. *United States*, 373 U.S. 1. The judicial conference report contains nothing which suggests that the rule was to govern applications for habeas corpus under 28 U.S.C. 1446(f). On the contrary, the information called for by the form which Judge Carswell required the Wechsler attorneys to submit is largely if not entirely irrelevant in such a proceeding, since the right to habeas corpus under 28 U.S.C. 1446(f) does not depend on facts which are to be ascertained at a hearing but instead attaches automatically when a State prosecution has been removed to Federal court. As Professor Moore explains:

> The writ of habeas corpus here referred to [in § 1446(f)] is not the "great writ" habeas corpus ad subjiciendum to inquire into the legality of the detention of the petitioner and whose object is the liberation of those who may be imprisoned without sufficient cause. It is in substance the old writ of habeas corpus ad faciendum et recipiendum or writ of habeas corpus cum causa, whose purpose is to transfer custody of the defendant from the state court to the federal court, as a necessary adjunct to the removal of the state proceeding. In issuing the writ, as provided by subsection (f), the federal district court does not pass upon the merits of the case; the defendant's guilt or innocence is not involved; and upon a proper showing being made the federal court has no discretion and should issue the writ." (1 A Moore, Federal Practice, pp. 1310–1311, footnote 2 incorporated into text, other footnotes omitted.)

Judge Carswell either did not understand this distinction or, despite his understanding, insisted that civil rights workers seeking habeas corpus on removal comply with a rule and prepare a form designed and useful only for an entirely separate class of cases wherein a writ of a different nature is sought.

It may be worth noting that the attorneys for the civil rights workers who were confronted with Judge Carswell's erroneous interpretation of the rule were not in a position to question it because they never saw the rule. As Mr. Knopf testified in colloquy with Senator TYDINGS:

> Senator TYDINGS. Tell us about those forms. Were they pursuant to did Judge Carswell say that they were required pursuant to rules of his court?
>
> Mr. KNOPF. I don't really recall. I presume—I don't really recall I just know he said he couldn't entertain it unless they were on the forms provided by his court. I do know that with regard to the rules of the court, since I was more or less responsible for getting the papers in proper order, and typing them up and so on, I was very sensitive to this. I had been rebuked by Judge Carswell for failing to follow rule 15, a local rule of his court, and I seem to recall on several occasion we had been criticized because our papers were not proper in that they failed to follow local rule 15.
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> I had gone to the clerk's office and tried to get a copy of the local rules, but during the summer the clerk kept on informing me that they were out, they had all been given out and there were none available, he would try to get me a copy. I did not obtain a copy until very nearly the end of the summer when we were going back home, and at that time the copy that the clerk gave me showed that the local rules went from rule 1 through rule 14, there was no rule 15. (Hearings 180–181.)

The reason that Mr. Knopf was unable to find the rule became evident when a copy was produced by Mr. Waits, the present clerk, who testified as follows:

> Sir, rule 15, this copy here, has been attached to the U.S. District Court, Northern District of Florida General Rules of Practice, *Bankruptcy* Rules of Practice, effective July 1, *1959*. This amendment has been attached to this copy of those rules, sir. (Hearings 205, emphasis added.)

In other words, rule 15 of the local rules was not attached to rules 1 through 14, but to another document, the Court's bankruptcy rules. Since the Judiciary Committee did not permit Judge Carswell to be recalled to respond to the testimony, the record does not show whether he was aware of this extraordinary situation. But it is entirely clear, and Judge Carswell has not denied, that he would not even entertain an application for habeas corpus which was not filed according to that rule. Yet, as we have seen, 28 U.S.C. 1446 can accomplish its purpose only if the district courts give prompt obedience to its unequivocal command that when a prosecution has been removed to the Federal court it "shall issue its writ of habeas corpus." Judge Carswell's assumption of power to impose elaborate procedural requirements before issuing the writ was entirely unwarranted.

Third. The forms which Judge Carswell prescribed called for the signature of the prisoners. So, as their counsel testified:

> We had to drive way out to Quincy where the jail was, some 25 miles from Tallahassee, only to learn that the defendants were 25 miles further out on a road work gang. (Hearings 141).

This trip, of course, resulted in a further delay in the ultimate granting of habeas corpus. Insistence on the signature of the prisoners was unjustified not only because rule 15 did not properly apply in this instance, but because as a general proposition the signature of an attorney on a court paper is sufficient. This is an obvious element of our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent, see *Link* v. *Wabash Railroad Co.*, 370 U.S. 626, 634, is expressly provided for in rule 11 of the Federal Rules of Civil Procedure, and is

well known to every lawyer. Indeed, the fact that rule 15 called for the signature of the prisoner is itself strong evidence it was not intended to be applied in any case in which counsel appeared. For the great writ, habeas corpus ad subjiciendum, for which rule 15 was designed, is frequently applied for not by the prisoner himself but by someone else, since a person in custody will often be physically unable to make the application, and even his precise whereabouts may be unknown to those seeking his release. See, for example, *U.S. ex rel Toth* v. *Quarles*, 350 U.S. 11, 13 n. 3. This is recognized in 28 U.S.C. 2242:

> Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

The same practical considerations govern the different class of habeas corpus under 28 U.S.C. 1446(f). This can appropriately be illustrated by the example to which I referred previously, that of a Federal officer in State custody whose prosecution has been removed under 28 U.S.C. 1442(a)(1). Because removal is in the interests of the United States, the removal petition and the request for habeas corpus will often be made by the U.S. attorney. But the U.S. attorney may not know where the State is holding the Federal officer. If he is compelled, before habeas corpus issues, to locate the imprisoned official and obtain his signature, the State could, by spiriting the prisoner away, deny his liberty indefinitely. Thus, neither the removal statute nor 28 U.S.C. 1446(f) requires that the signature of the defendant appear on the papers.

In the committee the able Senator from Nebraska implied that Judge Carswell's ultimate waiver of the prisoners' signatures on the habeas corpus application demonstrated an absence of hostility to the civil rights workers—hearings 189. That suggestion, however, is unsound. Since the attorney's signature on formal court papers was sufficient, as I have shown, the original imposition of this unique and unjustifiable requirement, which delayed action on the habeas corpus application in Wechsler, is a surer clue to Judge Carswell's sympathies than its belated waiver.

Fourth. When counsel for the civil rights workers presented the application for habeas corpus in a form acceptable to Judge Carswell, a hearing was held in his chambers. Mr. Lowenthal described this incident as follows:

> Mr. LOWENTHAL. I attended therefore in Judge Carswell's chambers a session in which I can only describe his attitude as being extremely hostile.
>
> He expressed dislike at northern lawyers such as myself appearing in Florida, because we were not members of the Florida bar. I might add here that we could not find local lawyers willing to represent the voter registration people in Florida. It was either northern lawyers or no lawyers. * * * Judge Carswell indicated that he would try his best to deny the habeas corpus petitions, but I pointed out that he had no discretion in the matter, that the Gadsden County officials had clearly acted in derogation of Judge Carswell's own jurisdiction, since the removal to Judge Carswell's court was wholly proper. Judge Carswell agreed with that and granted the habeas corpus petitions, but at the same time on his own motion, because the Gadsden County officials were not there to ask for it, and without notice to the defendants, the habeas corpus petitioners, and without a hearing or any opportunity to present testimony or argument, he remanded the cases right back to the Gadsden County courts." (Hearings 141–142)

Mr. Knopf, who had assisted Mr. Lowenthal, testified:

> Mr. KNOPF. It is relatively clear in my mind. I remember this. This was my first courtroom experience, really, out of law school, and I remember quite clearly Judge Carswell. He didn't talk to me directly. He addressed himself to the lawyer, of course, Mr. Lowenthal, who explained what the habeas corpus writ was about, and I can only say that there was extreme hostility between the judge and Mr. Lowenthal. Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on and he was especially critical of Mr. Lowenthal in fact he lectured him for a long time in a high voice that made me start thinking I was glad I filed a bond for protection in case I got thrown in jail. I really thought we were all going to be held in contempt of court. It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people against—rather just arousing the local people, and he in effect didn't want any part of this, and he made it quite clear that he was going to deny all relief that we requested. At that point, Mr. Lowenthal argued that the judge had no choice but to grant habeas as the statute made it mandatory.
>
> Senator TYDINGS. Did the State send a representative?
>
> Mr. KNOPF. No, sir. I personally had called the county prosecutor to inform him of the hearing to tell him when it would be held so that he could show up, and I remember his response roughly, his attitude, because it was an attitude that I met of numerous other prosecutors while working down there. Their attitude was they were not going to chase all the way over to Federal court to defend this case, that everything would blow over after the summer anyway, and they had much more important things to do in terms of criminal matters or private practice back in their home seat, and they were not going to show up and they didn't want anything to do with it in effect. So there was no one there from the county. There were just the civil rights attorneys plus the judge. So no one had argued against the granting of habeas corpus relief.
>
> But I remember Mr. Lowenthal going on and on with the judge that he had to grant relief because the statute spoke in terms of "shall grant habeas corpus," not "may," and Judge Carswell said that there were very few areas of the law, I am not quoting, I mean this is my impression, it was something along like this, that there were few areas of the law that there wasn't some discretion left to the judge, and he was going to exercise that discretion against us and he would keep these people in jail.
>
> Mr. Lowenthal argued strenuously that we feared for the safety of these people in jail, and that it was quite clear that these persons were convicted in violation of Federal law. They didn't even have an attorney. They were working on voter registration projects and things like that.
>
> Senator TYDINGS. Did Judge Carswell have all of the facts before him?
>
> Did Mr. Lowenthal give him all of the facts as related here by Mr. Rosenberger to this committee this morning?
>
> Mr. KNOPF. Yes, he did, and they were also, most of them. I wouldn't swear to all of them exactly, were in the petition, because I drew up the petition, these facts were set forth either in the removal petition or in the habeas corpus petition, generally setting forth all these facts. There then went on a lengthy discussion between Mr. Lowenthal and the judge exactly as to what the law was, and the judge required some books to be brought out, the statute to be put before him and so on, and he eventually concluded that we were right, I mean Mr. Lowenthal was right, in that he had no choice. He had to grant habeas corpus, because the state court was without jurisdiction. So he then very reluctantly granted it. He said all right, we win, something like that, you know, all right, here it is.
>
> He then said, however, I don't know exactly in what order, but I remember that he then said but he did have discretion with regard to removal, and he would remand the removal petition back to the state court, and Mr. Lowenthal argued that there had been no request from the county prosecutor, no one had showed up to ask for this remanding, and the judge said that he had the power to do it himself, and that he would do it without a request. So on his own motion he remanded.
>
> They then got into a discussion about serving the habeas corpus. At first I was under the impression, and it appeared, the Marshal was there, that the Marshal was taking the habeas papers to serve them, but Judge Carswell announced that the Marshal would not serve the papers, that Mr. Lowenthal would have to drive out to the county jail himself, and serve these papers. (Hearings 177–178.)

There are two highly disturbing elements in this testimony: first that Judge Carswell demonstrated hostility to Mr. Lowenthal because he was a northern lawyer representing civil rights interests, and second, that he stated that he would try if at all possible to deny habeas corpus. Hostility to any attorney is injudicious behavior, as Judge Carswell indeed acknowledges (hearings 320) but in the contest of the Wechsler case it necessarily reflected opposition to the lawyer's cause, namely, the civil rights movement. Even in the absence of any judicial precedent such an attitude would reflect most unfavorably on Judge Carswell, particularly given the background of his 1948 speech; but the court of appeals in Lefton against City of Hattiesburg had instructed the district courts to be hospitable to out-of-State lawyers in civil rights cases. I shall not dwell at length on this point, however, because Judge Carswell has denied that he was ever discourteous to consel (hearings 320). I am sure that Senators will decide for themselves whether that denial is sufficient to dispose of this issue, or whether as I have concluded, that Judge Carswell's behavior in the Wechsler case failed to conform to the teachings of Lefton.

The second charge in the Lowenthal and Knopf testimony cannot, in any event, be dismissed. Judge Carswell's letter does not expressly deny that he had indicted a disposition to withhold habeas corpus relief, if possible. Nor can Judge Carswell's assertion that he has "consistently approached hearings with an open mind, to be convinced by counsel of the merits of the arguments" (hearings 320) be treated as a denial of this charge by implication.

That this was not his invariable prac-

tice is shown by the Wechsler case itself, because he remanded that case without hearing argument on the important and difficult question whether the removal was authorized by 28 U.S.C. 1443. As Dean Pollak put it:

> One element which concerned me as I read his opinions was a repeated use of dispositive techniques which avoided hearings. (Hearings 240).

This criticism gains force from the numerous decisions of the court of appeals which reversed Judge Carswell because of his summary disposition of causes. See cases cited at hearings 240–41 and 290–91.

Fifth. Although Judge Carswell followed 28 U.S.C. 1446(f) to the extent that it mandated the issuance of the writ of habeas corpus, he did not comply with the next clause of that section:

> * * * and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

It is not disputed that Judge Carswell deliberately refused to permit his marshal to serve the writ of habeas corpus on the State officials or to take the defendants into custody and, instead, required Mr. Lowenthal, the defendants' counsel, to serve the writ. (Hearings 144, 178, 199.) Judge Carswell cannot have been unaware of the statutory language since it was in the same section that Mr. Lowenthal had quoted to him as declaring the judge's duty to issue the writ. Indeed, Mr. Knopf testified that—

> The judge required some books to be brought out, the statute to be put before him and so on, and he eventually concluded that * * * Mr. Lowenthal was right, in that he had no choice. (Hearings 178).

Whatever denials or excuses which Judge Carswell's supporters may make with regard to other aspects of the Wechsler case, they cannot explain away Judge Carswell's willful disregard of the unambiguous mandate of 23 U.S.C. 1446(f). Nor can they possibly reconcile his action with the strict constructionism which the President has stated that he seeks in a Justice of the Supreme Court, and with the duty of all judges to follow the law.

Sixth. When Mr. Lowenthal served the writ of habeas corpus the sheriff presented the prisoners, released them momentarily, and immediately rearrested them. He advised Mr. Lowenthal he had been notified by telephone that Judge Carswell had remanded the cases to the State court. The psychological impact of this on the prisoners can readily be imagined, particularly when it is remembered that they had already been placed on a road gang pursuant to a sentence on a conviction which was patently unconstitutional because they had been denied the right of counsel. Their rearrest was made possible by the fact that Judge Carswell had not permitted his marshal to serve the writ, for the marshal would have been required to bring the defendants into the custody of the Federal court. Another factor, moreover, was evasion of the procedure prescribed in 28 U.S.C. 1447(c):

> A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon procede with such case.

In this case, the State court was advised of the remand by telephone call from the marshal. There is testimony in the hearings that the marshal acted on his own accord rather than on instructions of Judge Carswell in making the call. But the Judge neither denies knowledge of the marshal's action, nor disowns it; nor, of course, is there any evidence that the judge insisted, as was his duty, that 28 U.S.C. 1447(c) be followed. Moreover, the marshal who made the call would have been serving the writ of habeas corpus on the State court officers if Judge Carswell had acted in obedience to 28 U.S.C. 1446(f). It was only because of this double violation of the removal statute that the State officials were enabled to rearrest the civil rights workers immediately after the writ of habeas corpus was served.

Seventh. Judge Carswell remanded the case to the State court without affording the defendants a hearing on the propriety of the removal. It is true that 28 U.S.C. 1447 does authorize the District Court to remand a case—

> If at any time before the final judgment it appears that the case was removed improvidently and without jurisdiction * * *

But Judge Carswell is subject to serious criticism for taking this action without affording the defendants any hearing on whether removal was improvident, that is to say, whether the Wechsler defendants qualified for removal. That raised difficult questions concerning the meaning of 28 U.S.C. 1443 (1) and (2) which they had invoked.

Judge Carswell's supporters claim that he was later vindicated by the construction of those provisions by the Supreme Court in *Rachel* v. *Georgia*, 384 U.S. 784, hearings 378, and *Greenwood*, 384 U.S. 808, hearings at 407. As Dean Pollak observed, it is "a very subtle problem" whether the Wechsler case was closer to Rachel—where the Supreme Court approved removal—or Peacock—where the Supreme Court held that removal was improper. But like Dean Pollak, I do not believe that the real issue is whether Judge Carswell correctly or incorrectly anticipated the ultimate resolution of that question by the Supreme Court. What is significant, and bears very heavily against his confirmation, is that Judge Carswell disabled himself from making any reasoned determination of this issue because he failed to hold any hearing on the merits. The opinions of both the majority and the minority of the Supreme Court in Rachel and Greenwood reveal that the interpretation of 28 U.S.C. 1443 (1) and (2) presented extremely close complex problems. This is further illustrated by the divergence of views both among and within the courts of appeals which passed on the questions before they were resolved by the Supreme Court and the depth of analysis of the opinions in those cases. Compare *New York* v. *Galamison*, 342 F. 2d 255 (C.A. 2) (2–1 decision), *City of Chester* v. *Anderson*, 347 F. 2d 823 (C.A. 3) (4–3 decision), *Baines* v. *Danville*, 357 F. 2d 756 (C.A. 4) (3–2 decision), all rejecting removal, with *Rachel* v. *Georgia*, 342 F. 336 (C.A. 5), upholding removal. They entailed consideration of the text and legislative history of several statutes which had been enacted in the Reconstruction period, as well as understanding of precedents of the Supreme Court.

Congress itself recognized that the scope of 28 U.S.C. 1443 was a difficult question which should be resolved by the Supreme Court and amended the removal statute to authorize appeals from remand orders of cases which like Wechsler were removed under that section. This history is set forth in the Rachel opinion, 384 U.S. 780, 787 n. 7, hearings 385 n. 7. See also Peacock, 384 U.S. 808 at 835, hearings at 434. In short, the only thing that could be said with assurance about the issues presented by the removal in Wechsler, at the time that they were before Judge Carswell, was that there were strong arguments to be made on either side. But Judge Carswell ruled without giving counsel the opportunity to present any of them.

Instead, Judge Carswell disposed of the case on the basis of the fifth circuit's brief opinion in Dresner against Tallahassee, a case which did not even arise under 28 U.S.C. 1443 and therefore could not possibly have any bearing on the propriety of removal under that statute. Since these opinions are reprinted in the hearings, I invite the Senators to compare the opinion of the court of appeals in Dresner—hearings 172—with those of the Supreme Court in Rachel—hearings 378—and Greenwood—hearings 407. I am confident that each Senator, whether or not he is a lawyer, will agree that the Dresner opinion gave no guidance to the proper disposition of the Wechsler case, as the attorneys for the Wechsler defendants could also have pointed out if Judge Carswell had held a hearing before issuing his remand order. Plainly, an indispensable qualification for a justice of the Supreme Court of the United States is a willingness to hear and consider the legal arguments of counsel.

Eighth. It may well be asked, at this point, why was Judge Carswell in such a hurry to remand the Wechsler case? The State's attorney had made no motion to that effect. Indeed, he had shown disinterest, if not disdain, for the proceedings in Judge Carswell's court, and declined an invitation to appear—hearings 141 and 177. The explanation seems to be that which appears from Mr. Knopf's description—which Judge Carswell did not refute—of the proceedings in chambers. After the judge was forced to acknowledge that 28 U.S.C. 1446(f) absolutely required him to grant habeas corpus—

> He then said but he did have discretion with regard to removal, and he would remand the removal petition back to the state court, and Mr. Lowenthal argued that there had been no request from the county prosecutor, no one had showed up to ask for this remanding, and the judge said that he had the power to do it himself, and that he would do it without a request. So on his own motion he remanded." (Hearings 178)

This damaging interpretation is confirmed by Judge Carswell's final action in this proceeding, his denial of a stay pending an appeal from his order of remand.

Since the defendants had been rearrested, the purport of his order was to subject them to retrial in State court before the higher Federal courts could have determined the validity of the remand order. This tended to frustrate the provision of the 1964 Civil Rights Act which, as I have noted, amended the removal statute to allow appeals from orders of remand in cases like Wechsler. I particularly invite the attention of the senior Senator from Connecticut to this point, for he was one of the sponsors of this provision.

Judge Carswell expressed no reasons for his action and none of the usual grounds for the denial of a stay were present. One significant factor in determining whether such relief should be granted is the likelihood of the success of the appeal. If the recent congressional action in allowing an appeal on this narrow class of cases was insufficient to establish its substantiality, counsel could have presented additional reasons why the appeal might be successful. But Judge Carswell never permitted counsel to be heard on this issue. Another factor normally considered is whether the defendant may flee or create a danger to the community if released. There was no serious possibility that the civil rights workers who had voluntarily come to Florida to help Negroes register would abandon their efforts if they were released; it was, moreover, clear from the papers before Judge Carswell, including the spurious character of the charge that the State had brought against them, that the civil rights workers were not likely to engage in violence or to commit other crimes. Indeed, the only danger which these workers presented to the community was that they would interfere with its racist policies which, in the words of a pro-Carswell witness, were "a little bit to the right of Louis XIV"—hearings 107. Thus, Judge Carswell's denial of the stay was in direct contravention of the admonition of the Court of Appeals in Lefton:

> In civil rights cases, however, Congress has directed the federal courts to use that combination of federal law, common law, and state law as will be best "adopted to the object" of the civil rights laws. (333 F. 2d at 284, Hearings 464).

Judge Carswell having denied a stay pending appeal, the same relief was sought from a judge of the court of appeals. This was promptly granted. It is rare for a judge of the court of appeals to reverse the action of a district judge in granting or denying a stay pending appeal. By doing so in the Wechsler case, the court of appeals judge demonstrated his view, which I submit was entirely justified, that Judge Carswell's denial of the stay in Wechsler was a gross abuse of discretion.

In sum, the deficiencies in judicial performance, which a study of Judge Carswell's record has made clear to so many of us, are presented in sharp focus by the Wechsler case:

First, there is Judge Carswell's unwillingness to follow controlling authority—be it the precedent of a higher court, as the then-recent precedent of Lefton against City of Hattiesburg—or an unambiguous act of Congress—such as 28 U.S.C. 1446(f) of 28 U.S.C. 1447(d). Second, there is his misunderstanding or disregard of settled principles, such as the special nature of habeas corpus on removal, the right of parties to file court papers on the signature of their attorneys, and the standards governing stays pending appeal. Further, there is his refusal to accord to litigants in his court the fundamental requirement of due process of law, namely, the opportunity to be heard. This, perhaps, is Judge Carswell's most pervasive fault as a judge. It appears to represent a habit of thought which will be difficult if not impossible for him to shake at his present age. This alone would, in my view, disqualify him from appointment to the Supreme Court, even if he had justified the confidence that he has abandoned the even more pernicious habit of thought which his 1948 white supremacy speech reflects. Regrettably, however, the Wechsler case counts heavily against Judge Carswell on this great moral issue as well.

Mr. MURPHY. Mr. President, I wish to state that I am pleased that my distinguished colleague from Kansas has set the record straight on the matter of the report, printed, I believe, in the Baltimore Sun, that I had decided to vote to recommit the nomination of Judge Carswell. There is absolutely no truth whatever to that report. To my knowledge it has never been discussed. The report was without any foundation whatever. I intend to speak on this matter on Thursday.

LAOS

Mr. MURPHY. Mr. President, I rise today as a result of the renewed public concern over the presently confused situation in Laos, and I wish to express my amazement at the attempts of some alleged experts to further complicate an already overcomplicated situation, which began back in the middle 1950's and had its roots in a desire out of the Russian and Chinese Communists to subvert and capture the entire area formerly known as Indochina and particularly the Southeast Asian nation of Laos.

It has been suggested by some who must certainly know the facts that Laos might become the Vietnam of the 1970's. I do not share this point of view, nor do I understand the reasoning which suggests it. I have gone back into the records and find without question that Laos is and always has been an important part of the Vietnam of the 1960's and the continuing efforts of the Communists from Hanoi aided, advised, and supplied by the Communists from both China and Russia. It comes as no particular surprise to my colleagues, particularly those who have been considered experts in these matters for a number of years.

On March 23, 1961, President Kennedy told a press conference that the SEATO agreement made specific reference to aggression against Laos and to the commitments which the United States had assumed in that part of the world.

President Kennedy said:

> It is quite obvious that if the Communists were able to move in and dominate this country, it would endanger the security—and the peace of all of Southeast Asia. As a member of the United Nations and as a signatory of the SEATO Pact, and as a country which is concerned with the strength of the cause of freedom around the world, that quite obviously affects the security of the United States.

Almost precisely 9 years later, on March 6, 1970, President Nixon issued a major policy statement on the situation of Laos. I want to quote from that statement:

> I hope that a genuine quest for peace in Indo-China can now begin. For Laos, this will require the efforts of the Geneva Conference Co-Chairmen and the signatory countries. But most of all it will require realism and reasonableness from Hanoi. For it is the North Vietnamese, not we, who have escalated the fighting. Today there are 67,000 North Vietnamese troops in this small country. There are no American troops there. Hanoi is not threatened by Laos; it runs risks only when it moves its forces across borders.

The President concluded that the United States, as it has for all of history, stands ready to cooperate with other countries in every way in its diligent search for peace. He said this country desires nothing more in Laos than to see a return to the Geneva agreements and the withdrawal of North Vietnamese troops, leaving the Lao people to settle their own differences in a peaceful manner.

Mr. President, I commend the President of the United States for cutting through the confusion, some of it obviously contrived, and some of it coming through inattention. He has said clearly that the United States is resolutely seeking only peace.

Now I urge my colleagues in the Senate not to add to that confusion. Certainly, those of us in this body who have closely observed the continuing developments in Southeast Asia should not be surprised by recent events.

The war in Laos and the war in Vietnam are substantially elements of the same conflict. The troops bent on aggression in Laos are not the indigenous Communists, the Pathet Lao. They are playing a minor, almost insignificant role. The enemy in Laos is North Vietnam.

Let me recall for you today the words of Ho Chi Minh, the Viet Minh leader, in an interview published in the Belgian Communist paper, Red Flag, in July 1959:

> We are building socialism in Vietnam but we are building it in only one part of the country, while in the other part we still have to bring to a close the middle class democratic and anti-imperialistic revolution.

To do this—to import communism into South Vietnam, required the approval, tacit or enforced, of the adjoining nations—Laos and Cambodia—for supplying the troops needed to fight the war in the South.

In June and July of 1959, the Viet Minh and Pathet Lao attacked the northern provinces of Laos and pushed in the direction of the royal capital, Luang Prabang. The ostensible purpose of these attacks was to prevent a political alinement away from the left. These operations also had a secondary byproduct for the Communists of drawing everyone's attention, including a considerable part of the small Lao army, to the northwest of Laos. This made it easier for the Viet Minh and their Pathet Lao puppets to use the Ho Chi Minh Trail to South Vietnam. After the fighting stopped, the trail had been partially reactivated. This probably was the entire purpose of the operation.

They were expected to begin the revolution, and they were joined with enthusiasm by the people in South Vietnam, in their effort to bring about the overthrow of the government.

The uprising of the people that had been planned did not take place, and so that force was reinforced from the north. By 1960, the original Vietcong force in South Vietnam had been reinforced to a level of about 10,000, making possible the first battalion-size Vietcong night attack in February 1960 on a large South Vietnamese Army camp near Tay Minh, near the Cambodian-Lao border.

The Soviet Union fully supported these efforts. By mid-December of 1960 several IL-14 Soviet transport planes were beginning to stage through Communist China and Hanoi loaded with military supplies for the Viet Minh and Pathet Lao forces—this is 10 years ago—in the Plain of Jars, a region and a name which recurs in the fighting during the next 10 years.

The fight for control of Laos continued despite the official cease-fire of May 12, 1961. Ambassador Elbridge Durbrow, who served in South Vietnam from 1957 to 1961, says that the Communists pushed west toward Lao capitals after the cease-fire—and fully opened the Ho Chi Minh Trail, which had been only partially opened earlier by the original action.

Why do I trace this long and involved history of that troubled part of the world? Because, Mr. President, the fact is that the war in Vietnam and the war in Laos are one and the same war. Both are being primarily fought—not by citizens of the country under attack—but by North Vietnamese. Let us make this crystal clear once and for all: This is not a civil war. These regular soldiers, and that is what they are, are being supported and supplied by Red China and the Soviet Union.

Ambassador Durbrow has said that in 1954 Hanoi created in violation of the Indochina Geneva Accords its Lao equivalent of its puppet "Vietcong"—the Pathet Lao. Hanoi still controls, supports, and supplies that force—in addition to furnishing 67,000 North Vietnam troops to fight against the recognized government of Laos.

The Government of the United States has been furnishing military aid to the government of Laos for many years. For instance, just before President Kennedy's March 23, 1961, press conference we announced we were increasing our military aid, sending more technicians to train Lao troops and sending, in addition to the T–6 observation planes already given Laos, 16 helicopters to increase Lao troop mobility. A carrier task force from the 7th Fleet was alerted.

President Kennedy again expressed his concern in a speech to the United Nations on September 25, 1961. He warned that South Vietnam was under attack by forces infiltrated through Laos. Furthermore, on November 6, 1961, we publicly confirmed reports from Laos that Soviet transport planes were delivering military supplies to the southern Lao airbase of Tchepone which had been in Pathet Lao hands for months, after being captured by the Communist cadre.

What happened during this period of a shaky cease-fire in Laos and continued useless bickering at the Geneva Conference? Hanoi had diverted everyone's attention to north-central Laos long enough to reactivate fully the Ho Chi Minh Trail, build up its forces in eastern Laos, Cambodia, and South Vietnam sufficiently to open an all-out offensive to try to subjugate South Vietnam.

So, Mr. President, I repeat, it is all part of the same war. It is part of the same Communist plan, drawn in Moscow and in Red China, and activated through their puppets in Hanoi.

Of course, Hanoi no longer needed to press its military operations in Laos because the Communists expected to take over South Vietnam and cause Cambodia and Laos to fall into their hands without any major additional effort.

This did not happen—primarily because the United States came to the aid of the government of South Vietnam. As a result, the Communists still must maintain their principal infiltration route through Laos.

Ambassador Durbrow takes the view—and I share that view—that we must continue operations to block the flow of supplies along the Ho Chi Minh Trail and help the Souvanna Phouma government to preserve its own integrity.

I do not propose—and neither had our President—sending extensive ground troops to fight in Laos. But we must protect our own troops fighting in South Vietnam—and this means we must block the Ho Chi Minh Trail in Laos. We are doing so now with the use of our airpower.

We are dealing here with a nation that agreed to the 1962 Geneva accords—and then promptly began to violate them. We withdrew our 666 Americans while the North Vietnamese pulled out 40 men—and left over 6,000 troops in the country. That is the way they kept their word on the accords.

Mr. President, this has been called our secret war. As a member of the Committee on Armed Services who has listened to testimony about this subject, I have long been aware of developments in Laos. Any other interested Senator, or for that matter ordinary citizen, could do the same by simply reading his daily newspapers.

Certainly, the distinguished chairman of the Committee on Foreign Relations has been a participant in discussions of this subject on a continuing basis. So have others of our colleagues who now appear so alarmed at discovering what they refer to as this new situation.

President Nixon said in his March 6 policy statement on Laos that our Nation has no ground combat forces in Laos. He did confirm, however, what has been reported extensively in the press—that this Nation has used airpower to interdict the flow of North Vietnamese troops—let me emphasize that statement "to interdict the flow of North Vietnamese troops"—along the Ho Chi Minh Trail as it passes from China through Laos.

The purpose of this operation is not to simply protect the Royal Laotian Government; it is primarily aimed at assisting troops from the United States who are fighting in South Vietnam, battling against the North Vietnamese who have invaded a sovereign nation for the purpose of conquest.

Our President told us in his March 6 statement:

> Our goal in Laos has been and continues to be to reduce American involvement and not to increase it, to bring peace in accordance with the 1962 accords and not to prolong the war.

President Nixon also noted the limited nature of our current aid to Laos, which was requested by the recognized government of that country and is—in the President's words—"supportive and defensive."

President Nixon is simply continuing the purposes and operations of two previous administrations—to protect American lives in Vietnam and to preserve an important balance in Laos.

Mr. President, this is no secret war. We have no massive commitment, nor do we plan one. Those who criticize our President know this very well. I have reviewed here our efforts in Laos and the reasons for them. These facts are readily available. I had no difficulty finding them. Neither would anyone else.

Mr. President, I urge an end to attempts to confuse the people of the United States about our commitment in Vietnam—and the effort in Laos, which is a necessary adjunct.

We did not start this war; we are not the invaders—and no efforts by some uninformed, undisciplined, and misled "Peace Now" malcontents will change that fact. The facts of history are clear, to be understood by all who will take the trouble to read. The war was started, is financed, and is being continued by the Communists from the North.

President Nixon does not want to see this war continued, nor does this Senator, nor do I know any Member of this body who feels that way. I have had the privilege of knowing our President personally for many years. He is a peaceful man, not a man of war.

The time has come to dispel the contrived confusion in our Nation. We must let the world know who it is that stands in the way of peace in Vietnam, peace in Laos, and peace in Cambodia. It is not America. It is not the Nixon administration. It is not the American military forces in Vietnam.

The chief barrier to peace in Southeast Asia is the Communists in the North, who persist in an effort to enslave the people of that part of the world—by direct attack, by subversion, and by atrocity.

Those responsible for these problems in Asia are the same group who have been responsible for at least 90 percent of the problems throughout the world over the last 40 years. They are the imperialists in Moscow who would extend their influence and would attempt to gain control over the governments of all the peace-loving nations presently in Southeast Asia. They would attempt to organize the attack on the Middle East Asian nation of Israel. Their responsibility for the problem is the same.

So, Mr. President, I would say to those who are opposed to these problems, those who would like to see them brought to an end, who at long last would like to see peace brought to our troubled world, that they direct their attention and their remarks to the Governments of Moscow and Red China. I think they could start by using their influence to have these governments and their puppets in Hanoi give decent treatment to our prisoners of war.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an article published in the Chicago Tribune of March 12, the "Foreign Press" segment, entitled "Dilemma in Laos." I recommend it to my colleagues, because it sets out very clearly exactly what the situation is in Laos.

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

Mr. MURPHY. Mr. President, I should now like to refer to another subject. It has to do with the burning of a bank in Santa Barbara, Calif.

I ask unanimous consent to have printed at this point in the RECORD a statement entitled "Violence in America, One Company's Position," by the Bank of America, and an exhibit entitled "An Open Letter from the Revolutionary Movement to the Bank of America."

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

VIOLENCE IN AMERICA—ONE COMPANY'S POSITION

(Statement by Bank of America)

Isla Vista, California, population 11,250. The business district consists of a couple of gas stations, a few small shops, some real estate offices—and a bank. A large campus of the University of California is nearby. All in all, a normal American suburban community—perhaps very much like the one you live or work in. Normal, that is, until Wednesday, February 25, when violence shattered the peaceful calm of Isla Vista.

At about 8:30 p.m. on the night of February 25, rampaging demonstrators—students and non-students—protesting the "capitalist establishment" converged on the community's small business district.

Several protesters rolled a gasoline-soaked trash bin through a smashed front door in a Bank of America branch and set it ablaze. Other students extinguished the fire. But just before midnight, with the angry crowd in a frenzy, the branch was set ablaze again. While police and fire officials were held at bay by a rock-throwing mob, the bank was gutted by fire and totally destroyed. A police patrol car was overturned and burned. Numerous other fires were started. Windows were smashed and life and property threatened.

These events took place in a community called Isla Vista. They could have happened in your community. They can happen anywhere and with even more disastrous results.

Why did the eruption in Isla Vista take place?

Participants in the violence say it was a protest against the "capitalist establishment," "the war in Vietnam," "the Chicago trial," "student repression," "police brutality," and a list of other grievances against America in 1970. Some of these grievances are real, some are fanciful and others are false. But all deserve to be aired. To the degree that they are not aired, are not taken seriously, Americans break faith with their young.

But all Americans, young and old, liberal and conservative, lose by violence. Violence and destruction are the seeds of anarchy and tyranny—whether it be the tyranny of the extreme right or the extreme left.

We believe the time has come for Americans to unite in one cause: a rejection, total and complete, of violence as a means of political dissent.

All of us, young or old, liberal or conservative, have for too long been silent on the issue of violence. We have been afraid of labels or slogans that would brand us as either arch conservatives or traitors to a liberal cause. Such sloganeering does all of us a grave injustice.

Let us, as a nation, find once again our ability to distinguish between protest and revolt; between dissent and chaos; between demonstration and destruction; between non-violence and violence.

Let us cease to condemn those who disagree with us, but let us also be prompt and resolute in putting an end to violence in our land.

To this end we applaud the courageous response of many dedicated public officials. They deserve the cooperation of all citizens. They will have ours.

Every American has a right to walk the streets in safety. No polemic should be allowed to obscure this right. Your wife or husband, son or daughter ought to be safe in visiting a supermarket, a filling station or a bank—regardless of whether another may choose to reject that institution as an onerous symbol.

It is for these reasons that we plan to reopen our Isla Vista ranch on Monday, March 9. We realize that there is danger in this course of action. But we believe the greater danger to ourselves and to all of the people in this nation is to be intimidated by mob violence. We refuse to be so intimidated.

Is the branch worth this much? In monetary terms, the answer is no. It is not, and never has been particularly profitable. But it is there to serve the banking needs of the community and we refuse to be driven out of any community by a violent few.

Is this a bad business decision? Perhaps in a narrow sense it is. But we believe that at some time and in some place Americans must decide whether they intend to have their decisions, indeed their lives, ruled by a violent minority.

We are but one bank, but we have decided to take our stand in Isla Vista.

AN OPEN LETTER FROM THE REVOLUTIONARY MOVEMENT TO THE BANK OF AMERICA

We are deeply disturbed by the wanton acts of aggression perpetrated on the peoples of S.E. Asia engaged in revolutionary struggles. These military interventions are not childish pranks, peaceful demonstrations, nor even non-violent disruptions designed to give symbolic meaning to imperialism. Rather, they are criminal acts of violent proportions directed against the people's democratic struggle. They are fascist gestures of the kind that lead to further violence, bloodshed, and repression. Nor are they isolated instances but rather a continuation of the calculated violence that has been emanating from your banks and financial institutions in the name of the state under the directions of the corporate few.

You compare us in the American Revolutionary Movement to the "brown shirts" of Nazi Germany. Lest you forget, it was the brown shirts of Nazi Germany who came to power in order to repress the Revolutionary movement in pre-Nazi Germany. In whose interests then do you speak of "law and order?"

We accuse your bank, Chairman Lundborg and ex-chairman Peterson, in your plunder of "hungry new markets" and your affiliations with defense contractors like Litton & McDonnell-Douglas, in your magnanimous aid to the CIA through the Asia Foundation, of raping the "underdeveloped world."

We accuse you of continuing the racist hegemony of American Imperialism over Asia, South America, and Africa. We accuse your bank, Director Di Giorgio, of being the largest parasitic landlord in the state of California, owning properties larger in area than the whole state of Delaware, and yet you fight against the minimum wage demands of migrant farmworkers and lobby for the continuation of the "bracero program." Not only do you oppose labor in your control of agribusiness in California, but you have consistently opposed the demands of workers through generous support of anti-labor legislation.

Your retail food outlets distribute food of declining quality, artificially grown, and of little nutritional value. We accuse you of destroying the world's ecological balance through your mining concerns, your manufacturing interests, and your petroleum companies like Union Oil (or have you forgotten the beaches of Santa Barbara?)

In whose interests is law and order when one of your directors, Harry S. Baker, sits on the board of the largest police weapons manufacturer in the world, Bangor Punta?

This is for the people of the world to decide: what is the burning of a bank compared to the founding of a bank? In whose interest is law and order when tyranny prevails?

All power to the people!

Mr. MURPHY. The latter exhibit was in answer to the statement by the Bank of America. I have asked that this material be printed in the RECORD so that my colleagues and all others who are interested may have the opportunity to see and understand exactly what is taking place in this great Nation of ours.

I invite attention to the fact that on the cover of the latter exhibit, "America" is spelled with a "k," which should be indicative to those who have taken the trouble to study these matters over the years.

Mr. President, I sincerely hope that my statements will in some way clear up the so-called confusion about Laos. There is confusion. It is not a new war. It is not a secret war. The record is clear for all those who are interested in the complete historic background and the facts.

I yield the floor.

[From the London (England) Daily Telegraph, Mar. 12, 1970]

DILEMMA IN LAOS

North Viet Nam's present invasion of Laos is by far the most massive and the most successful of a whole series from the same

quarter since the international agreement of 1962 solemnly established the so-called neutrality of Laos.

It is evidently a reaction to the increasingly hard going in South Viet Nam, where President Nixon's policy of "Vietnamization" continues to make good progress. Hanoi's objective seems to be at least to out-flank South Viet Nam, but it might extend to the occupation of the whole or most of Laos.

No doubt another of Hanoi's main objectives is further to forment the political discord in America, from which its gains have been greater than any achieved on the battlefield. And, sure enough, Senators Mansfield and Fulbright and their many followers are critically scrutinizing every move by the 1,040 Americans involved in various noncombatant capacities. They apparently find no fault, however, with the 67,000 North Vietnamese regulars invading Laos in flagrant breach of the 1962 agreement, or with the 100,000 or so who pass thru Laos annually down the Ho Chi Minh trail to the war in South Viet Nam. Particular exception is taken to the activities of American pilots who bomb the trail or support loyal Laotian forces.

It is in fact with the American air force that the best prospect of stopping the invasion seems to rest, and Mr. Nixon plainly intends to use it fully. He has already promised not to send American troops into the ground fighting—a piece of military intelligence of which Hanoi will doubtless make good use. There is not much hope of relief from the Geneva conference powers, a meeting of whom will almost certainly be blocked by Russia—so that America will be left to stew. The results of "neutrality" in Laos are certainly a warning against any repetition in South Viet Nam. Thailand is wise to ask for increased American military aid and to accept the assistance of 2,000 Malaysian troops for anti-terrorist operations.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, in legislative session, until 10 o'clock tomorrow morning.

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

REVISION OF UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, on Wednesday, March 25, 1970, the Senate agreed to a unanimous-consent request propounded by the majority leader dealing with the business of tomorrow, Wednesday, April 1, 1970. I ask unanimous consent that all elements of that previous unanimous-consent agreement remain as they were, except the following—and this has been cleared by all sides, and I make this request on behalf of the majority leader: that immediately following the disposition of the reading of the Journal on tomorrow, the senior Senator from Ohio (Mr. YOUNG) be recognized for 15 minutes; that he be followed by the Senator from Indiana (Mr. HARTKE) to be recognized for not to exceed 30 minutes; that following the remarks of the Senator from Indiana (Mr. HARTKE), there be a period for the transaction of routine morning business with statements limited therein to 3 minutes; that the period for the transaction of routine morning business not extend beyond 12 o'clock noon tomorrow; and that at that time the unfinished business, the conference report on H.R. 514, the Elementary and Secondary Education Amendments of 1969, be laid before the Senate and that further debate on that conference report be limited to 4 hours instead of 6 hours, as was requested by the majority leader in the original agreement.

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

Mr. BYRD of West Virginia. Therefore, Mr. President, the Senate will come in at 10 o'clock tomorrow morning. Debate on the conference report on H.R. 514 will begin at noon and will consume not to exceed 4 hours, rather than the 6 hours under the previous unanimous-consent agreement, and the Senate will vote at the same time as under the previous agreement on the Stennis motion to recommit—to wit, at 4 p.m. on tomorrow.

CONFERENCE REPORT ON H.R. 514—ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. DOLE. Mr. President, in the light of the fact that the Senate will be asked tomorrow to consider the conference report on H.R. 514, the Elementary and Secondary Education Amendments of 1969, I ask unanimous consent that a table prepared by the U.S. Office of Education, indicating how much each State could receive under the bill under appropriate programs, be printed in the RECORD.

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

H.R. 514, Conference Report—State allocation programs,[1] fiscal year 1971

Total	[2] $6,284,638,000
Alabama	179,008,647
Alaska	30,575,111
Arizona	53,199,083
Arkansas	104,616,477
California	493,139,473
Colorado	63,278,209
Connecticut	55,515,667
Delaware	14,676,710
Florida	169,043,533
Georgia	201,539,847
Hawaii	27,879,560
Idaho	20,483,408
Illinois	237,471,538
Indiana	96,726,085
Iowa	78,506,927
Kansas	62,169,136
Kentucky	147,332,890
Louisiana	178,414,009
Maine	25,755,985
Maryland	118,319,515
Massachusetts	115,616,049
Michigan	191,084,645
Minnesota	106,612,494
Mississippi	157,912,460
Missouri	125,628,266
Montana	25,378,576
Nebraska	42,414,039
Nevada	11,925,012
New Hampshire	13,940,998
New Jersey	148,549,738
New Mexico	55,808,088
New York	639,889,546
North Carolina	244,388,783
North Dakota	28,869,222
Ohio	201,433,782
Oklahoma	$94,760,379
Oregon	42,977,243
Pennsylvania	260,586,021
Rhode Island	24,242,599
South Carolina	151,332,840
South Dakota	31,828,422
Tennessee	169,120,222
Texas	380,815,191
Utah	31,507,083
Vermont	11,802,434
Virginia	187,663,749
Washington	76,085,682
West Virginia	78,103,080
Wisconsin	88,293,688
Wyoming	10,980,521
District of Columbia	32,092,450
Outlying areas	145,342,902

[1] Includes all parts of Titles I, II, III and V of ESEA, Title VI–B of ESEA (Handicapped) Adult Education, Vocational Disadvantaged, Vocational Work-Study, and Vocational Residential Facilities. Also includes an estimated distribution for P.L. 874, but excluding public housing and minor amendments for which current State figures are not available. All other programs are project grant proposals for which no meaningful State estimate is possible.

[2] May not add exactly because of rounding.

DWIGHT DAVID EISENHOWER

Mr. DOLE. Mr. President, 1 year ago today, Washington paid its final tributes to Dwight David Eisenhower. It seems remarkable that this great, good man has been gone from us a full year, for his memory remains fresh and warm in the hearts and minds of his countrymen.

An especially fond recollection of General Eisenhower appeared in the March 28, 1970, Washington Post. Written by Edward T. Folliard, who covered Ike during the war and in the White House, the article provides several glimpses which illustrates the qualities of character and personality for which he revered and respected Dwight Eisenhower.

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:

SOME MEMORIES OF SOLDIER PRESIDENT IKE

(By Edward T. Folliard)

(NOTE.—The writer, now retired, was The Washington Post's war correspondent in Europe in 1944–45 and its White House reporter in the Eisenhower administration.)

Although he had spent 40 years in the Army, Dwight D. Eisenhower seemed to drop soldier talk from his vocabulary when he become President in 1953. He still had the air and authority of a five-star general; he just stopped talking like one. For a time, while he was President-elect and choosing his aides, he called Sherman Adams his "chief of staff"; we heard no more of that after he assumed the presidency.

Once in a while, at press conferences, President Eisenhower might slip and use a word like "echelon," but most of the time he talked like a man who had never worn the uniform. Then, during his first term, came a delightful reversion; we heard him bark out words that went back to his West Point days.

The President flew down to Augusta, Ga., taking along an oil painting he had done from a photograph of Robert Tyre (Bobby) Jones, the great golfer of "grand slam" fame. The presentation ceromony was to take place near the first tee of the Augusta Golf Club. Reporters and photographers, along with

club members, were assembled, and Ike was about to hand Bobby Jones the portrait when he noticed that Mrs. Eisenhower was missing.

"Where's Mamie?" he asked.

When nobody answered, Ike shouted a request—no, a command—and his voice had a parade-ground ring to it.

"Somebody find Mamie," he roared, "and tell her to fall into this formation."

Somebody did find Mamie, and dutifully she "fell in."

I ran across this anecdote in going through some old notes the other day. There were some others, along with letters, and I thought they might be worthy of a reminiscence on the anniversary of Gen. Eisenhower's death on March 28, 1969.

I found some scribbling that recalled a party Ike gave at the White House for the reporters and photographers who had been covering him. This was just before he was to hand over the presidency to John F. Kennedy. Although he had once told us at a press conference that he was "a tough old guy," Ike this night was a wonderful host.

He was still surprised over the outcome of the 1960 election, and also puzzled. He said he just couldn't understand why the voters chose Senator Kennedy over Vice President Nixon. Andy Tully reminded him that he had recently talked to President-elect Kennedy to arrange for the transition. Was it true, Tully asked, that he and Kennedy had hit it off pretty well?

"Well," said Ike, "I don't know whether you could put it that way. But I could see that he was willing to learn."

Ike's farewell party for us took place at a time when Pennsylvania Avenue was lined with grandstands for the Kennedy inauguration. Washington was about to be taken over by the New Frontier.

"Mr. President," said James E. Warner of the New York Herald-Tribune, "I've been assigned to cover you on your trip to Gettysburg after the inauguration."

Ike was astonished.

"Why in the world would anybody want to cover an old ex-President?" he asked.

"That's my assignment, sir," said Warner.

"Well," said Ike, laughing and grasping Warner's hand, "welcome to the Old Frontier."

Along with other reporters who came to know him in World War II and in his White House days, I used to visit Ike at Gettysburg from time to time. One day the subject of Gen. Douglas MacArthur came up, and Ike made it clear that he thought it had been wrong for President Roosevelt to award the Medal of Honor to MacArthur in April, 1942. He didn't say it was wrong, but his eyes betrayed his displeasure—not with MacArthur but with FDR. He said there were reports that he himself was to be awarded the Medal of Honor when he was Supreme Commander in Europe and driving to victory in 1944–45. He said he told his chief of staff, Gen. Walter Bedell Smith, that he would refuse to accept that most coveted of medals if it were offered to him, and would suggest that it be given to some GI who had really performed a deed of gallantry beyond the call of duty.

I received two letters from Ike in 1967, the second of them in December of that year, from Indio, Calif. In this he commented on an article I had written for The Washington Post about the war in Vietnam, which a copy editor had headed "Don't Underrate GIs in Vietnam." Ike said:

"Sometimes I get baffled when reading so much criticism about American efforts on behalf of freedom in the world and find so little attention paid to the young GIs who are putting their lives on the line for all of us."

Ike was a prolific writer, and had a modest shelf of books to his credit. While he was in Walter Reed Hospital in August, 1967, suffering from a gastrointestinal ailment, I wrote and reminded him that St. Francis de Sales was the patron saint of writers. I said that in my prayers I would ask St. Francis to intercede for him. Ike, a Presbyterian who used to call me a "mackerel snatcher," was soon out of the hospital. From Gettysburg he wrote to say that he was inclined to believe that the saint's intercession had released him "from the clutches of the doctors," and added:

"I hope that St. Francis does no research on the matter because he will quickly find out that my qualifications are scarcely of the kind to excite his particular interest."

Toward the end of his life, the old General of the Army was talking very much like a soldier, even though he was back in the hospital with a heart ailment. The last time I heard him was in his televised address from Walter Reed to the Republican National Convention in August, 1968, when he warned against an American "retreat" in Vietnam.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

AMBASSADOR TO SWEDEN

Mr. BOGGS. Mr. President, tomorrow Dr. Jerome H. Holland will take the oath as U.S. Ambassador to Sweden.

We in Delaware, and many others throughout this country, are extremely proud that Dr. Holland will be our representative abroad. He has served with great distinction in many areas, and we are most confident his tour in Sweden will bring great credit upon the United States.

The 125th General Assembly of the State of Delaware has recognized the importance of Dr. Holland's appointment and has adopted a resolution extending him its congratulations and best wishes.

Mr. President, I ask that the text of senate concurrent resolution No. 28 be printed in the RECORD.

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

SENATE CONCURRENT RESOLUTION No. 28

Expressing the best wishes of the 125th general assembly of the State of Delaware to Jerome H. Holland on his appointment and confirmation as United States Ambassador to Sweden

Whereas, it has been brought to the attention of the members of the 125th General Assembly of the State of Delaware that the United States Senate has confirmed President Richard M. Nixon's appointment of Dr. Jerome H. Holland as United States Ambassador to Sweden; and

Whereas, Doctor Holland first gained national acclaim as "Brud" Holland, All-American football player at Cornell University in 1939; and

Whereas, Doctor Holland received his doctorate in sociology from the University of Pennsylvania in 1950; and

Whereas, Doctor Holland served in a distinguished manner as President of Delaware State College, Dover, Delaware, from 1953 to 1960, during which time the school regained full accreditation; and

Whereas, Doctor Holland attained further academic honors as President of Hampton, Virginia, Institute, from 1960 to 1969; and

Whereas, Doctor Holland, in 1965, was inducted into the National Football Hall of Fame; and

Whereas, Doctor Holland has proven time and time again his genuine ability to lead and to make friends with men of all races and creeds; and

Whereas, Doctor Holland has thousands of friends and supporters in the State of Delaware, particularly U.S. Senator J. Caleb Boggs; and

Whereas, the members of the Senate of the 125th General Assembly are indeed anxious to convey their congratulations to Doctor Holland; and now therefore,

Be it resolved, by the Senate of the 125th General Assembly of the State of Delaware, the House of Representatives concurring, that the warmest of congratulations and good wishes of the General Assembly be extended to the "All-American" Ambassador to Sweden, Jerome H. "Brud" Holland; and

Be it further resolved, that a copy of this Resolution be entered upon the Journals of the Senate and House and copies forwarded to Doctor Holland and his family and to President Richard M. Nixon and to U.S. Senator J. Caleb Boggs, and to U.S. Senator John J. Williams.

WHITE HOUSE RESPONSE TO SENATOR McCLELLAN'S DECENTRALIZATION PLAN

Mr. McCLELLAN. Mr. President, in an address delivered on the Senate floor on March 3 of this year, I suggested that the administration explore the use of existing Federal programs in an effort to decentralize our overly concentrated population and industrial centers, and to encourage the growth and development of our rural areas—see the CONGRESSIONAL RECORD, page 5597.

The objective of such a national policy would be to ease the growing pressures on our large metropolitan centers—which generate so much of today's pollution and waste—and to develop the potential of our rural areas, thereby enabling us to better accommodate the 100 million more Americans expected within the next 30 years and provide them greater economic opportunities and a far more healthy environment.

Such a program would not only facilitate the decentralization of our industrial complex; create new centers of employment and population growth; stimulate the economy in rural America; and ease the pressure on compacted metropolitan areas; it would also facilitate efforts to restore and protect our environment.

In the course of my remarks, I suggested three ways that Federal activities could be used to combat pollution, decentralize industry and population, and to protect the environment.

First. The use of Federal grant-in-aid programs. These grant programs have skyrocketed from less than $1 billion—$0.09—in 1946, to an estimated $28 billion

for the fiscal year 1971. Of this latter amount $19 billion will be spent in standard metropolitan areas, and, while much of it will have to continue being so used, the opportunities for redistributing and channeling national growth through the use of grants-in-aid are practically unlimited.

Second. The use of Federal land holdings. It is estimated that the Federal Government owns one-third of all the land in the United States—more than 750 million acres. In furtherance of a national policy to decentralize our industrial base and reverse our population migration to the urban areas, I suggested that the possibility of using Federal land grants be explored. There is ample precedent for utilizing Federal property in this manner and, since the Government currently owns real property in each of the 50 States, it could be used to develop existing and new communities in rural areas, and used in urban areas for open spaces, park and recreational purposes.

Third. The use of Federal procurement contracts. In fiscal year 1969, the Government expended approximately $55 billion for the procurement of goods and services—$43 billion for defense purposes and the remainder, $12 billion, by the civilian branch of the Government.

I suggested that the administration explore the possibility of seeking a better balanced economy through the use of Federal procurement practices and policies. Certainly, I am not suggesting that we launch an antipoverty system of procurement, but it would seem worth determining if this device could be used to promote a more evenly distributed population growth.

Mr. President, these suggestions were made available to the White House and I was pleased to learn, by letter dated March 18, 1970, from Mr. William E. Timmons, Assistant to the President, that they are receiving active consideration within the administration. In order that the Senate may be fully informed on this matter, I ask unanimous consent that Mr. Timmons' letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, March 18, 1970.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLELLAN: Thank you for sending along your remarks on the environment. In reading through them, I was struck at how closely your thoughts paralleled those of the President. As you said, our task is not only to restore now what has been lost, but to insure that the future growth of our population and our economy does not bring new environmental problems as it has in the past.

As you know the President has signed into law S. 2701, establishing the Commission on Population Growth and the American future. The work of his commission should provide the groundwork for directing our population and industrial growth so that our present efforts to restore our environment are not overwhelmed.

In your remarks you suggested three ways that Federal activities could be used to direct future growth and to protect the environment. Federal grant-in-aid programs have a profound impact on internal migration and population concentration. So does location of Federal installations and location of facilities such as highways and airports which the Federal government influences. But in the past these activities have been conducted with only fitful attention to these consequences. A major effort is currently underway within the Administration to determine how these programs could best be used to consciously affect our distribution of population and industry. Since the subject is extremely complex, I cannot be sure exactly when we will be in a position to offer specific legislation. But you can be sure that we are investing a great deal of energy in this task, and hope to have proposals at the earliest possible date.

As you noted, the President's message of February 10 referred only to using Federal land holdings for providing more recreational areas. Insofar as I know, we have not given full consideration to using these assets to influence population distribution. But it seems to me an extremely worthwhile suggestion, and I am passing it on to the appropriate people in the Administration.

Certainly, the enormous leverage of federal procurement contracts could be put to use in seeking a more evenly distributed population and full compliance with environmental protection programs. You will be glad to know that an inter-agency task force has been at work on just this problem since before the first of the year, and that we expect to have some initial proposals ready within a month's time.

I hope that this information is useful, and that you will be in touch should you have any further questions or suggestions.

With best wishes,

Sincerely,

WILLIAM E. TIMMONS,
Assistant to the President.

PRESIDENT NIXON COMMENDED FOR DESEGREGATION STATEMENT

Mr. GRIFFIN. Mr. President, the Wall Street Journal recently commented on President Nixon's statement on school desegregation. The tone of the editorial is set by the first paragraph which describes the President's statement as "so sensible that it makes some of the criticisms sound rather ludicrous."

Mr. President, I ask unanimous consent that the article, appropriately entitled "Rule of Reason," be printed in the RECORD.

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

RULE OF REASON

The striking thing about the President's statement on desegreation is its tone—a profound concern for the problem coupled with a wholly realistic approach. So sensible is it, in fact, that it makes some of the criticisms sound raher ludricrous.

The chief objection of the critics is that Mr. Nixon did not demand instant school integration. But are they listening to what he said? He is not backing away from the goal of integration; indeed, he is providing considerable sums to assist court-ordered desegregation and improve education in racially impacted areas, North and South.

What Mr. Nixon does perceive is that in distinguishing between de jure and de facto segregation, the complexities involved in the latter are awesome and almost certainly not susceptible to a purely Governmental solution.

There is a Constitutional mandate, he notes, that dual school systems and other forms of de jure segregation be eliminated totally—and that is Administration policy as well. Within that requirement, however, is a degree of flexibility, a "rule of reason" permitting school boards to formulate desegregation plans that best suit the needs of their localities.

De facto segregation, stemming from housing patterns, is another matter altogether. The President holds it to be undesirable but observes that it is not generally considered to violate the Constitution. Even so, he seems to encourage local school officials to take reasonable steps, if they choose, to diminish racial separation.

Mr. Nixon is especially realistic in discussing the difficulties of doing away with de facto segregation: " '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."

That is, whites leave the public schools, and the public schools founder for lack of support. Moreover, when whites flee the public schools in search of predominantly white schools in the suburbs, the central city itself becomes racially isolated.

"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."

One of the practical problems in trying to abolish de facto segregation is that it entails a wasteful diversion of resources. Thus a state court recently ordered all but uniform racial balance in the Los Angeles schools, and it is expected that it will cost $40 million the first year to lease buses, hire drivers and pay operating expenses. How much better if the money were to be spent to improve education.

In a deeper sense, insistence on total integration derives from a misconception of the source of much of the trouble in the education of Negroes. As the Presidential statement remarks, it is not primarily a matter of race at all; rather, it is a question of economic class and environment. Quite simply, a child from a very poor home, where there are no books or magazines or newspapers or parental encouragement to learn—that child is all too likely to have difficulty in school whether he is black or white.

Finally, to demand total integration (as distinguished from ending de jure segregation) is to overburden the schools. In Mr. Nixon's words, the schools "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 multiracial society which the adult community has failed to achieve for itself."

We agree with the President that the call for equal educational opportunity is in the American tradition and that the opportunity unquestionably can be extended at the same time that the quality of the education is being upgraded. But the process preeminently requires wisdom, the kind of basic common sense the President's statement reflects.

WE ARE NOW WAGING SECOND INDO-CHINESE WAR

Mr. YOUNG of Ohio. Mr. President, this comes as no surprise to me. It is what one would expect from the Joint Chiefs of Staff and the leaders of the all powerful military-industrial complex. It is evident that they seek to move our Nation into a militarist state. Unfortunately, it appears that President Nixon is yielding subservience to the militarists in the same degree as did President Johnson.

Now headlined in the Washington

Post we read that General Westmoreland and other Army leaders favor a 6-month delay in U.S. troop withdrawals from Vietnam.

Pentagon officials, of course, claim that further withdrawal of ground forces from Vietnam at this time should be stopped so that our pacification program, so-called, and Vietnamization program may continue.

From 1961 to the present time, American military forces have been occupying Vietnam. There has been no Vietnamization, so-called, of South Vietnam. The militarists led by General Thieu and Air Marshal Ky in control of the Saigon Government represent but a small fraction of the Vietnamese. They have excluded Buddhists and neutralists, so-called, from their militarist government of Saigon. Theirs is a corrupt regime. South Vietnamese forces have no will to fight. Its leaders are continuing the suppression policies of the French colonialists. Eighty percent of the men and women of South Vietnam know that no land reform, not even a semblance of liberty has been offered them by the Thieu-Ky administration and its predecessors.

The Vietcong representing the National Liberation Front have an ideal. They are fighting for land reform and for national liberation. While in Vietnam in 1965 and 1968, I learned that 80 percent of the people living in the Mekong Delta, south of Saigon, supported the National Liberation Front. General Westmoreland and others of our Joint Chiefs of Staff by their actions prove that the Saigon regime is in power only by reason of the presence of the ground and air forces of the United States.

Mr. Nixon, as a candidate for the Presidency, stated repeatedly he had a secret plan to end our involvement in Vietnam. That is still his secret. The facts are this war is now expanding and the United States has now become involved in what should be termed the second Indo-Chinese war. The conflict has spread beyond South Vietnam now. Americans are fighting and dying in Laos and we have invaded Cambodia. Some Americans have been killed there and this conflict is even threatening to extend into Thailand.

The first Indo-Chinese war was waged by the French with the aid of John Foster Dulles and President Eisenhower. When the Japanese suddenly left Southeast Asia in the closing weeks of World War II, the French immediately landed hundreds of thousands of troops and sought to reestablish their cruel but lush Indo-Chinese empire. President Eisenhower instead of enforcing neutrality or coming to the aid of the Vietnamese people seeking national liberation aided the French with billions of dollars in war supplies. He was restrained by action of leading Senators in 1954 from committing our air power to relieve Dienbienphu. Those orders secured on advice of John Foster Dulles and his brother, then head of the CIA, were canceled at almost the last moment. Dienbienphu was overrun on May 7, 1954. More than 12,000 French Foreign Legionnaires were captured.

Following the surrender, the Geneva Agreement fixed a temporary demarcation line at the 17th parallel providing this was not a national boundary but merely a temporary demarcation line. An election was promised for 1956. President Eisenhower, in his memoirs, stated that Ho Chi Minh would have received 80 percent of the vote for President in both sections of Vietnam. Our puppet President Diem canceled the election. Then the civil war in Vietnam was renewed.

Now we Americans are continuing the aggression of the French. In fact, the conflict is now spreading into Laos. The neutrality of Laos was guaranteed in 1962 by the Geneva Conference which we approved. In 1965 when we were violating its neutrality our planes were disguised. Officers of our Army are assigned in Laos. From 1965 on, our warplanes bombing in Laos have no longer been disguised. We know that American airmen have been killed or are missing in action in Laos. We have read in newspaper accounts of our B–52's taking off with huge loads of bombs and hurling more than 50,000 tons of bombs a month in sorties that, on some occasions, according to eyewitnesses, have left the airfields at 1-minute intervals.

Also, the presence of troops from Thailand whose operation in Laos has been secured by Pentagon officials and paid for by American taxpayers via the CIA indicates our involvement on an increasing scale in the civil war being waged in Laos by the Pathet Lao against the troops of Prince Souvanna Phouma.

American presence in Cambodia is increasing day by day. The allegation has been made that our CIA was instrumental in causing the overthrow of Prince Norodom Sihanouk. Now the north Vietnamese troops are said to be increasing their force at the edge of Cambodia. This national insanity despite President Nixon's promise to reduce U.S. presence in Vietnam and Laos, has spread into an all-out war in Vietnam, Laos, and Cambodia. Now top Pentagon generals are urging that the President cancel his previously announced plans to withdraw additional combat troops this year.

Administration leaders should encourage the reconvening of the 1962 Geneva Conference to seek peace instead of expanding our war in Southeast Asia.

These are sad days for Americans who had hoped that President Nixon would bring at least 200,000 U.S. troops home this year from Southeast Asia. Instead we have every reason to fear that at least half a million Americans will be fighting and dying in Laos, Vietnam, and Cambodia at next Christmastime unless some sanity enters the White House.

We have learned very little from the past. The Chinese sage Confucius wrote:

A man who makes a mistake and does not correct it makes another mistake.

A nation which makes a mistake and does not correct it likewise makes another mistake. We Americans are now involved in another civil war in Laos while still involved in a civil war in Vietnam.

PROJECT CITY STREETS

Mr. GOODELL. Mr. President, in keeping with the current focus on private sector involvement in urban problems, I would like to call attention to the work done by the Institute of International Education in developing a program for disadvantaged minorities—Project City Streets.

I am pleased to endorse this program which opens up opportunities for international study and travel to students and leaders from black, Puerto Rican, Mexican-American, and American Indian communities.

Project City Streets was developed as an international response to the domestic urban crisis. It endeavors to offer international experience and training to young people who are otherwise shortchanged in their quest for quality education and who, in the past, have been ignored by traditional exchange programs.

At a time when our country is exacerbated by ethnic conflict and widening polarization it is especially appropriate that our young people have the chance to learn about the diversity and similarities that mark our lives in the hope that it will then be easier for them to establish harmonious relations with their fellows. The Institute of International Education offers one way for dwellers of urban ghettos and rural poverty pockets to expand their understanding of the differences among ethnic groups and the origins of those differences—carefully preplanned observation and study programs abroad.

One of the projects offered, the community leaders program, gives minority group leaders the chance to examine vaious programs abroad. The participants undertake individually tailored projects whereby they can become acquainted with the work of organizations and community action groups in the host countries similar to the work with which they had been involved here. They also have the opportunity to meet leaders and members of local communities, observe life in these areas, and to become acquainted with the range of community efforts designed to promote the well-being of the local people. Upon their return, the participants are expected to be able to contribute more effectively to the progress and development of their own communities.

Through this part of the program, Roger Holguin, one of the founders and past presidents of the United Mexican American Student Association, traveled throughout Mexico meeting with various student and community leaders, government officials, and businessmen. He felt that his experience was essential to his own development as a leader and hopes to see the program expanded for others of his community. "Such an experience enables the young Mexican American leader to become aware of his culture, heritage, and language. He can thus become a whole man who is proud

to be a Mexican American and not ashamed, as so many are today."

As another aspect of this valuable program, Project City Streets broadens the exchange experience of foreign students, particularly potential leaders from developing countries, by taking them out of the classrooms and into the streets and corridors for practical exposure to urban problems. They work as teachers in ghetto remedial projects, as staff members of local antipoverty programs, and as aids in various government and private agencies.

One of the young leaders, a Venezuelan student of architecture, worked last summer for the South Platte Redevelopment Council in Denver. He comments on the experience in saying:

I feel I have a great opportunity here; I can test all the ideas I have gotten in school. And, I can learn how city organizations operate.

Asked whether he could apply American methods to Venezuelan problems, he replied:

Our country is underdeveloped. And, the problems will be different. But the training here will help me know how to attempt to solve them.

The program is a challenging opportunity, offering students practical on-the-job training in fields vital to the development of their homelands. These young leaders observe firsthand the programs working to provide better housing, education, jobs, and social welfare. Placed in the offices of Congressmen, Governors, mayors, and Government agencies, they can see the openness of our Government on all levels. They can witness the commitment of our leaders to the solving of urban problems. And they can know the depth of this Nation's desire to improve the quality of life for everyone.

Project City Streets is entirely supported by the private sector. Business, private clubs, individuals and foundations have all contributed to various aspects of the program. They are to be commended for their initiative, their dedication, and their determination to participate in the betterment of our society and the improvement of intercultural relations.

HITLER SCOURGE SHOULD BY ITSELF BE ENOUGH TO REQUIRE GENOCIDE RATIFICATION

Mr. PROXMIRE. Mr. President, the term "genocide" was defined by the United Nations as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such."

Concern with genocide has largely been a reaction to the brutal extermination of 6 million Jews and other groups during the 1930's and 1940's. Wholesale murder is not a pleasant thing to witness or even to hear about secondhand. The concentration camps, the terror of the SS guards, the forced labor, and the utter lack of humanity and human feeling were the very essence of the Nazi's attempts to perpetrate genocide.

The conscience of humanity was aroused, and revulsion toward these barbaric acts was worldwide. The culmination of the global reaction to these inhuman acts came in 1948, as the United Nations unanimously passed its Convention on the Punishment and Prevention of the Crime of Genocide. The United States played a vital role in fashioning this treaty.

Now, 22 years later, 75 nations have ratified the Genocide Convention. But the failure of the Senate to do so remains a significant obstacle to the international efforts to eradicate genocide.

Mr. President, the U.S. Senate must ratify the Genocide Convention. The memories and nightmares of these monstrous crimes against humanity as a whole, and the 6 million in particular, must weigh on our minds if we fail in our task.

Mr. President, I ask unanimous consent that an article by Colman McCarthy which appeared in the March 16 edition of the Washington Post be printed in the RECORD. Mr. McCarthy's column demonstrates why the threat of genocide is no less real today than it was a generation ago. His compelling article clearly illustrates why our concern with genocide must be equal to the dangers of the threat, and why the Senate must ratify the Genocide Convention.

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

THE SURVIVORS WHO HAD A STRONG "WHY"

(By Colman McCarthy)

A quiet and heroic anniversary will be marked in the next few months by a small group of quiet and heroic human beings—the handful of Jews who 25 years ago this spring walked, stumbled or crawled out of the German concentration camps. They are the returnees from hell who emerged from the most massive, planned and effective killing operation in the history of the world; men had been group-murdered before by hate, but never had the killing been the result of nationalized hate. The survivors come from places whose names, 25 years after, are still on the map and still in the nightmares: Auschwitz, Dachau, Maidanek, Buchenwald, Ravensbruck, Treblinka, Dora Mauthausen, Belsen, Hohnstein, Belzec, Sachsenhausen and nearly a thousand others. Commander Koch, who ran one of the more "efficient" extermination camps, and the husband of Ilse Koch, had a typical slogan: "There are no sick men in my camp. They are either well or dead."

In a brilliant book, "A Sign For Cain: An Exploration of Human Violence" (Macmillan, 1966), psychiatrist Fredric Wertham writes:

"We are apt to think of concentration camps as enclosures with a few buildings surrounded by barbed-wire fences and located in isolated places. In reality, there were barracks, many buildings, big industrial installations, factories, railway stations with regular railway services, ramps, roads, connections with nearby towns and villages, big warehouses for products from the corpses and the victims' belongings, installations for torture and killing, research institutes, distributions centers, gas ovens, crematory furnaces, human bone-milling plants, gardens for the officials and so on. All this in the aggregate covered large territories and involved wide communications. These ramifications alone show the absurdity of the claim and belief that the population knew nothing about them. Thousands of people in the camps and in the population had working contacts with them. These camps were going concerns."

Six million is the round number history has settled on for the dead. The survivors were no more than a few hundred thousand, if that. Many left the camps only to die pitiably a few days later, proof that torture is a terminal illness that no massive dose of freedom can cure. Some, like novelist Elie Wiesel who is beginning to be noticed, have become watchmen of the unspeakable, letting their published words serve as outposts of reminder. A few survivors have spent the years since 1945 in mental hospitals, wondering in their silence whether it is better to lose your life or lose your mind.

Many survivors came to America, taking up life again as shopkeepers, teachers, artists, perhaps merchants, like the tormented character in "The Pawnbroker." Occasionally, a death camp survivor is met or seen by chance. Not long ago, in a crowded New York subway, an old man clutched an overhead strap-hanger. Branded onto his wrist was a number, and the Jewish star. A group of early-on teenagers, sandwiched behind the old man, were much taken with what they called "that weird tatoo." They laughed and joked, asking each other what kind of cool swinger the old man really was.

Historians have had a field day examining the reasons behind Germany's siege of madness. They largely agree that the German people wanted relief from the social and economic misery following the defeat of World War I, and that Hitler, promising this relief, was a natural drawing card. He is seen as a demonic monster now, but in the early 1930s he gained power on a platform of very reasonable goals: a greater Germany, a state that would "promote the industry and livelihood of all citizens." Old age pensions were promised, as well as state education for gifted children, land reform, etc. The ominous suggestions of racism, a stifled press and suppression of left-wing dissent were often phrased in inoffensive language, with hardly anyone imagining they would be backed up by action anyway.

Once the death camps were established, a lucrative industry sprang up, with honorable corporations contracted to make the crematories, gas chambers, chemicals and so on, for the killing and disposing of bodies. These were the board-room murderers, far from the chimneys that carried aloft the smoke of human corpses or the big boilers where Jews were made into soap; but they were not far from the progress reports, charts and graphs sent to industrialists by Himmler and the SS. In fact, the use of Jews as slave labor conveniently furthered the double purpose of Hitler's politics and Germany's economy.

Because all this happened only a generation ago, many sociologists and journalists have easily gone back for the facts. "What happened to the firms who used slave labor?" asks Wertham. "Many of them, or their successors, are doing fine. Their shares are sound financially, even if not morally. Some of the prominent men and concerns involved in these sources of labor today hold more concentrated economic power than ever." Among the better known firms that used slave labor from the death camps are Volkswagen Works, Krupp, Siemens, Argus-Works, Continental Rubber and Bavarian Motor Works. Adds Wertham: "Some commercial undertakings involved in slave labor are now closely connected with American capital, so that this period merges into our own economic system."

One alumnus of the slave labor camps is Viktor E. Frankl, formerly No. 119104 of Auschwitz. Today, he is one of Europe's most respected psychiatrists, who like Freud and Adler before him, has formed his own

school of therapy. It is based on a central theme of existentialism: to survive the suffering of life, one must find meaning in the suffering. Frankl wrote a small classic, "Man's Search For Meaning" in which he described daily life in his concentration camp and said that often the men who survived were those who had a strong, unwavering reason to survive; "he who has a strong enough *why* can endure almost any kind of *how*."

Frankl's prison-formed psychiatry has not yet found a large following in America, even though millions are trapped in the prison of modern, suburban life. Childhood events and sexual repressions are still blamed by many analysts as the causes of mental illness, whereas, according to Frankl, the victim mainly suffers a lack of meaning. His emotions and soul are hungry for a person or purpose to which they can devote their energy and neutralize life's suffering.

Occasionally, Frankl practiced his therapy in the camp, usually to prevent suicide. "I remember two cases of would-be suicides," he writes. "Both men had the typical argument. They had nothing more to expect from life." Frankl worked with the men, eventually making them realize they had reasons to endure. For one, it was a child waiting in a safe country; the second, a scientist, had a book that needed to be written. Both postponed suicide because they seized a strong *why* and thus endured the *how* of Auschwitz.

The question arises: "Why drag out again the gore and cruelty of the concentration camps? They were just a fluke of history." The question would be unanswerable except for one fact: first, the Nazi madness was not a fluke of history. Mass killing is a part of nearly every "civilized" country's history: the Crusades, the Inquisition to name the ones carried in the history books; but also the 15 million murdered in the colonization of South America, the 1.5 million Armenians massacred by Turkey in 1915, the Amritsar massacre in India, the near-annihilation of the American Indians by the pioneers and the U.S. army, the Hereros in southwest Africa. The engines of genocide may have been idling since 1945, but it is foolish to think they are not fit and ready to run on a moment's notice.

Limiting the arms race—via the much-touted SALT talks—is an honorable goal. But even if by a miracle arms are controlled, the permanent problem of war, of which arms are merely a symptom, is not solved. The great powers still believe in weapons, not words, to settle arguments. Even nations like Egypt or Nigeria, thousands of whose people die of hunger yearly, spend major parts of their budgets on arms, the ultimate perversion.

One way of keeping governments from drifting into conditions that made death camps possible is to meditate on an idea philosopher Immanuel Kant wrote in an essay called Perpetual Peace. "On the day when war breaks out, the government should immediately and voluntarily relinquish its power, for it has demonstrated that it was not able to avert the very thing whose prevention was the whole sense of its office."

If such had happened since the time Kant wrote that sentence, in 1775, at least a few hundred million lives—not counting soldiers—would not have ended in spilled blood, crematoriums or gas chambers.

BENNETT URGES HEARINGS ON POW QUESTION

Mr. BENNETT. Mr. President, war remains an inhumane way to solve world problems. For decades man has attempted to outlaw war, but unfortunately, worldwide peace remains as elusive as ever. Man, however, will not give up and his efforts to find solutions to world conflict will continue.

It is unfortunate, therefore, that in those small areas where man has succeeded in bringing some semblance of humane treatment to war that certain countries choose to ignore it. In the Hague and Geneva conventions, the nations of the world have set down laws and procedures to be followed in the treatment for prisoners of war. This, generally, has been followed in world conflicts. I only wish it would be honored by Hanoi in the Vietnam war. It is with this in mind that I call upon the North Vietnamese Government to meet its responsibilities under the Geneva Convention to make known immediately the names of all American captives. Specifically, I call upon the Government in Hanoi to grant to American prisoners the kind of humane treatment which their men have generally received at the hands of the allies. Certainly, if the Communists and the allies cannot resolve their national problems, Hanoi should at least be willing to meet its responsibility under international law as far as captors as concerned.

Surely the anxiety and the heartbreak forced upon the families at home is ample justification for any government to disclose the fate and the status of men captured in combat. Is this too much to ask?

While I feel the President has done everything within his power, I call upon him and the State Department to pursue this matter relentlessly until Hanoi acts like a civilized government and meets its international responsibilities on this prisoner-of-war question.

Another approach which I think should be pursued is a full and intensive hearing by the Senate Foreign Relations Committee on this subject. That committee has not lost any opportunities to investigate the various aspects of American policy in Vietnam. I think it should now investigate the very serious problem of American POW's. The Foreign Relations Committee could provide a valuable public service by calling to the attention of American and world public opinion the failure of Hanoi in this regard.

A resolution is still pending before the committee signed by several Senators asking that these hearings be held, and I think it is time these responsibilities be met. We can do no less for the American families and for the men involved.

THE SITUATION IN LAMAR, S.C.

Mr. CURTIS. Mr. President, on behalf of the Senator from South Carolina (Mr. THURMOND), I ask unanimous consent to have printed in the RECORD a statement which he had prepared for delivery today, together with an insertion.

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

STATEMENT OF SENATOR THURMOND

Mr. President, the News and Press of Darlington, S.C., recently published an excellent editorial concerning the situation in Lamar, S.C., entitled "Dear Mrs. Dreitlein." This editorial has had a tremendous response in the Darlington area, and I believe it deserves the attention of a wider audience.

It explains poignantly and eloquently the feelings, the problems and the frustrations of the people in Darlington County in their recent difficulty. This editorial was written by Morrell Thomas, Jr., publisher of the News and Press.

DEAR MRS. DREITLEIN

MARCH 7, 1970.

Mr. MORRELL L. THOMAS, Jr.,
News and Press,
Darlington, S.C.

DEAR MR. THOMAS: I wish to express myself as a white person to the people of Darlington, through your newspaper.

This morning I was ashamed to be white, you made me that way. Many horrid things have happened to both whites and blacks in this country, but Darlington will always remain as the worst. When men, and I find it difficult to use that word, attack children, and arm themselves with ax handles, heavy chain links, screw drivers sharpened to a point and bricks I find it impossible to accept as a human, as a white, but mostly as an American.

You 200 "men", and everyone who wishes them well are trash of the lowest order! I have never said that to anyone before because I have never heard of anyone so low before.

MRS. JOSEPH DREITLEIN.

BOULDER, COLO.

DEAR MRS. DREITLEIN: Ordinarily we do not reply to letters such as yours, but we shall make an exception today.

I, along with several thousand other citizens of Darlington County, do attend church services fairly regularly, and in the past few weeks have heard several sermons devoted to the religious aspects of integration. Your letter therefore brings to mind advice from the Power which created us as we are: "Judge not, that ye be not judged" and "He that is without sin among you, let him cast the first stone". And also a secular quotation, by Spinoza: "I have made it my earnest concern not to laugh at, nor to deplore nor to detest, but to understand, the actions of human beings."

There are about 60,000 of us in Darlington County, not quite equally divided between Black and white. When the national television and radio networks described violence in Lamar, South Carolina, last Tuesday, I daresay ninety-five percent of us were appalled and ashamed.

But a closer look at what actually occurred in Lamar paints a different picture than that which has aroused your hatred. I was not in Lamar myself on Tuesday, but I have talked with responsible law enforcement officers who were. They tell me a crowd of 150 to 200 angry men and women surrounded three school busses which were delivering Black school children to the previously predominantly white Lamar schools. Officers were successful in permitting the first bus to pass. This aroused group, however, ripped loose the ignition wires of the other two busses and began hitting them with various objects, breaking windows and denting the exteriors.

During this time officers were assisting children from the bus and into the safety of the schools. Several children were injured slightly by fragments of broken glass, and as they walked onto the school grounds one child was struck by a flying object and knocked to the ground, again without serious injury.

No children were attacked by this mob. Officers say the disturbance could have been subdued at the outset, but probably at the

cost of several lives. Instead they chose to allow major damage to two state school busses. I think they chose wisely.

After they received this true account, Darlingtonians could be even more sympathetic with the Vice President's recent criticism of the national news media for their editorialized reporting. It is ironic that he himself fell victim to an early account and issued a statement almost as unfair as yours.

It may be easy for you from your lofty perch fifteen hundred miles away in Colorado to judge and condemn Darlington citizens. I do not know much about your state—perhaps no more than you know of mine—but I am aware of Colorado's history of violent warfare between the railroads and among sheep and cattle interests. I do know that bitter union battles were fought in your mines . . . battles which were reminiscent of your early days of Indian warfare. So you do have a mote in your own eye.

You cannot understand the feelings and the frustrations of these 200 people in Lamar, South Carolina, Mrs. Dreitlein, because you have not lived your life in the South. You know nothing of the shoddy treatment which has been accorded our area for years.

We Darlingtonians for years have been appalled by violence in other sections of our country. We watched Watts burn with horror. We were indignant at mob violence and—yes, death—in Maryland, Harlem, Chicago, Arkansas, Alabama, Mississippi, even in our nation's capital. These blots on the character of America make last week's incident at Lamar seem like child's play. No knowledgeable person could consider Darlington "the worst."

But indignant as we were over these evidences of racism elsewhere in our nation, I hope that no Darlingtonians wrote their fellow Americans a letter such as yours. The venom which flows through your pen is to me as detestable as the mob passion last week in Lamar.

Let me add parenthetically that in recent days following our instant integration I have talked with many parents of Black students. Without exception they have been as miserable over the forced changes as the white pupils. This gives hope to those of us who feel that ultimately the people of our great country will rise up and demand a sensible freedom of choice school plan, enforced uniformly and fairly throughout the fifty states.

In the meantime, we covet your fairness and an understanding of our difficult problem.

MORRELL THOMAS.

WELFARE REFORM AND INCOME MAINTENANCE

Mr. GOODELL. Mr. President, I would like to bring to the attention of my colleagues an address I made on Monday, March 30, before the National Conference of Christians and Jews on the subject of welfare reform.

In this speech, I outlined a major welfare bill which I will be introducing soon.

The bill will be based on the recommendations of the Heineman Commission which reported to the President last November.

It will establish a federally financed minimum welfare payment at the poverty line figure of just under $3,800 per year for a family of four.

It will create a true system of national income maintenance; provide universal coverage for all impoverished persons; and abandon the discredited inquisitorial concept of welfare.

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

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

TOWARD A NATIONAL SYSTEM OF INCOME MAINTENANCE

Two millennia ago, when a sated middle class watched an impoverished underclass starve, the prophet Isaiah reminded the children of Israel:

Is it not to deal thy bread to the hungry,
And that thou bring the poor that are cast out to thy house?
When thou seest the naked, that thou cover him;
And that thou hide not thyself from thine own flesh?
Then shall thy light break forth as the morning . . . (Is. 58: 7, 8).

To his people grown indifferent in their material abundance, Isaiah warned:

The lofty looks of men shall be brought low,
And the haughtiness of men shall be bowed down," (Is. 2: 11).
For they would not care for their brothers.

We, too, have reached such an age.

It is an age of incredible affluence, and it is an age of hunger.

It is an age of proliferating PhD's, and an age of little children mistaking the picture of an elephant for the only animal they have been educated to know—the rat.

It is an age of mink coats for ladies and knitted coats for poodles on Park Avenue, and it is an age of rags for five-year-olds in Harlem and Appalachia, rags that prevent children from going to school for fear their garments will fall from their backs and leave them exposed to the cold of the elements and the derision of their classmates.

This decade, this year, this session of Congress is the time to decide whether we can in conscience allow children to wear rags in a land of riches.

This is the time to affirm in action, not recite in rhetoric, that it is indeed our sacred duty to be our brother's keeper.

This is the time to commit our nation, once and for all, to guaranteeing a minimum liveable income for every one of its impoverished citizens.

Our existing welfare system has failed us. It discriminates among the poor, aiding some and ignoring others in a wholly arbitrary fashion. It provides incentives only for idleness, dependence and family breakup. Designed to save money instead of saving people, it tragically ends by doing neither.

The present welfare structure leaves the amount of welfare benefits wholly to the discretion of the states and localities. This has created a crazy patchwork, in which benefit levels range from a high of $77 per month per child in Massachusetts to the shockingly low figure of $10 per month per child in Mississippi. Those states and localities that take their responsibilities seriously are penalized by high welfare costs and growing welfare rolls. Those states and localities that do not, are rewarded by low welfare costs and succeed in exporting their poor.

The principal existing Federal welfare program—known as Aid to Families with Dependent Children—is designed only to assist the unemployed mother who heads a family. It penalizes families that are intact. It ignores the working poor—those 8 million men, women and children who live in families headed by someone who works all year round, but does not earn a liveable income. These are the families that have accepted American middle-class values, that have tried to follow the vision of Horatio Alger, but have not received their just due.

President Nixon has proposed the most revolutionary reform of our failing welfare system since the New Deal. In place of further studies and further tinkering with an inadequate structure, he has sought fundamental change. His proposals constitute an historic first step towards a national system of income maintenance.

The President's plan will, for the first time, create a Federally-established and Federally-financed minimum welfare assistance level. It thus recognizes the essential principle that a destitute person should be entitled to a nationally prescribed minimum of assistance, no matter where he lives. And it recognizes that only the Federal government has the fiscal resources to carry the main burden of welfare aid—that states and localities simply lack the resources to provide for their poor.

The President's plan is designed to aid intact families and families of the working poor. It makes a family's need the criterion of assistance. Instead of penalizing those that work, it creates new work incentives.

These are far-reaching reforms. They are reforms of which the President can be justly proud.

I am convinced, however, that still more must be done if we are to create a welfare system that is workable and fair. Welfare reform must build upon the President's proposals; it must, however, go beyond them to create a true system of national income maintenance.

The Administration proposal sets the Federal minimum welfare payment at $1,600 per year for a family of four.

This is inadequate.

It is less than all but five of the poorest states are providing under the present, state-operated welfare system.

It is less than half of the amount the Social Security Administration defines as the "poverty level"—which is just under $3,800 per year for a family of four.

This $3,800 "poverty level" figure constitutes the barest minimum needed for subsistence. It is calculated on the basis of the Department of Agriculture's "economy food plan" which, according to the Department, is designed only for "temporary emergency use", and "is not a reasonable measure of the basic money needs for a good diet."

The respected Bureau of Labor Statistics has calculated a substantially higher poverty line figure—a little over $6,500 per year for a family of four. This is a more realistic estimate of the amount actually needed for subsistence.

I believe we can do no less than to set the Federal minimum welfare payment at the $3,800 poverty line. That is not a generous figure. It is barely an adequate one. By going below this amount, there is clear danger of consigning welfare families to malnutrition, inadequate clothing, slum housing—in short, to the most serious poverty and want.

The Administration plan covers only families with minor children. Childless couples and single individuals are excluded. Still more incongruous, a couple with a 17-year-old child would lose their benefits the day the child turns 18.

There is no justification for such discrimination among the poor. All persons below the poverty line should be eligible for assistance, regardless of their marital or family status.

The Administration continues the role of the states in administering the welfare system. This role has largely been one of serving as welfare policeman—of wasting time and money in demeaning field checks of the eligibility of each individual applicant.

It is time to move away from this inquisitorial concept of welfare.

The Federal government should assume the administration of the welfare system and operate it on the pattern of the Social Security system—with written applications,

automatic mailing of payments, and audits or spot checks for enforcement purposes. State welfare agencies should be relieved of their role as welfare policemen, and allowed to perform their proper function of counselling and assisting needy individuals.

The Administration bill requires all welfare recipients, save those specifically exempt, to accept "suitable" work whenever available, as determined by the Labor Department.

This is as impractical as it is offensive.

A similar work requirement has been in existence under the Work Incentive Program (WIN) of 1967, and it has been a spectacular failure. Of 600,000 welfare recipients that qualified under this program by last year, only 100,000 were referred for mandatory work or training—and only 30,000, or 5% actually found jobs or training programs.

In a time of rising unemployment, the prospects of success of a mandatory work requirement are still more remote. Laws cannot force people to take jobs, if jobs are not available.

A work requirement is demeaning. If job openings are perceived as being worthwhile in terms of the income and the personal satisfactions they provide, they will be filled voluntarily. If not, then we should be changing the nature of the openings available. Dead-end jobs inevitably result in high turnover, and no legal compulsion can change that fact.

Above all, a work requirement punishes children for the actions of their parents. It means that if the mother refuses to work, the child will receive no aid, will be brought up in the direst poverty, and will ultimately become incapable of working himself.

In January 1968, President Johnson appointed a distinguished President's Commission on Income Maintenance, under the chairmanship of Ben Heineman, President of Chicago's Northwest Industries. That Commission, with the aid of an outstanding staff, reported to President Nixon in November 1969. Its report was headlined in the *New York Times*, and hailed by virtually every academic expert in the field. Unfortunately, the report appeared after the Administration plan had already been made public. As a result, it was shelved by the Administration and never introduced in the Congress.

The plan proposed by the Heineman Commission seeks the Administration's objectives while meeting the shortcomings of the Administration bill.

The Heineman plan moves towards a minimum income maintenance standard based on the poverty level. It eliminates the categorical structure of the present system, and provides universal coverage of all impoverished persons. It Federalizes the welfare system and abandons the discredited inquisitorial concept of welfare. It provides a work incentive by allowing recipients to retain a part of their earned income, without imposing harsh and unrealistic work requirement.

The Heineman proposal also provides for an annual adjustment of Federal income maintenance levels, designed to reflect the changes in the cost of living. It eliminates the food stamp program—with its demeaning separate food lines at grocery stores—and substitutes the cash needed to buy food. It provides emergency relief for individuals struck by personal disasters and makes special provisions for those who earn seasonally eratic incomes. None of these features are found in the Administration bill.

With one substantial modification, I intend to propose in Congress, as a major alternative to the Administration proposal, the legislation proposed by the Heineman Commission. This is the carefully considered product of a panel which met for nearly two years with highly skilled staff assistance. It deserves the full consideration of Congress.

The Heineman Commission recommended that the Federal minimum welfare payment initially be set at $2,400 per year for a family of four. This is somewhat less than halfway between the Administration's clearly inadequate payment of $1,600 per year and the Social Security Administration's poverty line figure of just below $3,800 per year.

The $2,400 figure is an arbitrary one, arrived by the Commission in recognition of budgetary constraints. The Commission recommended that the Federal minimum payment be increased to the poverty level by 1975.

I will include in my bill a provision for an immediate maintenance level at the poverty line figure of just below $3,800. That is, as I have said before, the barest minimum needed for subsistence. By going below this figure, we are abandoning the poor to still more years of misery and desperation.

My bill will provide work incentives for all welfare recipients, until their incomes rise above the Bureau of Labor Statistics' subsistence figure of about $6,500 per year for a family of four. Welfare recipients earning below this amount will thus be able to retain a portion of their welfare benefits. The Heineman plan contains a similar work incentive, but with a somewhat higher maximum limit.

The total welfare cost under the bill I am proposing will be in the neighborhood of $30 billion a year, with the Federal government contribution amounting to about $25 billion. This compares with an estimated total cost of $17 billion a year for the Administration plan and $11 billion for the persent system.

The additional cost—$13 billion above the Administration plan—is admittedly substantial. No less an investment, however, will be adequate to solve the welfare problem.

One half of this additional cost can be met by extending the 5% surtax beyond its June 30 expiration date—a step which I have long urged.

The other half can be met from existing revenue sources. To assure the budget remains in balance, this would require a further reduction in Vietnam and other military spending. Such a reduction, however, is amply justified on its own merits as well as on the basis of proper national priorities.

On my return to Washington and the reconvening of the Senate after Easter recess, I will introduce this bill. I will fight to ensure that never again will Americans go hungry because their country has refused to treat them as its own. I hope that in this battle, I will have your support.

RETREAT FROM THE BATTLE TO SAVE THE GREAT LAKES

Mr. PROXMIRE. Mr. President, 2 weeks ago I wrote Secretary of the Interior Hickel asking him to reconsider the apparent decision of his Department to virtually dismantle the Federal Great Lakes Fishery Laboratory at Ann Arbor, Mich. It is my belief that this action is a drastic mistake, and could not possibly come at a worse time.

The Ann Arbor laboratory has been in the forefront in the fight to save the Great Lakes. Through its fishing surveys and comprehensive studies of overall environmental quality of the lakes the laboratory has achieved national and worldwide recognition. The Ann Arbor laboratory has been responsible for calling to the attention of the public the rapid environmental deterioration of the Great Lakes in general and Lake Erie in particular. Its studies into the effect of industrial and municipal discharges and heat effluents from thermonuclear powerplants on the environment of the lakes and the fish population have been extremely valuable. The laboratory has also been responsible for warning of the alewife threat and working on means to eliminate it; for developing a selective chemical to control the sea lamprey; for calling attention to the pesticide threat and taking an active role in fighting it; and for the publication of over 400 technical papers relating to the environment and fish stocks of the Great Lakes.

Although the accomplishments of the Great Lakes Fishery Laboratory have been many, the fact remains that the battle is entering a critical stage. Now is not the time to run from the battle, now is not the time to cut back on the personnel who have been effectively waging this fight. The Ann Arbor laboratory and all its programs should remain. To eliminate many of the programs being administered by the Ann Arbor laboratory must be viewed for what it is—a retreat from the battle to save the Great Lakes.

Mr. President, I recently read an article in the Journal of the American Association for the Advancement of Science by Luther J. Carter that goes to the heart of this matter. I, therefore, ask unanimous consent that this article, entitled "Fisheries Research: Rejuggling of Priorities Is Assailed," be printed in the RECORD at this point.

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

FISHERIES RESEARCH: REJUGGLING OF PRIORITIES IS ASSAILED

According to some biologists and certain members of Congress, the Bureau of Commercial Fisheries (BCF), an agency of the U.S. Department of the Interior, is behaving as though it were deaf to all the talk by President Nixon about arresting environmental deterioration and using resources wisely. A major case cited in point is the bureau's plans, which are part of the President's fiscal 1971 budget, to reduce research activities at its Ann Arbor Biological Laboratory, an institution which has had a major part in identifying and combating problems threatening the Great Lakes.

And the bureau is closing altogether its biological laboratory at Milford, Connecticut, a shellfish research facility which has been doing pioneering work in acquaculture since 1940. The decision to close the Milford laboratory has brought an outcry from a number of fishery biologists who feel that top officials of the BCF are foolishly emphasizing fishing for diminishing stocks of wild fish in the open ocean. What BCF should be doing, these critics contend, is devoting increasing attention to aquaculture, or the production of fish and shellfish under controlled conditions.

The fund cutback at Ann Arbor, which will reduce the laboratory's research effort by nearly a third, is being justified largely as part of the administration's program to check inflation. But it also reflects the BFC's decision to give less emphasis to biological research in the Great Lakes. The Great Lakes fisheries are no longer have an important commercial value, and BCF officials clearly would like to transfer the Ann Arbor laboratory over to a new Interior agency, the Bureau of Sport

Fisheries and Wildlife (BSF&W). The possibility of such a transfer is now under consideration by the two bureaus and the Fish and Wildlife Service, of which they are a part.

Scientists at the laboratory fear that the transfer could be ruinous because the BCF will not, if it can be avoided, give up any of its own funds to the BSF&W; rather, this latter agency (which is having its own budgetary problems) would be left to seek new appropriations for the laboratory. Whatever the laboratory's ultimate fate, its prospects in the short run are plainly discouraging. According to Ernest D. Premetz, the BCF's deputy regional director for the Great Lakes, dismissal notices have gone out to 19 of the 82 people on the research staff and nine of those being dropped are professional biologists.

The Ann Arbor laboratory is the only major fishery research institution on the Great Lakes, and its scientists were the first to warn that Lake Erie was in desperate trouble from pollution. Also, this laboratory is credited with having developed methods for control of the lamprey, a predator which devastated the lake trout fishery in the upper Great Lakes during the 1940's and 1950's. And, at present, the laboratory is deeply engaged in research on questions such as the population dynamics of the alewife (a herring whose massive die-offs have been a major nuisance) and the effect of pesticides on the Great Lakes fishery.

TIES WITH UNIVERSITIES

Karl F. Lagler, professor of fisheries and zoology at the University of Michigan's School of Natural Resources, told *Science* that any setback to the laboratory's research will be keenly felt by the Great Lakes research programs at the University of Michigan and at other institutions. According to Lagler, the laboratory has long had close ties with universities in the Great Lakes area with respect to research and the training of graduate students.

U.S. Representative Marvin L. Esch of Ann Arbor is seeking to rally members of Congress from the Great Lakes area against any action impairing the laboratory's effectiveness. Esch, a Republican, notes that President Nixon recently visited pollution-control facilities in Chicago to dramatize his interest in environmental protection. "Surely this administration does not intend to drain the vitality of the country's only major freshwater research facility," he says.

William M. Terry, BCF's acting deputy director, replies that, while BCF does not question the importance of the Great Lakes as a national resource, its research program at Ann Arbor could not escape reductions. This year the agency has a budget of $52 million, of which far more is for research (over $20 million) than for any other activity; in the President's budget for next year, Terry points out, BCF has been cut to $45 million. A BCF budget document explains that $1.5 million of this $7 million reduction in agency funds will come from "low-priority biological research programs [including those at Ann Arbor and Milford] not critical to programs planned for major emphasis." The same document states that the agency will focus primarily on assessing stocks of fish and shellfish and developing better and cheaper methods to enable fishermen to locate and harvest them.

RALLYING OPPOSITION

The BCF's biological laboratory at Milford, on Long Island Sound, is scheduled to be closed in May, with a budgetary saving of $150,000 for next year resulting. Its staff, which includes six Ph.D.'s and seven other biologists, has been attempting to forestall the closing by rallying the support of scientists and others who know the laboratory. In a letter sent out last month, the staff pointed out that the laboratory, which only 3 years ago moved into a new $1.3-million building, is unique among fishery research facilities, having been designed specifically for aquacultural research.

Recently, a number of scientists have written members of Congress and various administration officials protesting the plans to close the laboratory. In one such letter, Myra Keen, president of the Western Society of Malacologists and professor of paleontology at Stanford, has observed: "Most fisheries' work is on a par with the hunter state of human cultural evolution—taking food where it is found. Aquaculture or mariculture corresponds to the agricultural stage of nomads who settled down to produce food and in the process began civilization. It is tragic that, just when we as a nation are realizing the need to increase food production from the sea, a facility that has pioneered in sound [aquacultural] methods should be . . . scuttled."

BCF officials have said that, except for the work in genetics (which they hope somehow to continue), the research at Milford should be taken over by industry and the coastal states. Commenting on this, Melbourne R. Carriker, director of the systematics-ecology program at the Marine Biological Laboratory at Woods Hole, told *Science* that, even if much of the laboratory's applied research should be left to others, the laboratory should not be closed but, rather, its program should shift to ecological investigations in which shellfish behavior, physiology, and genetics are studied in relation to environmental conditions. Carriker said that the laboratory could, for example, use its exceptional facilities for the spawning and rearing of mollusks in testing the effects of pollutants on the larval stages.

The BCF has had a program of aquacultural research at its biological laboratory at Oxford, Maryland, but this work too is being phased out. However, the Oxford laboratory, where work has been primarily in the field of shellfish diseases, has been spared a budget cut and is in no imminent danger of being closed; it is located in the district of Representative Rogers C. B. Morton, the Republican National Chairman. The Milford laboratory's lack of immunity to closing orders may perhaps be partly explained by the fact that his facility is situated in a district and state represented in the House and Senate by Democrats.

REVERSAL POSSIBLE

The decisions to close the Milford laboratory and to cut back research at Ann Arbor may well be reversed in Congress. Representative Robert N. Giamo (D-Conn.), whose district includes Milford, is a member of the House Appropriations Committee and has appealed for help to Representative Julia Butler Hansen (D-Wash.), the chairman of the Appropriations subcommittee handling the BCF budget. According to one of her aides, Mrs. Hansen, who represents part of the Puget Sound area, takes a keen interest in fishery problems and hopes to see the programs of the Milford and Ann Arbor laboratories continue.

If both of these laboratories should be dismantled, the skies will not fall. And one would not have trouble finding other equally worthy federal research activities that are in jeopardy for lack of funds. However, the case for providing the relatively modest funds necessary to continue the programs at Milford and Ann Arbor is a strong one, especially when the Nixon administration is requesting billions for highly debatable projects such as the supersonic transport and the antiballistic missile.

RIGOROUS NATIONAL AIR POLLUTION STANDARDS

Mr. GOODELL. Mr. President, it is imperative that we tighten up now the weaknesses in existing air pollution legislation. The Air Quality Act of 1967 and other clean air legislation do not provide adequate emission standards and air quality standards for imposition upon industrial and municipal polluters.

In testimony before the Air and Water Pollution Subcommittee of the Senate Public Works Committee, I recommended an agenda for Federal action in the field of air pollution. My proposals include:

Elimination of the inflexible regional structure upon which current air pollution legislation is based, and substitution of naitonal air quality standards;

Establishment of uniform national emission standards, to be incorporated into all State pollution control plans;

Transfer from the Federal Aviation Administration to the Department of Health, Education, and Welfare of the authority to set noise and air pollutant emission standards for aircraft;

Transfer from the Atomic Energy Commission to HEW of the authority to set safety and pollution standards in nuclear development;

Introduction of public hearings into the national standard-setting process and the enforcement process on air pollution;

Provision to HEW of the power to issue cease-and-desist orders to violators of national emission standards; and

Establishment of a number of means by which private parties, including conservation groups, may bring actions for injunctive relief against violators of the emission standards.

Mr. President, I respectfully request that my testimony be printed in the RECORD.

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

TESTIMONY BY SENATOR CHARLES E. GOODELL BEFORE THE SUBCOMMITTEE ON AIR AND WATER POLLUTION OF THE SENATE COMMITTEE ON PUBLIC WORKS, MARCH 26, 1970

Mr. Chairman, 19 centuries ago the philosopher Seneca, recognizing the problem of air pollution in urban areas as a threat to public health, complained of "the heavy air of Rome" caused by the "stink of the smoky chimneys" with their pestilent vapors and soot."

Man has, in nearly 2,000 years, changed little. Scientists have recently concluded, after a fruitless search of the remotest corners of this country, that the United States ran out of clean air six years ago when pollution from California finally reached Flagstaff, Arizona. It would seem that man has retrogressed beyond the nightmare of his ancestors.

I. THE UTILITY OF NATIONAL AIR QUALITY STANDARDS

Mr. Chairman, I have cosponsored th Administration's amendments to the Clear Air Act, S. 3466, and I endorse the emphasi, of that proposal—the national ambient air quality standards which are to be imposed by the Secretary of Health, Education and Welfare. I disagree, therefore, with the regionally-based structure of the Air Quality Act of 1967 and of S. 3546, Senator Muskie's proposed National Air Quality Standards Act of 1970.

There is a fundamental difference in philosophy between the nationally-based approach of the Administration bill and the regionally-based approach of the existing legislation and of S. 3546. The first report of the Secretary of Health, Education and Welfare on the Air Quality Act of 1967, made to this

Congress in June 1968, describes the present structure of air quality control regions, and argues that "Because air pollution is essentially a regional problem, the most effective way to attack it is on a regional basis."

I take issue with that approach. According to the Secretary's report, air quality control regions are to be set up not only upon the basis of geographic meteorological variances, but also in light of the location and quantity of pollution emissions, social and governmental factors, projected patterns of urban growth, and various political considerations. It is my belief that the latter factors should not be determinative in measuring the danger to human health from pollutants in the air.

No matter what the social and governmental factors, human beings in different parts of the country will be equally endangered by equal concentrations of any given pollutant under similar atmospheric conditions. That is why I believe that the Federal government ought to set maximum levels for each pollutant and enforce those levels nationally.

Regional standards would impose unequal production costs upon competitive firms in the same industry who happen, though they discharge exactly the same pollutants with exactly the same atmospheric effects, to be on different sides of a regional boundary. This is inequitable.

To account for regional atmospheric variations, it is not necessary to establish defined atmospheric areas within which different standards will be applied. Rather, the Department of Health, Education, and Welfare should, as part of the process of establishing national standards of maximal pollutant levels, calculate a discounting scale which will correct for atmospheric divergencies.

The advantage of a discounting procedure over the present regional structure lies in the elimination of unequal treatment of competitive industries presently on different sides of a regional boundary. Moreover, chronological changes in atmospheric conditions may be far more flexibly corrected by the application of a changed discount ratio than by the changing of regional boundaries.

As I support the national air quality standards, so also do I support the national emission standards suggested by Senator Muskie's Air Quality Improvement Act, S. 3229. As enforcement of national ambient air quality standards would be far easier and less delayed than enforcement of state and regionally-based standards, so also would enforcement of national emission standards be less cumbersome than that of any state-based plan. Consequently, I will introduce an amendment to the Administration's bill which will have the effect of imposing national emission standards. It will do so by mandating that each State or interstate agency shall include in its air quality implementation plan emission standards prescribed by the Secretary of Health, Education and Welfare. The standards would be applicable to emissions from all types of vehicles, vessels, aircraft, and engines.

II. THE PROTAGONISTS OF ENFORCEMENT

Enforcement of regulatory standards has too often been undermined because enforcement responsibility has been given to the wrong agency.

Federal noise abatement legislation enacted in 1968, for example, empowers the Federal Aviation Agency to set noise and sonic boom requirements as part of its authority to certify aircraft. The FAA is essentially an aviation development agency, with close ties to the aircraft industry, which is not likely to impose truly effective noise or air pollutant emission standards.

I will, therefore, introduce legislation which will transfer from the FAA to the Department of Health, Education and Welfare the authority to set noise and air pollutant emission standards for aircraft.

Similarly, placement of responsibility upon the Atomic Energy Commission for enforcement of radiation safety and particulate and gaseous emission standards appears to have been an error. The AEC, too, is an agency which shares the developmental goals of its associated industry, and those goals are in conflict with rigorous enforcement of emission standards.

I will, therefore, introduce legislation, similar to that proposed in the House by Congressmen Bingham and Dingell, which will transfer from the AEC to the Department of Health, Education and Welfare the responsibility for enforcement of safety and pollution standards in nuclear development.

III. THE PROCESS OF ENFORCEMENT

It is crucial that we focus not only upon the rigor of standards, not only upon the agency responsible for enforcement, but also upon maximizing the efficacy of the process of enforcement itself.

That is why I support the provisions in Mr. Muskie's National Air Quality Standards Act of 1970 that public hearings, at which any interested parties—including environmental protection groups—may speak, should become part of the enforcement process of emission standards. So too should public hearings be part of the standard-setting process of the Department of Health, Education, and Welfare. I will introduce amendments to that effect to the Administration bill.

In order that speedy enforcement may be achieved, it is imperative that the Air Pollution Control Administration have the power to issue cease and desist orders to emission standards violators, as provided in Senator Muskie's legislation.

We must reduce the built-in delays in present enforcement and standard-setting structures—which provide for endless conferences, hearings, and other enforcement delays of up to 5 years. Federal standards and cease and desist orders should, presuming public hearings and fact-finding before their issuance, become effective immediately upon their promulgation. Court appeals to stay the promulgation of standards or the enforcement of cease-and-desist orders should be allowed. The standards or orders should, however, remain in effect—as Senator Muskie's proposal provides—unless and until the court issues a stay order.

Moreover, interested private parties should be given, by legislation, the authority to go to court in order to seek enforcement of pollution standards.

The customary argument against private suits is that the lack of decisional standards will lead to a lack of uniformity in enforcement as courts in different jurisdictions adopt different tests of reasonability.

That argument is not applicable here, since the legislation which I support would establish national air quality standards and national emission standards, as well as providing for explicit state implementation plans. Courts could, thus, measure pollution levels in any particular area against fixed statistical standards publicized by the Department of Health, Education and Welfare. They could measure municipal and state efforts to implement standards against the explicit implementation plans which each state will have proposed and the Department will have approved.

Given the existence of explicit standards and implementation plans upon the basis of which courts will be able to make determinations, it would be beneficial to allow private intrested parties to (1) intervene as parties plaintiff in Federal and other governmental suits for equitable relief, such as injunction, to enforce emission standards, (2) file *amicus curiae* briefs in such suits and in governmental damage suits against polluters, and (3) have standing to seek equitable relief against any state, municipal, or interstate body which fails to act in accordance with its own implementation plan which had been approved by the Department of Health, Education and Welfare.

Federal legislation should provide that the full litigation costs—including particularly the costs of providing expert scientific testimony—of such private parties will, upon their winning any suit, be assumed by the unsuccessful defendants. That provision would remove what is probably the largest financial impediment to the litigative effectiveness of private conservation groups.

CONCLUSION

Studies and research, as in the field of solid waste disposal, must continue, but the time for studies and research alone is past. It is the responsibility of Congress to pass, now, effective legislation which will provide for the establishment of rigorous national standards and effective enforcement procedures.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

S. 3425—AMENDMENT OF THE WAGNER-O'DAY ACT—REFERRAL OF BILL

Mr. BYRD of West Virginia. Mr. President, S. 3425, a bill to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for the purposes, was referred to the Committee on Commerce through error. I, therefore, ask unanimous consent that the Committee on Commerce be discharged from consideration of this bill and that it be rereferred to the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered; and the bill will be rereferred to the Committee on Labor and Public Welfare, as requested.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate now proceed to the further consideration of the conference report on H.R. 514, to extend programs of assistance for elementary and secondary education, and for other purposes.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is on the adoption of the conference report on H.R. 514, to extend programs of assistance for elementary and secondary education, and for other purposes.

ADJOURNMENT UNTIL 10 O'CLOCK TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move under the previous order, that the Senate stand in adjournment, in legislative session, until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 4 o'clock and 6 minutes p.m.) the Senate adjourned, in legislative session, until 10 a.m. tomorrow.

NOMINATIONS

Executive nominations received by the Senate March 31, 1970:

U.S. DISTRICT JUDGE

James L. Oakes, of Vermont, to be U.S. district judge for the district of Vermont vice Ernest W. Gibson, deceased.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Assistant Directors of the National Science Foundation (new positions):

Edward C. Creutz, of California.
Lloyd G. Humphreys, of Illinois.
Louis Levin, of Maryland.
Thomas B. Owen, of Washington.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the Environmental Science Services Administration:

To be lieutenant commanders

Floyd S. Ito	William M. Noble
Christopher C. Mathewson	Roger H. Kerley
Irving Menessa	Charles H. McClure

To be lieutenants

Glenn H. Endrud	David M. Chambers
John H. Snooks	Richard S. Young
James P. Travers	Bruce W. Fisher
Douglas F. Jones	Ted G. Hetu
Kenneth W. Sigley	Michael Kawka
Efrem R. Krisher	Michael J. Moorman
Gordon F. Tornberg	Philip D. Hitch
Glenn M. Garte	Clarence W. Tignor
Melvyn C. Grunthal	John J. Lenart
Lawrence C. Hall	Stephen E. Foster
William D. Neff	Gregory R. Gillen
V. Kenneth Leonard, Jr.	William R. Daniels
	Lynn T. Gillman
Douglas A. Danner	Floyd Childress II
Thomas C. Howell III	Charles N. Whitaker

To be lieutenants (junior grade)

James A. Buschur	Pressley L. Campbell
Roland W. Garwood, Jr.	Gerald B. Mills
	David J. Goehler
Tom Gryniewicz	Abram Y. Bryson, Jr.

HOUSE OF REPRESENTATIVES—*Tuesday, March 31, 1970*

The House met at 12 o'clock noon.

Rev. Jack P. Lowndes, Memorial Baptist Church, Arlington, Va., offered the following prayer:

God is our refuge and strength, a very present help in trouble.—Psalm 46: 1.

Lord, we do believe. Help Thou our unbelief. Give us more faith to believe that the Lord of Hosts is with us, that Thou are indeed our refuge.

We acknowledge that Thou art the God of the future as well as the present. May Thy spirit be infused into the wisdom of our modern world giving us the higher wisdom we need. We wait upon Thee for Thou are the living God who alone knowest the secrets of time and space and the good things prepared for them that love Thee. May Thy spirit work upon this Nation and this world so that this will be a decade when our energies will be used for the betterment of all Thy family on earth, through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 26, 1970, was read and approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 19, 1970:

H.R. 14944. An act to authorize an adequate force for the protection of the Executive Mansion and foreign embassies, and for other purposes.

On March 25, 1970:

H.R. 1497. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade.

On March 26, 1970:

H.R. 11959. An act to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters; to amend chapters 34, 35, and 36 of such title to make certain improvements in the educational programs for eligible veterans and dependents; and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1289. An act 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;

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes; and

S. 3072. An act 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.

THE LATE HONORABLE LEONARD WOLF, FORMER MEMBER OF CONGRESS, SECOND DISTRICT OF IOWA

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, it is my very sad duty to announce to the House the passing of a former colleague of ours, the Honorable Leonard Wolf of the Second District of Iowa. I do this in consultation with and on behalf of the gentleman who represents the Second District of Iowa at the present time (Mr. CULVER). I also do this for many of his other friends in this body and in my own behalf, because Leonard Wolf was born in Mazomanie, Wis., in my district. He grew up there and tomorrow he will be interred there, at the untimely age of 44.

He, Mr. Speaker, loved this House. I say this, among other things, because only within a matter of the last few months he, in association with others of our former colleagues, was a leading figure in the formation of a group of former House Members.

Mr. Speaker, Leonard Wolf since he left this body at the end of the 86th Congress devoted himself, as he did while he served this body, to mankind. He served exclusively for 9 years in the fields of alleviating hunger and feeding starving people.

He served in Brazil, in the remote areas of Brazil, in the food-for-peace program. He served in connection with the food program for India and more recently as executive director in our own country for the Freedom From Hunger Foundation.

Mr. Speaker, it is not my purpose today to eulogize my late friend but, rather, to make the announcement of his passing.

I further announce to the House that on Saturday in this area there will be a memorial mass in his memory. The details and notice of this mass will be made public at a subsequent date.

Mr. Speaker, I wish to express my deep personal sorrow to his wife, Marilyn, his three children, and his family. I am sure many of my other colleagues join me.

Mr. Speaker, I will state to the House that the gentleman from Iowa (Mr. CULVER) next week will obtain a special order for the purpose of eulogizing our departed colleague.